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Australia

# How we won marriage equality

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**On 27 May 2004, then prime minister John Howard announced his intention to amend the Marriage Act to define marriage as being between a man and a woman. The act was amended the following August.**

Two key events had precipitated this action. One was then US president George W. Bush's vocal support the previous February for a move to amend the US Constitution to define marriage as between one man and one woman in order to protect, in his words, "the most fundamental institution of civilisation".

The other was the lodging of a case in the Family Court involving two same sex couples attempting to have their Canadian marriages recognised in Australia.

In characteristic wedge politics style, Howard identified a political opportunity in this confluence of events. By changing the law, he stymied any possibility of same sex marriages happening or being recognised in Australia, while at the same time whipping up hostility to an oppressed minority and motivating his conservative base.

Shamefully, Howard's manoeuvre encountered almost no resistance from the government's supposed adversaries. Under the leadership of Mark Latham, every single Labor parliamentarian voted for the amendment.

Of the parliamentary parties, only the Greens and the now defunct Australian Democrats were prepared to make a stand for LGBTI equality by voting against the government.

Outside of parliament, the situation was not much better. Demonstrations held in most capital cities to protest the amendment were small, the wintry weather serving as a metaphor for the campaign's prospects. The rallies were organised by a handful of LGBTI activists and socialist groups. But despite their size, they were important. They helped establish from the outset that there would be resistance to this homophobic move and that a determination existed to challenge it.

Other more conservative groupings, such as Australian Marriage Equality, also expressed opposition to the amendment, although their primary focus was on the possibility of a High Court challenge or lobbying the governor-general to withhold royal assent to the bill, rather than grassroots campaigning.

## Friendly fire

Not helping the situation was the fact that a significant proportion of the self-identified radical LGBTI activists rejected the demand for marriage rights. This hostility extended even to the organising of counter-demonstrations, one such gathering throwing eggs at couples taking part in an illegal wedding at a demonstration in Melbourne in August 2005.

This attitude was mistaken for two main reasons.

First, it aided Howard's agenda and did nothing to challenge homophobia. The Howard government was not amending the Marriage Act to ensure that the superior, non-conformist lifestyles of inner city LGBTI radicals

remained unsullied by the practices of the masses in suburbia. It was rather a transparent attempt to whip up prejudice that radicals had a responsibility to resist.

Second, left opponents of the campaign were wrong to see the issue entirely in terms of marriage. Just as your attitude towards eating at diners was not really the starting point in considering what approach to take to the civil rights movement in the US south in the 1960s, opinions on the merits or otherwise of marriage were not the key question informing whether or not to take up a battle against discrimination imposed by a conservative government.

## 2004-2009

The initial few years of the campaign were a battle. Up against the hostility and stonewalling of the Labor Party – in government from 2007 – it was difficult to force the issue into the political spotlight. A move by the Greens in November 2008 to amend Labor's Same Sex Relationships Bill to extend equality to the Marriage Act was overwhelmingly defeated, as was their attempt to have their 2009 Marriage Equality Bill read in the Senate in early 2010.

During this time, regular demonstrations were one of the only ways in which activists could attract the attention of the media and raise consciousness about the issue. Defiant rallies of people demanding their rights, especially those held every year on the anniversary of the amendment's passing, helped gradually to establish the issue as a question of civil rights and equality. Bit by bit, this began to influence public opinion. The initial 38 percent support gradually transformed into majority support, with polls in 2008 for the first time showing a majority to be in favour of equality.

This significant shift in mass opinion, combined with increasing attendance at demonstrations nationally, led to the campaign announcing in 2009 a Year of Action in 2010. The focus of this was to up the ante against the government through more rallies and to build pressure on the ALP to reverse its discriminatory policy in the lead-up to its national conference scheduled for the following year.

This escalation yielded results. Prominent Labor frontbencher Mark Arbib publicly declared his support for marriage equality in 2010, as did Paul Howes and then assistant treasurer Bill Shorten. The fact that these figures were predominantly from the right of the party, while those from the left, including prime minister Julia Gillard, maintained an intransigent opposition, made the party's position seem increasingly untenable.

In the same year, Greens, along with some Labor MPs, made moves in various state parliaments including Tasmania and South Australia to introduce state-based marriage equality provisions. While none of these ultimately proved successful, they helped maintain a focus on the issue and forced more prominent individuals and organisations to take sides on the question.

A bill moved by Greens MP Adam Bandt mandating MPs to consult with their electorates on the question of marriage equality in 2010 likewise helped maintain a focus on the issue. Its aim was to highlight the significant disconnect between the intransigence of parliament on the question of LGBTI rights and the much more progressive attitudes of the public. This same disconnect would later become crucial to achieving change. Indeed, despite polls indicating more than 60 percent support for marriage equality from 2010 onwards, a Greens bill in 2012 was voted down by a more than two to one margin.

## Political issues

Two political questions confronted the campaign during this period. One was the question of civil unions: should the campaign accept some form of recognition other than marriage in the spirit of compromise? Or should it stick to demanding full marriage rights? There was strong pressure from the Labor Party to accept some sort of civil unions compromise.

The arguments of the more radical wing of the campaign and its allies were crucial in establishing that such a B-grade version of relationship recognition was not going to be acceptable to advocates or LGBTI people as a whole. We argued that civil unions represented a relegation of same sex couples to second class relationship status, not a preferable or more clever way to gain equivalent rights. Importantly, this was eventually established as consensus within the campaign. From then on, the focus was firmly on the principle of equality, not what might be good enough or substitute for full civil rights.

The second question was about what sort of action should be demanded of the governing Labor Party. Some argued that a conscience vote rather than policy change should be the demand of the campaign, on the basis that it was more achievable.

Again, it was the more radical activist arm of the campaign that argued against such a backdown. A conscience vote, we argued, would only legitimise bigotry, and it was therefore imperative for the campaign to force Labor to acknowledge the injustice of discrimination by pushing for policy change.

## ALP conference

The December 2011 ALP conference in Sydney provided an important focus and resulted in a significant victory, vindicating the arguments of the left in the campaign. More than 10,000 demonstrators from all over the country rallied outside the conference venue as the party's marriage equality policy was voted on. Despite then prime minister Julia Gillard's opposition to equality, the party voted convincingly to change the policy. But by a vote of 208 to 184, it also voted to allow parliamentarians a conscience vote on the issue, which doomed any push for marriage equality in parliament to failure.

Nevertheless, this was an important milestone for the campaign. It established the legitimacy of the demand for full equality in relation to marriage and represented an important defeat for the section of the right wing of the ALP whose efforts to hold out against the reform from this point on were severely weakened.

So while Labor in government was a frustrating period – the numbers and policy existed to make equality a reality but the conscience vote prevented this – it was the case that achieving marriage equality began to seem more like a matter of time and less like a political impossibility. And it provided vindication of both the intensification of protest action and the uncompromising stance taken by activists in relation to demanding full civil rights and rejecting half measures.

## International situation

Progress internationally added to the momentum and helped create the impression that there was a growing consensus around this issue, against which the politicians were wildly out of step.

As early as 2005, the Netherlands, Belgium, Canada and Spain had all legalised same sex marriage. A campaign had been running at a state and national level in the US for some years, with an impressive mass march on Washington of hundreds of thousands in October 2009 making international headlines.

In May 2012, then president Barack Obama declared his public support for marriage equality. In 2013 France, the UK and New Zealand all removed discrimination in relation to marriage. But it was the Irish referendum held in May 2012 and the US Supreme Court decision the following month that found discrimination in relation to marriage unconstitutional that gave rise to a sense of optimism and mass protests in Australia.

## Liberals in government

The election of notorious reactionary Tony Abbott as Liberal leader and later as prime minister was a shock for the campaign and made victory seem more distant than ever. There were differing reactions to this setback. The more conservative arm of the campaign emphasised that it was important to treat Abbott with respect and that an intensification of lobbying, not protest, would serve the campaign best.

Activists, along with most of the LGBTI community, rejected this and continued to fight the government, encouraged by the enormous hostility to Abbott born not only from his openly reactionary social agenda but also from his myriad other attacks.

The replacement of Abbott by Turnbull should have made marriage equality more likely. For the first time, the leaders of both major parties publicly supported reform. Yet just as Gillard had done in 2010, Turnbull made a deal with the right wing of his party to toe the line in relation to marriage equality in return for the leadership.

Increasingly, however, the situation came to be seen more as farce than tragedy. The right wing of the Liberal Party, in consultation with the Christian right, adopted a strategy of extreme belligerence towards LGBTI rights, drumming up a moral panic about Safe Schools and the supposed consequences of marriage equality. However, this had the flavour of desperately delaying the inevitable more than it did serious derailing of reform. This is not to say the various roadblocks they threw up to prevent progress didn't cause undue delay and put the campaign on the defensive, but ultimately they proved futile.

As is now well established, the postal survey represented a significant own goal for the social reactionaries. It united the vast majority of the population as well as a range of civil and political institutions against them and in support of social justice reform. And it convincingly discredited their pretence of representing the "silent majority" and speaking for ordinary folk in the suburbs.

The mass Yes campaign also confirmed the argument made doggedly by activists over the 13 years of this campaign: that it will be the actions of the millions of ordinary people who support equality that will be crucial to victory, not currying favour with politicians or limiting our efforts to polite pleading behind closed doors.

The Yes campaign empowered and politicised LGBTI people and their supporters. It gave thousands of people experience of battling, ideologically and organisationally, a well-organised conservative enemy. And it showed that victory is possible when people are prepared to take a stand rather than passively accept injustice. This will leave an important legacy for the future.

Ironically, because in Australia there has been more resistance to marriage equality than in most other countries in

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which it has been achieved, the victory is also more significant. It is not simply reform being handed down quietly from our benign representatives. It is rather a hard-fought victory against a hopelessly out of touch parliament and belligerent right wing enemy. It has not been won easily, but has taken years of determined battle, which, although at times gruelling, has provided political experience that will be invaluable in future social justice struggles. And it has demonstrated in practice the value of a political approach that doesn't give in at the first challenge or opt for the path of least resistance, but that sticks to its principles and is prepared actively to take on the powers that be.

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