

# The Meaning of Marriage and Australia's Postal Poll

Written by Michael Quinlan

This PDF is auto-generated for reference only. As such, it may contain some conversion errors and/or missing information. For all formal use please refer to the official version on the website, as linked below.

## The Meaning of Marriage and Australia's Postal Poll

<https://www.e-ir.info/2017/09/28/the-meaning-of-marriage-and-australias-postal-poll/>

MICHAEL QUINLAN, SEP 28 2017

After ten years of failed demands for State recognition of unions between two persons of the same sex as marriages, Australians are being asked to express their view in a postal poll. Although the issue has been around for some time, the whole area continues to be a source of confusion and misunderstanding. This has contributed to the friction which has arisen in Australia between those who strongly support the redefinition of marriage and those who prefer the status quo. This short article seeks to bring some more balance to the issue by examining the history and reasons for State involvement in marriage and challenging the view that redefining marriage to provide recognition to marriage between same sex couples would result in marriage equality.

### What Is 'Marriage Equality'?

Words are very powerful means of moving public opinion. Developing an emotive and attractive slogan is key to persuading many to support a cause. When it comes to the long-running campaign to redefine marriage in Australia to provide for State recognition of unions between couples of the same sex, the key catch-phrases have been 'marriage equality' and 'love is love.' There is no need to explain the attractive force of 'love.' To argue against 'love' is akin to arguing against 'happiness' or 'kindness' but as this paper will explain proponents of recognition of same sex marriage may not describe other forms of loving relationships with the same slogan. For all the failed and imperfect marriages experienced in contemporary society, the term 'marriage' still seems to attract positive feelings. Of course, equality is a very attractive concept and one which no one in the West could sensibly reject. When put together 'marriage equality' combines two attractive terms and naturally inclines hearers to support – to do otherwise is to argue against 'marriage' and to argue against 'equality.' The phrase has been so successful in gathering support for various campaigns for State recognition of same sex unions as marriages that it is commonly used in the media, by politicians and by companies, professional firms, sporting associations and professional bodies as they pledge their support to 'marriage equality.' Recently the Australia government's national broadcaster directed its staff not to use the phrase.<sup>[1]</sup> They were right to do so. The expression is confusing because without first defining marriage and identifying the purposes which the State seeks to achieve by recognising any relationships as 'marriage', it is not possible to identify whether any particular redefinition of marriage will, in fact, secure that outcome.

### The State Interest in Marriage and Its Recognition in Australia

The union of a man and a woman in marriage and the families that resulted from their union were the first human societies.<sup>[2]</sup> In the Western world the State took a particular interest in marriage because it had an interest in maintaining and growing the population. The Romans considered that children were best raised in a marriage between a man and a woman and took steps, to encourage marriage.<sup>[3]</sup> These included inheritance laws and civil penalties for those who failed to marry or to reproduce within a marriage.<sup>[4]</sup> The Romans spread this form of State recognition of marriage throughout their Empire and it fitted neatly with the Christianity that Empire later embraced. When Europeans arrived in Australia they brought this Western tradition of marriage, as it had developed in the United Kingdom, with them. They also brought with them the cultural imperialism of the British Empire and, along with their other traditions, ignored the marriage traditions of the indigenous people of the continent. It was soon evident that the ethnic, religious and cultural composition of the Europeans in Australia differed from that of England. Within 50 years of the arrival of the colonists the law made it clear that marriages between one man and one woman

# The Meaning of Marriage and Australia's Postal Poll

Written by Michael Quinlan

solemnized in accordance with the rites of the Church of England, the Catholic Church and the Church of Scotland were all valid in New South Wales.<sup>[5]</sup>

As colonies were founded across Australia each passed its own marriage laws providing for State recognition of marriages between one man and one woman.<sup>[6]</sup> Eventually, for reasons of trade, commerce and defence, the Australian colonies federated. As the reasons for Federation may suggest, the *Australian Constitution*, which achieved the new Federation, dealt primarily with economic, financial and defence matters and had very little to say about rights. However, the colonists considered that marriage and divorce were matters of such interest to the State that they enabled the new Commonwealth to pass laws in those areas. As had been the case in Roman times, the new Australian Federation had an interest in marriage because it recognised that 'the nurture of children by, and in recognised and ordered relationship with their parents is...integral to the concept of marriage as it has been developed as an institution in our society.'<sup>[7]</sup> As Jacobs J observed in *Russell v Russell*, marriage 'is primary an institution of the family.'<sup>[8]</sup> Given the history of marriage, when the Commonwealth first legislated in relation to marriage it was so clear that marriage in Australia referred only to the union of a man and a woman<sup>[9]</sup> that the *Marriage Act, 1961* (Cth) (*Marriage Act*) did not expressly define the institution. The fact that it clearly meant to refer only to marriage of that form was however clear from the fact that civil marriage celebrants were (as they are today) required to state that: 'Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.'<sup>[10]</sup> The State's interest in marriage was evident again when the words required to be said by marriage celebrants were replicated in the inclusion of a definition of marriage in the *Marriage Act* in 2004. In introducing those amendments into Parliament, Philip Ruddock described that form of marriage as providing 'the best environment for the raising of children.' Whilst some marry without the aim of bearing children, or believing that they are unable to do so, the majority still marry expecting to have at least one child and the majority of married couples do procreate.<sup>[11]</sup> As Elizabeth Abbott has observed, 'today as in the past – children – wanted and unwanted – have always been at the heart of marriage'<sup>[12]</sup>, 'and throughout history procreation and parenting have been primary purposes of marriage.'<sup>[13]</sup>

The present definition of marriage in the *Marriage Act*<sup>[14]</sup>, recognises that men and women are different and bring different attributes to a relationship. These differences are not simply the bodily compatibility which for most such couples enables the couple to have their own biological children but also differences in mind and spirit.<sup>[15]</sup> As the United States Supreme Court acknowledged in *Obergefell v. Hodges*,<sup>[16]</sup> this view that '[m]arriage...is by its nature a gender-differentiated union of man and woman...long has been held—and continues to be held—in good faith by reasonable and sincere people here and throughout the world.'<sup>[17]</sup> On this point the majority were correct.

## Different Conceptions of Marriage

Every state determines, the unions that will and will not be formally recognised by that state as marriage. Whilst all 200 of the world's nations recognise marriage between one man and one woman, in addition more than a quarter recognise polygamous or plural marriage<sup>[18]</sup> and an eighth recognise same sex marriage.<sup>[19]</sup> Apart from the brief recognition of same sex marriage in the Australian Capital Territory<sup>[20]</sup> marriage between one man and one woman has been the only form of marriage given State recognition in Australia.<sup>[21]</sup> Australian law mandates the permissible degrees of consanguinity and the form of civil and religious ceremonies which will be recognised as marriage by the State and authorises only authorised celebrants to officiate. Australian law not only refuses to recognise certain marriages but it criminalises them. This is the case with bigamy,<sup>[22]</sup> marriage below the permissible age<sup>[23]</sup> and compelling a person to marry.<sup>[24]</sup> In doing so Australian law does not recognise (and in some cases criminalises) a range of relationships which are, or may be, considered to be marriages<sup>[16]</sup> by those within those relationships and by members of religious and cultural traditions which increasingly form part of the Australian population. Unlike same sex marriage, some of these forms of marriage have very lengthy pedigrees.<sup>[25]</sup> State recognition as marriage has never been given in Australia to the traditional or cultural marriages of Australia's Aboriginal peoples even though they have been celebrated for at least 60,000 years on this continent.<sup>[26]</sup> This is so even if those marriages involve one man and one woman of marriageable age under Commonwealth law. Without attempting to be exhaustive, Australian law has also never recognised marriages (including those celebrated within the Islamic traditions and within the traditions of Australia's Aboriginal peoples) which involve more than two persons,<sup>[27]</sup> marriages of a person who has been validly married and is not divorced, marriages which are not intended by the parties to be for life,<sup>[28]</sup>

# The Meaning of Marriage and Australia's Postal Poll

Written by Michael Quinlan

marriages celebrated in Australia in accordance with religious or cultural rights or by celebrants who have not been authorized under applicable legislation or marriages between two persons of the same sex.<sup>[29]</sup> As a result many people who consider themselves to be married are not considered to be married under the *Marriage Act*. Couples who cannot afford to pay for a celebrant or for a reception, who otherwise fall outside the requirements to marry under the *Marriage Act* because, for example, they are of the same sex may pledge their lives to each other in a ceremony which they might call a marriage and call themselves husband and wife or spouse and spouse but never formally marry in a manner recognised by the *Marriage Act*.

Calls for 'marriage equality' have been limited to State recognition of same sex unions. In 2013, in *The Commonwealth v Australian Capital Territory*, the High Court considered the meaning of marriage when used in the *Constitution*. No advocate in the case argued that the scope of marriage in the *Constitution* must be considered by reference to the purpose for which the State had an interest in marriage, Jacobs J's observations in *Russell v Russell* were not drawn to the Court's attention and arguably the Court could have resolved the case before it without considering the scope of the marriage power. Nevertheless, in that case the High Court found that marriage was a 'juristic concept' and that when used in the *Constitution* it meant 'a consensual union formed between natural persons in accordance with legally prescribed requirements which is not only a union the law recognises as intended to endure and be terminable only in accordance with law but also a union to which the law accords a status affecting and defining mutual rights and obligations.'<sup>[30]</sup> Calls for 'marriage equality' have not to date been for the *Marriage Act* to be amended to reflect this definition but even if it were so amended it would continue to exclude many marriages from State recognition including marriages for a fixed or short term although it would enable recognition of plural or polygamous marriages.

## What Type of Marriage Equality Would Redefining Marriage Mean?

The historic discrimination experienced by Australia's same sex attracted population is to be regretted. Australian law has sought to redress that discrimination. Whilst only certain marriages between one man and one woman entered into voluntarily for life are recognised by the State as marriages under the *Marriage Act*, Australian law treats all couples who live together in de facto relationships, whatever their sex or sexual orientation, in virtually an identical fashion in all respects. It also enables them to register their relationships.<sup>[31]</sup> Where there are any residual differences in treatment between legally recognised marriages and de facto relationships these are mostly matters of State and Territory laws. If it were thought desirable to do so to achieve identity of treatment or otherwise these laws could be amended leaving the current definition of marriage in the *Marriage Act* intact. This has been the approach taken in relation to non-married relationships, at least between any two persons, irrespective of their sex such that they enjoy the same legal, social, civil and welfare benefits as married couples.<sup>[32]</sup>

If the definition of marriage is to be redefined the purposes of the State continuing to be involved in recognition of marriage and its objectives in so doing ought to be clear. If marriage is no longer about the specific relationship between one man and one woman and it is no longer about procreation, what does marriage mean? There may be little to be gained by seeking to consider the comparative disadvantage of those many people groups with forms of marriage or relationship which are not recognised by the *Marriage Act*. However if redefining marriage was to be undertaken as an exercise in recompense and recognition it must be acknowledged that Australia's Aboriginal people have been and remain the most disadvantaged minority group in Australia.<sup>[33]</sup> It must also be recognised that Australia's Muslim population continues to experience vilification, discrimination, harassment, intimidation and abuse.<sup>[34]</sup> The point here is that if marriage is redefined in pursuit of 'marriage equality' and if 'love is love' on what basis does the State now or in the future preclude recognition of these long-standing forms of relationships for these disadvantaged groups and on what basis does it continue to limit marriage recognition within its broad constitutional powers so to do?

## Conclusion: Redefining Marriage Is Not Necessary On Grounds Of Equality

In circumstances where the State has afforded equal treatment to all committed couples it is not inequitable to continue to reserve State recognition to marriages which accord with the Western tradition of marriage – that is of involving one man and one woman. As Pope Francis, when Archbishop of Buenos Aires, observed in April 2010 to

# The Meaning of Marriage and Australia's Postal Poll

Written by Michael Quinlan

do so 'merely recognises a natural reality. A marriage – made up of a man and a woman – is not the same as the union of two people of the same sex. To distinguish is not to discriminate but to respect differences...At a time when we place emphasis on the richness of pluralism and social and cultural diversity, it is a contradiction to minimise fundamental human differences. A father is not the same as a mother.'<sup>[35]</sup>

In the postal poll Australian voters are being asked the question, 'Should the law be changed to allow same-sex couples to marry?'<sup>[36]</sup> As no legislation accompanies the poll, if the majority of those who vote do answer yes to that question, it is not clear what form the legislation might take. Whilst when proponents of change sought 'marriage equality' in the form of State and Territory legislation to introduce a new form of marriage called 'same sex marriage' this is not the approach taken in the draft bills of potential Commonwealth legislation. These do not create 'same sex marriage' and leave the current definition of 'marriage' such that opposite sex marriages will remain as presently defined. Instead they introduce one new definition of marriage to replace the current definition of marriage in the *Marriage Act*. The present definition and the references to the gendered terms of 'husband' and 'wife' will be replaced with the non-gendered term 'spouse' and a new definition of marriage being 'the union of two people voluntarily entered into for life.' The drafts which may be picked up in the new legislation also change the statement which civil celebrants would then read at all weddings in Australia to be that 'Marriage according to Australian law is the union of two people voluntarily entered into for life.' If these changes are made 'marriage' in Australia will no longer signify the very particular relationship between one man and one woman that it has in the past. The connection with the Western tradition of marriage intimately linked to procreation will be lost as will the connection between the State's understanding of marriage and those of many Christian and other religious traditions. Whilst, no doubt, religious ministers and Churches would be granted exemptions, if they continue to celebrate only marriages between opposite sex couples they will be acting inconsistently with this new State understanding of marriage. Whilst redefining marriage in this way will also continue to leave many forms of marriage unrecognized by the State it will have removed the foundations in tradition and in logic for maintaining such differential treatment. Changing the State's understanding of marriage may also have significant potential implications for religious freedom, freedom of political communication and parental rights but those are beyond the scope of this short article.<sup>[37]</sup>

## Notes

[1] Frank Chung, "The ABC does not have a position on the issue': ABC tells staff to stop campaigning for same-sex marriage" News.com.au, 20 August 2017 <http://www.news.com.au/finance/business/media/the-abc-does-not-have-a-position-on-the-issue-abc-tells-staff-to-stop-campaigning-for-samesex-marriage/news-story/5b66b904187e8bb7651f6275bc6dbe8b>

[2] Aristotle, Book I of *The Politics* quoted in Aristotle, *The Pocket Aristotle* (Justin D Kaplan ed,) 1958, 279 and Ulpian, *Institutes* No 1 1-2 quoted in *The Digest of Justinian*, Volume 1, (translated by Charles Henry Munro), Cambridge University Press, 1904 (2014 ed)

[3] Charles J Reid Jr, 'Marriage in Its Procreative Dimension: The Meaning of the Institution of Marriage Throughout the Ages' (2009) 6 *U St Thomas law Journal* 454, 456-459

[4] *ibid*

[5] 5 Will. 4 No 2 (NSW); see discussion Sir Garfield Barwick, "The Commonwealth Marriage Act 1961" 3 *Melbourne University Law Review* (1962) 273, 280

[6] Barwick *ibid* 283-286

[7] *Russell v Russell* [1976] 134 CLR 495, 525; see also *Attorney-General for the State of Victoria v The Commonwealth of Australia* (1962) 107 CLR 529, 554, 574, 580-581

[8] *Russell v Russell* [1976] 134 CLR 495, 548

# The Meaning of Marriage and Australia's Postal Poll

Written by Michael Quinlan

[9] See e.g. *Hyde v Hyde and Woodmansee* (1866) LR 1 P&B 130, 133

[10] *Marriage Act* s46(1)

[11] Elizabeth Abbott, *A History of Marriage* (Seven Stories Press, 2015) 296-297; see also Marilyn Yalom, *A History of the Wife* (Perennial, 2002) xiv.

[12] Abbot *ibid*

[13] *Ibid* 290.

[14] "the union of a man and a woman voluntarily entered into for life."

[15] Madhura Ingahlalikar, Alex Smith, Drew Parker, Theodore D Satterthwaite, Mark A Elliott, Kosha Ruparel, Hakon Hakarson, Raquel E Gur and Ragini Verna, "Sex differences in the structural connectome of the human brain," 111 PNAS 2, 823, January 14, 2014

[16] *Obergefell v. Hodges* 576 U. S. (2015) which was the case in which they found that all States of the United States must recognise the union of two persons of the same sex as marriages

[17] *Obergefell v. Hodges* 576 U. S. (2015)

[18] 58 countries of the world recognise polygamous marriages: Nicola Heath, "Polygamy is taboo in Western society and Christianity but other cultures and faiths permit plural marriage." SBS, 18 January 2017 <http://www.sbs.com.au/topics/life/culture/article/2017/01/17/faith-and-polygamy-which-religions-permit-plural-marriage>; Beliefnet, "Polygamy: Not as Rare as You May Think" Beliefnet <http://www.beliefnet.com/faiths/2001/02/polygamy-not-as-rare-as-you-may-think.aspx#cBJ7OwkLIFl3lhFl.99>

[19] 25 countries in the world recognize same sex marriage: David Masci, Elizabeth Sciupac and Michael Lipka. "Gay Marriage Around the World" Pew Research Centre, 8 August, 2017 <http://www.pewforum.org/2017/08/08/gay-marriage-around-the-world-2013/>

[20] The *Marriage Equality (Same Sex) Act 2013 (ACT)* was found to be beyond the scope of the power of the ACT government by the High Court of Australia in *The Commonwealth v Australian Capital Territory* (2013) 250 CLR 441

[21] The current definition of marriage in the *Marriage Act* is that 'Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.': *Marriage Act 1961* (Cth) s 46(1)

[22] *Marriage Act* s94

[23] The *Marriage Act* makes marriages void where a party was not of marriageable age and such a marriage may also give rise to criminal offenses in Australia under the *Marriage Act* s95:

[24] Not only may a marriage without consent be void under the *Marriage Act* the *Commonwealth Criminal Code Act 1995* contains offences regarding forced marriage. See M.J. Angel "Life in a forced marriage" *Sydney Morning Herald*, June 17, 2013 <http://www.smh.com.au/lifestyle/life-in-a-forced-marriage-20130617-2odn3.html>

[25] Michael Quinlan, "Marriage, Tradition, Multiculturalism and the Accommodation of Difference in Australia," (2017) *The University of Notre Dame Australia Law Review*. Vol. 18, Article 3.

[26] see *R v Neddy Monkey* (1981) 1 W & W (L) 40, 41, *R v Cobby* (1883) 4 LR (NSW) 355,356 and *R v Byrne* (1867) 6 SCR (NSW) 302; see Australian Law Reform Commission, *The Recognition of Aboriginal Customary Laws*, Report No.31 (1986) [237].

## The Meaning of Marriage and Australia's Postal Poll

Written by Michael Quinlan

[27] Whilst there are no official figures for those in polygamous relationships in Australia (see Natalie O'Brien, "Probing polygamy" *The Australian*, June 26, 2008, <http://www.theaustralian.com.au/news/probing-polygamy/story-e6frg8go-1111116736076>) according to the SBS *Insight* programme "Although it's outlawed, polygamy is still practiced informally in Australia. Having more than one spouse is a long-standing and legitimate cultural norm in some Indigenous Australian, African and religious communities in Australia (SBS, "Polygamy" *Insight* <http://www.sbs.com.au/insight/episode/overview/479/polygamy>). According to the guests interviewed on that programme polygamy is common in at least one Lebanese Muslim community in Sydney and polygamy is a very normal part of life in the Sierra Leonean community in Australia

[28] For example, the Islamic tradition also recognises short term marriages. See Soeren Kern, "Britain: Islamic Temporary Marriages on the Rise" *Gatestone Institute* June 4, 2013 accessible at <http://www.gatestoneinstitute.org/3748/uk-islamic-temporary-marriages>

[29] Apart from a brief period in the ACT but those marriage were found to be void by the High Court in *The Commonwealth v Australian Capital Territory* (2013) 250 CLR 441

[30] *The Commonwealth v Australian Capital Territory* (2013) 250 CLR 441 [33].

[31] Australian Bureau of Statistics, 4102.0 – Australian Social Trends, July 2013 (10 July 2013) Australian Bureau of Statistics ; Registry of Births Deaths and Marriages, Relationship Register (29 November 2016) Registry of Births Deaths and Marriages < <http://www.bdm.nsw.gov.au/Pages/marriages/relationship-register.aspx>>; Human Rights and Family Issues Committees of the Law Society of NSW, Submission No 1256 to the Standing Committee on Social Issues of the New South Wales Legislative Council, Inquiry Into Same Sex Marriage Law in NSW 14 March 2013. In New South Wales since 1 July 2010 the NSW Relationships register has provided 'legal recognition for a couple, regardless of their sex, by registration of the relationship', this entitles them to access various entitlements, services and records under NSW law. Also since 1 February 2012 the Commonwealth Government has allowed Certificates of No Impediment (CNI) to be issued to Australians wishing to be married to their same sex partner overseas. The issue of a CNI allows same sex couples to take part in a marriage ceremony overseas and to be recognized as being married according to the laws of that overseas country. A same-sex marriage will be prima facie evidence of a de facto relationship for the purposes of a civil union under some State and Territory laws.

[32] See, eg, *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008* (Cth); *The Property (Relationships) Act 1984* (NSW); Australian Bureau of Statistics, "4102.0 – Australian Social Trends", July 2013 (10 July 2013) Australian Bureau of Statistics ; Ambrose Centre for Religious Liberty, "Submission No 1169 to the Standing Committee on Social Issues of the New south Wales Legislative Council, Inquiry Into Same Sex Marriage Law in NSW," 1 March 2013, 6 ; Australian Marriage Equality, "12 Reasons Why Marriage Equality Matters" (2016) Australian Marriage Equality [5]. Australian Marriage Equality has acknowledged that 'since 85 federal laws were amended to recognise same-sex de facto partners in 2008 the Marriage Act is the only remaining federal law which still discriminates'.

[33] Australian Government, Department of Prime Minister and Cabinet, "Closing the Gap Report, 2017" <http://closingthegap.pmc.gov.au/>

[34] Adam Possamai, Kevin Dunn, Peter Hopkins, Faroque Amin, Lisa Worthington and Jan Ali, "Muslim Students' Religious and Cultural Experiences in the Micro-publics of University Campuses in NSW, Australia" (2016) 47 *Australian Geographer* 3, 311, 319- 321; Justine Kearney and Mohamed Taha, "Sydney Muslims experience discrimination at three times the rate of other Australians: study" (30 November 2015) *ABC News* accessible at <http://www.abc.net.au/news/2015-11-30/muslims-discrimination-three-times-more-than-other-australians/6985138>; International Centre for Muslim and non-Muslim Understanding, 'Islamophobia, social distance and fear of terrorism in Australia – A Preliminary report' (Report, International Centre for Muslim and non-Muslim Understanding, 2015); Abdullah Saeed, *Islam in Australia* (Allen & Unwin, 2003) 6-7, 209-212; Deepti Goel, "Perceptions of Immigrants in Australia after 9/11" (2010) 86 *The Economic Record* 275, 596-597, 600-601, 605-608; Human Rights and Equal

## The Meaning of Marriage and Australia's Postal Poll

Written by Michael Quinlan

Opportunity Commission, "Combating the Defamation of Religions" (Human Rights and Equal Opportunity Commission, 4 July 2008) accessible at <http://www.humanrights.gov.au/our-work/race-discrimination/projects/combating-defamation-religions-2008>; Australian, Gary Bouma, Desmond Cahill, Hall Dellal and Athalia Zwartz, "2011 Freedom of religion and belief in 21<sup>st</sup> century Australia" (Human Rights Commission, 2011) accessible at <https://www.humanrights.gov.au/publications/2011-freedom-religion-and-belief-21st-century-australia>; Thornton and Lusker, above n58, 75-84; Bouma, Cahill, Dellal and Zwartz, above n [ ] 27-28, 44-45, 65-69, 72, 81

[35] As quoted by Archbishop of Sydney Anthony Fisher OP, "To Vote With Pope Francis is to Vote No" *The Catholic Weekly*, 10 September 2017, 5

[36] Australian Bureau of Statistics, "About the survey" <https://marriagesurvey.abs.gov.au/introduction>

[37] For some implications see Rex Ahdar 'Solemnisation of Same-Sex Marriage and Religious Freedom' (2014) 16/3 *Ecclesiastical Law Journal* 283-305, Iain T Benson, 'Law Deans, Legal Coercion and the Freedoms of Religion and Association in Canada' (2013) 71(5) *The Advocate* 671-675; Barry W Bussey, 'Rights Inflation: Attempts to Redefine Marriage and the Freedom of Religion: The Case of Trinity Western University School of Law' *Regent University Law Review*, Vol. 29, No. 197, 2017; Greg Walsh 'Same-Sex Marriage and Religious Liberty' (2017) 35(2) *University of Tasmania Law Review* 106

---

### About the author:

**Michael Quinlan** is Dean of the School of Law, Sydney at The University of Notre Dame Australia. Prior to taking up this role in 2013, Professor Quinlan had a distinguished career of over 23 years at the commercial law firm Allens where he was a commercial litigation partner for more than 14 years. Professor Quinlan was a long-time member of that firm's Pro Bono Committee. His pro bono practice centred around refugee and migration appeals but also involved assisting charities and individuals in need. Professor Quinlan is the Junior Vice President of the St Thomas More Society, a contributing member of the Wilberforce Foundation and of Lawyers for the Preservation of the Traditional Meaning of Marriage. He holds Masters degrees in law and in theology and has a deep interest in the relationship between law and morality and law and religion. His presentations include "How the law in Australia is used and can be used to promote or to harm the Catholic faith." (*Catholics and Law Congress*, Turon, Poland November, 2013) and "Religion, Law and Social Stability in Australia" *22<sup>nd</sup> Annual International Law and Religion Symposium*, BYU, Provo, Utah, October 2015). His papers include: "Marriage, Tradition, Multiculturalism and the Accommodation of Difference in Australia," 18 *The University of Notre Dame Australia Law Review* (2017) 3; "When the State requires doctors to act against their conscience: the religious implications of the referral and the direction obligations of health practitioners in Victoria and New South Wales" 4 (2016) *BYU L. Rev.* 7, 1237 and "'Such is Life.' Euthanasia and capital punishment in Australia: consistency or contradiction?" (2016) 6 *Solidarity: The Journal of Catholic Social Thought and Secular Ethics* 1, 6. Professor Quinlan is married to Kate and they have four children Edmund, Brigid, Sinead and Liam.