The Registration of Civil Partnerships – Same Sex Marriage: A Consultation

Response from Amnesty International Scotland

Introduction

1. Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

2. Amnesty International welcomes the opportunity to respond to the Scottish Government’s proposals on the possibility of allowing religious ceremonies for civil partnerships and the possible introduction of same sex marriage.

3. Amnesty International also welcomes the initial view of the Scottish Government ‘that religious ceremonies for civil partnerships should no longer be prohibited and that same sex marriage should be introduced so that same sex couples have the option of getting married if that is how they wish to demonstrate their commitment to each other’ as well as the view that ‘no religious body or its celebrants should be required to carry out same sex marriages or civil partnership ceremonies.’

Human Rights

4. Amnesty International has a strong history of standing up for and supporting the rights of the LGBT community around the world.

5. Amnesty International’s campaign to ending discrimination and persecution based on sexual orientation and gender identity is focused on certain grave violations of human rights, and the promotion of non-discrimination at the local, national and international level. However, civil marriage between individuals of the same sex is an issue in which fundamental human rights issues are at stake. Denial of equal civil recognition of same sex relationships prevents many people from enjoying a whole range of other rights, such as rights to housing and social security, and stigmatises those relationships in ways that can fuel discrimination and other human rights abuses against people based on their sexual orientation or gender identity.
6. Amnesty International has documented some of the most brutal forms that this discrimination can take, including ill-treatment and violence in the community to execution, imprisonment and torture. We have also reported on how the issue of sexuality has been manipulated for political purposes by governments across the globe, usually to deflect attention from other issues or to target a particular constituency by fuelling homophobic sentiment.

7. For example, in an Amnesty International report, *Love, Hate and the Law: Decriminalizing Homosexuality* (2008) we found increasing linkages being made between criminalisation and morality and how criminalisation of same sex sexual acts and, increasingly, of same sex marriage is used by some states to whip up a ‘moral panic’ against lesbians and gay men, particularly in countries where homosexuality is illegal such as in Nigeria or Iran.

8. Last year in Malawi – a country with which Scotland has a formal partnership agreement with – two gay men were arrested and sentenced to 14 years in prison with hard labour after holding an engagement ceremony. Although Amnesty International, other human rights campaigners as well as the Scottish Government campaigned for the successful release of the two men, people continue to face serious discrimination and human rights abuses around the world because of their sexuality.

9. Non-discrimination on grounds of sexual orientation is an internationally recognised principle, affirmed by the international community for more than a decade. As a cross-cutting principle, it applies to the full range of human rights guaranteed in international standards. Many countries have brought their domestic laws into line with this principle in a range of spheres including partnership rights.

10. Judicial bodies worldwide are increasingly recognising that sexual orientation discrimination is incompatible with national and international human rights standards, and that the prohibition of such discrimination applies to the full range of rights, including economic, social and cultural rights.

11. There is a global trend toward protecting the equal right of same sex couples to have their relationships recognised in civil law. In 2001 the Netherlands became the first country to offer full civil marriage to same sex couples. Several states followed suit, including Belgium, Spain, Canada, South Africa, Norway, Sweden, Iceland, Portugal and Argentina.

12. The Scottish Government’s proposals would put Scotland at the forefront of this international trend.

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The Scottish Government’s Proposals

13. We believe that when it comes to family law, this is an issue of human rights, and particularly of balancing the human rights of different groups in our society.

14. The Universal Declaration of Human Rights (UDHR) states:

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 16: (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

Article 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

15. When it comes to family law, Amnesty International takes the view that the denial of equal civil recognition of same sex relationships prevents many people from accessing a range of other rights, such as rights to housing and social security, and stigmatises those relationships in ways that can fuel discrimination and other human rights abuses against people based on their sexual orientation or gender identity. Therefore, we strongly support the Scottish Government’s proposal which seeks to create a balanced relationship between same sex and mixed sex couples when it comes to civil partnerships and marriage.

16. We also believe that public opinion supports such a progressive view. For example, the Equality and Human Rights Commission Scotland produced evidence to support this including polls that show 62% of people supported same sex marriage in 2009 – in increase from 53% in 2006. The EHRC also found that all of the major religious denominations in Scotland, a majority are supportive of same sex relationships and marriage.

17. Same sex couples should therefore have the right to marry. This is an issue of equality for same sex couples. Freedom of religion is also a fundamental human right and Amnesty International does not believe religious celebrants should be forced to do anything they believe is incompatible with their faith. Equally, religious celebrants who wish to conduct marriage ceremonies or civil partnership ceremonies for same sex couples should also have the right to do so.

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18. Amnesty International believes that the Scottish Government’s proposals represent a balanced approach to the issue of equal rights for same sex couples with that of religious freedom and we believe will put Scotland at the forefront of promoting better equality for the LGBT community internationally too.

Civil Partnerships

Question 1: Do you agree that legislation should be changed so that civil partnerships could be registered through religious ceremonies?
Yes.

Question 3: Do you agree with allowing religious celebrants to register civil partnerships in religious premises?
Yes.

Question 4: Do you agree with allowing religious celebrants to register civil partnerships in other places agreed between the celebrant and the couple?
Yes.

Question 5: Do you agree that religious bodies should not be required to register civil partnerships?
Yes.

Question 7: Do you agree that individual religious celebrants should not be required to register civil partnerships?
Yes.

Marriage

Question 10: Do you agree that the law in Scotland should be changed to allow same sex marriage?
Yes.

Question 11: Do you agree that religious bodies and celebrants should not be required to solemnise same sex marriage?
Yes.

Question 12: Do you agree with the introduction of same sex civil marriage only?
No.

Question 13: Do you agree with the introduction of same sex marriage, both religious and civil?
Yes.

**Question 14:** Do you agree that religious bodies should not be required to solemnise same sex marriage?
Yes.

**Question 16:** Do you agree that individual religious celebrants should not be required to solemnise same sex marriage?
Yes.

**Question 19:** If Scotland should introduce same sex marriage, do you consider that civil partnerships should remain available?
Yes.