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Universal Periodical Review of Australia
Statement by ILGA Europe, on behalf of the Australian Coalition for Equality
17th United Nations Human Rights Council, Item 6
Wednesday 8 June

This statement is made on behalf of the Australian Coalition for Equality, an NGO dedicated to achieving equality for lesbian, gay, bisexual and sex and gender diverse Australians in national law and policy.

We commend and support the demands of other NGOs, made this morning, calling upon Australia to introduce a comprehensive Human Rights Act and to enact legislation addressing systemic discrimination and promoting substantive equality.

We applaud the considerable steps taken by the Australian government to provide equal treatment of same-sex partners in defacto marriages. However, we are extremely disappointed Australia maintains its policy of not recognising legitimate same-sex marriages performed in member countries such as Norway, Spain, Canada and others. In addition, we note Australia has rejected recommendation 88.69 to amend its own Marriage Act to allow same-sex partners to marry.

Recommendations 88.66, 88.67 and 88.68 relate to the introduction of national anti-discrimination laws and we welcome Australia's policy commitment to include protections for people of a diverse sexual orientation, sex and gender identity. We remain concerned Australia has not committed to include same-sex partners within anti-discrimination policy under such existing grounds as relationship status and fails to ensure people who identify as intersex will be protected as well.

Further, we are concerned these laws and policies will not be implemented in line with the Yogyakarta Principles of applying international law in relation to sexual orientation and gender identity. Only last month, Australia's Parliament passed an amendment to national sex discrimination laws, legislating that states and territory laws were not being discriminatory if they required a gender diverse person to divorce before updating their birth certificate with their affirmed gender. Yogyakarta principle 3 states all people have the right to recognition before the law and that "No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity."

This new exemption to anti-discrimination law, and the state and territory requirements it enables, is in direct violation of the Yogyakarta Principles.

Accordingly, we call on Australia to:

- 1) reconsider its position on marriage equality; and
- 2) make public commitments to introducing anti-discrimination laws and policies in accordance with the Yogyakarta Principles.

Mr President, Australia has come a long way in its treatment of lesbian, gay, bisexual and sex and gender diverse people since the 1994 Toonen vs Australia case, where homosexuality was still illegal in the state of Tasmania. But much remains to be achieved in legislative, policy and program areas to ensure equality for Australians of a diverse sexual orientation, sex or gender identity.

Thank you.

