

## Anonymous 2

I write in response to the public consultation on the Draft Marriage and Civil Status (Amendment No.4) (Jersey) Law:

'I don't support equal marriage despite being a conservative. I support equal marriage because I am a conservative. It's about equality, but it's also about commitment. Conservatives believe in the ties that bind us; that society is stronger when we make vows to each other and support each other', David Cameron.

It would misunderstand same sex couples to say they disrespect the idea of marriage. Their plea is that they do respect it, respect it so deeply that they seek to find its fulfilment for themselves.

The introduction of marriage equality in Jersey is to be welcomed. The erosion of legal equality in commerce is not. Formulating opinions, and denying services, to groups based on their assumed characteristics is the essence of discrimination and is a regressive step to be resisted.

The phrases religious liberty and 'conscience clauses' are misnomers. Most such invocations, within the context of equal marriage, have nothing to do with actual infringements of 'liberty' or 'conscience'. They're about political and cultural dissent from equal rights and equal marriage itself.

Paradoxically, opponents of equal marriage and proponents of so-called 'conscience clauses' seek to interfere with the most intimate details of other peoples lives whilst loudly claiming liberty for themselves.

'Religious liberty' is a phrase deployed as a way of excluding other people: bakers, photographers, florists, hoteliers and landlords, who cite their religion when refusing to serve gay couples - allowing people to exert a form of social control over others in the name of religious freedom for themselves.

In Reynolds v United States (1878), the US Supreme Court ruled that when the personal imperatives of one's own religion or morality lead to actions in violation of the law, the violations will not be allowed and will certainly not be celebrated. As the court held, "To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself."

Refusing to serve customers has an ugly history. Half a century ago, the civil rights movement held lunch-counter sit ins to protest Jim Crow laws. No one succeeding then in claiming a God-given right to refuse to serve black customers. Today, in the name of religious liberty, there is robust opposition to equal marriage, and a similar attempt to deny services to same sex couples on grounds of 'conscience'.

As noted in the Draft Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201-, there are complexities associated with 'conscience clauses':

1. Who would be exempt? Those immediately involved in a wedding ceremony (registrars and officiants) or the entire myriad of service providers involved in organising a wedding (florists, photographers, hoteliers)?
2. At what point would an exemption apply? Before, during or after the marriage? Can a hotelier refuse a hotel to be used as a wedding venue by same sex couples or can they also refuse same sex couples accommodation at any point before or during their marriage?
3. How could conscience be proven? What evidence can be provided to independently determine that a person has acted on their religious beliefs as opposed to being ('solely') homophobic and discriminatory?

To allow businesses and service providers to pick and choose which customers they serve would be invidious. The rights of people to hold religious beliefs should be (and is) protected - but they cannot be allowed to do so in the commercial sphere in a way which is contrary to the civil rights of others.

While the European Convention on Human Rights ("ECHR") would allow someone to express their views on equal marriage, it would not allow them to refuse to carry on their employment. The ECHR protects one's right to freedom of belief and speech but does not have a freedom not to perform their services; so too should Jersey's marriage laws.

In democratic society, law is the form we give to justice. Justice is not created by the law, or the lawyers or the courts, but by the men and women who constitute our society, who are the protectors of the law as they are themselves protected by the law.

We must recognise the full human equality of all - not because it is economically advantageous, though it is; not because the law commands it, though it does; not because others expect it, though they do. We must do it for the single and fundamental reason that it is the right thing to do.