

# Hot Topics: From Kyoto Protocol to the Protocols of Marriage

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## Kyoto Protocol

At the Young Lawyers' First Hot Topic held at the Kitten Club on 23 October 2002, young lawyers had the opportunity to participate in a discussion of the pros and cons of the Kyoto Protocol with representatives of government, industry and the legal profession.

Australia was accused at the Earth Summit at Johannesburg (held in September of this year) of being America's poodle in failing to ratify the Protocol. This failure saw Australia's Environment Minister moved to last in the queue to address the Summit. Is Australia letting down the world by failing to ratify? Should we be ashamed of our country's position? Or are we capable of implementing the necessary changes without ratification of the Protocol?

As one commentator suggests,<sup>1</sup> perhaps "signing up to legally binding emissions-reduction targets could threaten investment in Australian business ventures, put us at a distinct economic disadvantage in our region, and endanger Australian jobs". This same commentator also suggests that our recent gas deal with China – bringing a great deal to the Australian economy – would not have been allowed under the Kyoto Protocol. Is it valid to suggest that Australia could make no difference, "when the world's biggest economy, and its worst polluter, the United States, refuses to sign up?"<sup>2</sup>

All these topics were covered at the Young Lawyers' First Hot Topic, where young lawyers also discussed why wood-fired power stations are considered to be sustainable development (and therefore green energy).

## Marriage

There have been many reports recently about the decline in the numbers of people getting married. In 2001, there were 103,130 couples married – over 10,000 fewer than the previous year. Statistics also indicate that about one third of these (presently) happily married couples will end up divorced.<sup>3</sup>

People get married for all sorts of reasons – religious, spiritual, for security, as a demonstration of mutual commitment, or to provide a "family" for their children. According to Australia's Prime Minister, "Marriage is not on the way out. It is the bedrock social institution and it ought to be protected"<sup>4</sup>

Equally there are plenty of people who do not get married. The legal differences between being a de facto couple and a married couple are diminishing. It is no longer considered a big deal to have a child "out of wedlock" (in fact how often have you heard the word wedlock used in a sentence recently?). Then there are the divorce statistics referred to earlier, which hang over the prospect of marriage like Damocles' sword. Some people are anti-marriage as they view marriage as a patriarchal institution. Approximately 72% of couples in Australia were co-habiting in 2001, compared to 31% in 1981.<sup>5</sup>

But what about those of us who are not allowed to exercise the choice to get married? The *Family Law Act 1975* requires marriage to be between a man and a woman.

The Family Court has recently held that a female to male transsexual could marry the mother of his child (born through IVF).<sup>6</sup> In that case, Kevin did not have surgery to construct the appropriate body parts, but took male hormones, wore men's clothes and was known as a man by friends and family. The Federal Attorney-General, Daryl Williams, disagreed with the Court's ruling and appealed the decision.<sup>7</sup>

So how important is marriage today? Should anyone be able to get married? Should de facto

couples have the same rights as married couples? What role does religion play in marriage? What role does marriage play in society?

These are some of the many questions to be explored at the Young Lawyers' Second Hot Topic on November 6 2002 from 6pm to 8pm at the Kitten Club.

For further information on the Hot Topics, please contact **Jacqui Boymal** at the Law Institute on tel: **9607 9379**. ●

1 "Australia would lose under Kyoto", *The Australian*, 19/8/02, p 10

2 "Australia would lose under Kyoto", *The Australian*, 19/8/02, p 10

3 Colebatch, T "More and more, it is a case of till divorce do us part", *The Age*, 23/8/02, p 3

4 McManus, G "Howard vow on marriage", *Herald Sun* Sunday, 25/8/02, p 2

5 Arndt, B "Bride and Gloom", *Sydney Morning Herald*, 31/8/02, p 29

6 Re Kevin (Validity of Marriage of Transsexual) [2001] FamCA 1074

7 The case has been appealed to the Full Court of the Family Court. Argument was heard in February 2002. The Family Court has reserved its judgment and the judgment is expected to be handed down in late 2002 or early 2003.

## A Beer in the bush!

Groups of regional young lawyers in both the Wodonga and Horsham areas recently got together to boast about the pleasures of working in the country over a beer or two.

These networking events provided an excuse for junior practitioners to gather together and get to know other young lawyers working in more isolated areas, showing that strong peer support is essential to young lawyers working in country areas.

Thank you to Sarah Noble of Harris Lieberman Boyd in Wodonga and Brigid Jenkins of Lucas & Marshman in Horsham for arranging these events on behalf of the Regional Young Lawyers' Committee.

If you would like to contact your local Regional Young Lawyers' Committee representative, please call the Young Lawyers' Section on tel: **03 9607 9379**.