**Brief biography: Anna Chapman**

Anna Chapman is a senior lecturer in the Melbourne Law School and a member of the Centre for Employment and Labour Relations Law, University of Melbourne. Anna's research focuses on work, gender, sexuality, race and law. This work has engaged particularly with anti-discrimination law, unfair dismissal law and leave regimes. Anna is currently engaged in a project examining the relationship between law, work and care. Anna is one of the Editors of the Australian Journal of Labour Law, and is the author of over 25 refereed publications. In 2010 Anna undertook a consultancy for the Australian Human Rights Commission on discrimination law in relation to the grounds of sexuality and gender identity.

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**5th Equality, Diversity and Inclusion Conference, 2012**

**Abstract Submission for the Stream 15: ‘Challenging Heteronormativity: Moving Forward on Equality, Diversity and Inclusion?’**

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*Please note that due to University commitments, I am only able to attend the conference on 23 and 24 July 2012. Should my abstract be accepted, I would not be available to present the paper on 25 July.*

**Title of paper**: Heteronormativity in the Recognition of Legal Rights in Australian Workplaces

**Abstract:**

Over the past 25 years or so a raft of laws have been enacted in Australia to prohibit discrimination on the ground of sexuality, gender identity or being transgender, as well as to recognize same sex relationships for a range of employment purposes such as leave regimes.

Formal equality has become the standard in employment law, as in most other areas of Australian law, so that generally speaking LGBTIQ workers have now achieved the legal right to be treated the same as workers who identify as heterosexual, and same sex relationships are now treated in most areas of employment law equivalently to male-female relationships. Main areas of continuing formal discrimination involve the issues of adoption and same sex marriage (Chapman, 2010). These areas of non-recognition impact on employment law. Putting them to one side, the developments of the past two decades have undoubtedly improved the legal position of many LGBTIQ people, at least in a formal sense, and those gains should not be understated. They have generated tangible and substantial improvements in the legal position of many people.

This story of LGBTIQ law reform is complex though. It is not a simple story of progress towards equality. This paper explores how law reform in this area reveals heteronormativity (Warner, 1993) in the ways in which relationships are legally constructed. For example, employment law recognises ‘de facto’ relationships for a number of purposes, including for leave systems and discrimination laws. A ‘de facto’ relationship is stated to be comprised of two adults who are in a relationship together as a couple. There is a list of indicative factors to consider, such as whether the two people live together, own property together, share finances, in addition to the reputation and public aspects of the relationship. The standard list found in the Australian legislative schemes is based on what marriage was seen to require, drawn from old case decisions on divorce (Millbank, 2008). Notably, in some parts of Australia, to be recognised the de facto relationship must explicitly be ‘marriage-like’. Whilst this formal equality approach to law reform has disrupted the opposite gender marker of the normative relationship of Australian employment law, it has largely continued the normativity of the two-adult couple and nuclear family idealised in law. In this way heterosexuality has been rendered normative in the legal recognition of same sex relationships in Australia.

The paper will offer some thoughts on moving beyond the heteronormative framework, through a focus on the recognition of care.

**References:**

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