

The Rights of Athletes

By Josephine Langbien

Last year, the “supplements” controversy at the Essendon Football Club highlighted the intersection between human rights and the workplace in the world of professional sport. Brendan Schwab, director of International Player Relations and vice president of the International football players’ federation, FIFPro, reflected on the issues surrounding athletes’ rights.

As a sports and labour lawyer with a history of involvement in player advocacy, Mr Schwab has a deep understanding of the challenges faced by professional athletes. A sportsperson’s career is precarious, dependent on health and physical form, and is often over a few years after it begins. Athletes are not covered by industrial awards and are excluded from workers’ compensation legislation in Australia. They face a difficult transition at the end of their careers, often confronting physical and mental health issues. Many are not educated or financially ready for life after sport.

Historically, rules such as the ‘retain and transfer system’ have restricted athletes’ freedom of movement by limiting their employment choices. Football culture has viewed players as the property of clubs, to be bought and sold accordingly. Baseball in the United States for many years allowed clubs to bind players for life. Schwab pointed out that these systems, which constitute restraints on free trade, are contrary not only to the personal freedoms we regard so highly but also to the proper functioning of our economic system.

The challenges faced by professional athletes relate to the attempts of administrators, since the beginning of professional sport in the 19th century, to control athletes. Clubs and managers have often favoured the interests of sport over the interests of players, and the



‘mystique of sport’ has clouded the view of fans, administrators, politicians and the occasional judge, according to Schwab. Yet over recent decades, a string of legal victories has shown that the interests of players are not necessarily contrary to the interests of sport. The introduction of collective bargaining, grievance arbitration and revenue sharing failed to bring about the predicted demise of sport itself, but instead allowed professional sports to flourish.

Schwab emphasised that the progress achieved for athletes’ rights is a result of many battles fought and won by players’ associations and the rare individual player willing to risk his or her career to take a stand. During an engaging question time, Schwab said that athletes should not be pressured to use their public profiles to comment on political, human rights or sports-specific issues. We should ask ourselves whether we would sacrifice our career for a matter of principle and the wellbeing of our colleagues. Some outstanding individuals, including Australia’s Peter Norman, have done just that. We can only hope that in the future, the development of human rights will not come at such a high price.

Marriage equality in Australia. Where to from here?

By Stephanie Sprott

In late 2013, the ACT became the first territory in Australia to pass a bill in support of same-sex marriage. This was a pivotal moment in the marriage equality movement that sparked significant debate among the community, leading to the federal government’s High Court challenge claiming that the law was unconstitutional.

Before the court case took place, the Castan Centre held an impassioned discussion with three same-sex equality advocates from separate political standpoints. While the High Court later declared the act constitutionally invalid, the Centre’s forum nevertheless provided a space for advocates to discuss the importance of marriage equality as both a political and personal issue. Each speaker advocated his own theory of change, sparking a lively consideration of the future of marriage as an important contemporary institution in Australia.

The Hon. Clem Newton-Brown MP, Liberal Party state member for Prahran, affirmed his commitment to marriage equality and a conscience vote in the Federal Parliament. Newton-Browne urged bi-partisanship on the issue, arguing that hearts and minds can be changed through thoughtful, intelligent discussion that sparks mutual understanding between individuals. He concluded with a number of examples of pro-LGBTI issues that the Liberal Party has supported over the years, encouraging the audience to perceive the party as open to progressive change.

The discussion continued with The Hon. Adam Bandt MP, Federal Member for Melbourne, who identified a new direction for the marriage equality debate. Framing marriage as an ever-evolving, contemporary institution, Bandt criticised the government for denying a significant section of our population the right to legally declare their love to one another. He further marked the ACT Bill as a watershed in the movement and voiced his support for a conscience vote in the Federal Parliament. To conclude, Bandt argued that a majority of the population was now in support of marriage equality, making it the Parliament’s responsibility to spur lasting change on this issue.

The final speaker was Rodney Croome, National Director of Australian Marriage Equality. Croome advocated for the use of personal stories to humanise the idea of marriage equality among opponents. He then provided a touching example of a transgender woman whose living memories had the power to open a politician’s mind. While stories are pivotal to the movement, Croome argued that legal commitments were ultimately necessary to entrench change. He concluded by advocating for marriage equality laws at state level as a way of overcoming the stalemate in the Commonwealth Parliament.

The Q&A session that followed prompted an interesting discussion about the political and social dimensions of marriage equality. It was ultimately the personal stories of the night that resonated strongly with the audience, reminding us that love lies at the heart of this debate.