

INQUIRY INTO SAME SEX MARRIAGE LAW IN NSW

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Date received: 31/01/2013

Submission into Same Sex Marriage Law in NSW

SAME SEX MARRIAGE

In discussing the issue of same-sex marriage, there does not appear to be any reference to what constitutes a **definition of marriage**. The word occurs in the Commonwealth Constitution in Section 51 which states "The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

(xxi.) Marriage:

(xxii.) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:"

Obviously, at the time it was included in the Constitution, its meaning would have been limited substantially to the concept of one man one woman marriages.. Can we now change our original definition and include the items which were never envisaged by our forebears (as well as future ideas) and still apply it in the context of the original Constitution clauses to suit ourselves? Surely there would need to be a referendum to change the Constitution to validate a new definition different from the original accepted meaning of the word if we wish to provide for a different type(s) of marriage.

No doubt bigamy, polygamy, bestiality, incest were not seen as legitimate in the word marriage nor would it have acknowledged same-sex unions as a marriage. On the present arguments, all of these could be included by a simple Act of Parliament if the original and intended word in the Constitution could be ignored and totally altered.

Those developing the constitution and voting on it would have had their definition of marriage and a knowledge of its acceptance not only in Australia but in many nations. Its meaning is to be interpreted in the context of the Constitution and as intended by the authors. It would be open slather if, progressively, we could apply new and different meanings to the noun words in the Constitution to suit our current desires.

A person wishing to locate a comprehensive source of information for an examination of homosexuality and same sex marriage can find documentation and research references in the book **Strained Relations The Challenge of Homosexuality** by Bill Muehlenberg, 2011,an Australian, published by **Freedom Publishing Melbourne**. It has included 29 pages of diverse references to support the material within the book. It provides not only research reports but both positive and negative quotes from homosexuals themselves including those prominent in the debate.

It is critical that validated facts be available and considered as part of the debate. This has not been occurring at present and the evidence suggests there will be no change. For this reason, I am providing

in my submission a significant amount of data from peer reviewed research which has not and will not appear in our current media. In addition, I will include other information for consideration.

RELIGIOUS INFLUENCE

It is often argued that the objection to same sex marriage comes primarily from those of a religious persuasion. This is a ruse to divert attention from the significant evidence from many sources which highlight the undesirability and damage which can occur from accepting such marriages. Since most people obtain their ideas, information and opinions from the media, they have not only a very limited breadth of material but it is very selective in what is provided. Only when one reads alternative publications, research reports and government publications (eg. census data, epidemiological studies, medical statistics, demography reports) etc does the true picture emerge. It is likely that the majority of those people who favour same sex marriages, or have no objection, would be totally unaware of many of the facts raised in this submission. Same sex marriage sounds quite plausible when presented in terms of a love relationship which is being subjected to discrimination or is suffering an infringement of a human right. Perhaps it will prompt other types of love relationships to argue for recognition on the same basis because of their comparability with the same sex marriage concept. The issues I have highlighted are totally independent of and do not rely at all on any religious beliefs.

The reported impetus for gay marriage does not match the actual reality when one considers the take-up rate in places where it has been legal for many years (see the section **Why the Change** later in this submission).

The European Convention on Human Rights does not require member states or governments to grant same-sex couples access to marriage. The European Court of Human Rights repeated this ruling in one of its recent cases and determined that this was not an instance of discrimination, nor of the violation of the right to respect of one's family and private life because there is no right to gay marriage

France's Constitutional Council also determined in 2012 that marriage was between one man and one woman. This followed French Courts refusing a lesbian couple the adoption of a child. The court emphasised that marriage confers a special status to those who engage in it and the right to marry has social, personal and legal implications including the raising of children.

The proposal by the French Government to legislate for gay marriage has created an enormous protest in France with over one million people demonstrating in France and at French embassies in other countries against this bill. Some of those opposing such marriages are homosexuals themselves.

Xavier Bongibault, an atheist homosexual, is a prominent spokesman against the bill. In an interview he said "In France, marriage is not designed to protect the love between two people. French marriage is specifically designed to provide children with families". One of the most recent and in depth studies demonstrates quite clearly that a child being raised by gay parents can suffer significantly when compared with the child of heterosexual parents (see section **Some Further Research** later in this submission).

Professor Kuruvilla George, who is Victoria's deputy chief psychiatrist, has signed a submission to a senate inquiry opposing same-sex marriage. He is among a group of doctors, who, in a letter to the marriage equality inquiry, say limiting marriage between a man and woman "is important for the

future health of our nation”. The Doctors for the Family group says. “We submit that the evidence is clear that children who grow up in a family with a mother and father do better in all parameters than children without.”

Already there is evidence that the pressure groups arguing for gay marriage will extend their campaign even further once it is provided for in legislation. Denmark has now made it mandatory for all churches to conduct gay marriages. How much religious freedom is there when one is compelled to provide premises and a clergy member for an activity contrary to the basic tenants of the religion, contrary to the morals/ethics of that clergy member just because individuals wants their way? Perhaps the clergy should simply stipulate an enormous fee for the service to be held at a most inappropriate time with a prolonged boring sermon as well. Why the need to have a church wedding when it is only a civil contract for one year, able to be broken at will by one of the parties and has no standing in a religious context for those taking part. There is an element of hypocrisy here but this has never stopped those who wish to advance their own interests.

Professor Helen Alvaré at the UN Commission of Women argued that the separation of the goods of sexual intimacy, marriage, and procreation has not liberated women, she argued, but actually has lead to women’s declining happiness.

We are told that it will have little effect on us but once the homosexual pressure group achieves one aim, they then quickly build additionally on it so it then creates new effects. Britain has already experiencing this type of phenomenon with respect to freedom to wear or display religious symbols, obligation for religious institutions to process adoptions and fostering for homosexual couples, arresting a father because he wished to be made aware of when his child was to be given lessons on homosexuality and sexual orientation so that he could remove his child. It is quite likely that teachers, particularly those who take Personal Development and Health Education classes, will be rather tentative when responding to questions as to the sexual activities and sex toys within a same sex marriage if this is introduced. It will be a legitimate subject area since homosexuality is now acceptable in schools as an optional lifestyle together with other gender orientations.

Now that donor conception is readily available, we can anticipate a variety of suspect situations arising. A female in a same sex marriage could donate her egg to her partner and vice versa so we have two children conceived, not related to each other, but related to the mothers in the one family.

The male partnership gives rise to a different situation, they can donate sperm but a female body is required for both conception and during the pregnancy months. This surrogacy already occurs and has lead to the exploitation of some poor women in developing countries who are made available to service gay couples. This aspect will increase if male partners marry and want children.

Since the issue revolves around homosexuality, it is necessary for this to be examined.

HEALTH and LIFE SPAN

We are not being informed of the **health risks in homosexuality**. A Canadian group of physicians presented a heavily reference paper to their Parliament showing the scientific evidence from research for the significant health risks. The ill health not only affects the victims but imposes a cost on the community services. The paper also warned of the link between homosexuality and paedophilia with

homosexuals being 25% of paedophiles. Data obtained from major newspaper reports in USA, Australia, Canada, Great Britain and other countries of criminal cases indicated **29% of those who raped and killed children were engaged in homosexuality**. These figures are well in excess of even the most generous claim for the number of homosexuals in the community and do not include those instances where the homosexuality was covert.

The journal Vaccine reported that since 1982, anal cancer in Australia has increased by 3.4% annually in men and 1.9% annually in women. Professor Andrew Grulich of the University of NSW has recently indicated that **in some inner city suburbs the rate of anal cancer was up to 30 times higher than in the general population**.

Dr T Dailey in Issue Number 232 of the Family Research Council cites many research findings covering the higher incidence of cancer, alcohol abuse, physical abuse, mental health issues, reduced life span, etc which occur in the case of homosexuals.

A pro-homosexual research team in Canada in the 2005 journal Psychological Reports confirmed earlier findings that homosexual men have on average **a 20 year shortened life span, ie. similar to all men back in 1871**.

In Denmark, the country with the longest history of gay marriage, during the period 1990 to 2002, married heterosexual married men died at a median age of 74 but the partnered homosexual men died at an average age of 51. For lesbians, the difference is at least a 20 year shortened life span.

Studies have confirmed that male and female homosexuals have much higher rates of interpersonal adjustment including depression, domestic violence drug abuse. Some argue that this is the fault of the community which has a non-approving attitude towards them. This is no longer a valid argument since homosexuals now enjoy and use legislation successfully to ensure they achieve their aims.

Similar figures come from other sources too. **In Norway**, the life span for married heterosexuals males is 77 years but 52 for gay marriages; for lesbians, a shorter life by 20 years.

Obituaries from the **United States** are strikingly similar even excluding death from AIDS.

This confirms the consistent research findings of significant health problems occurring in homosexuality.

Dr Paul Cameron who is a reviewer for The British Medical Journal, the Canadian Medical Association Journal and the Post-graduate Medical Journal has made two very pertinent points:

Smoking is said to reduce the smoker's life span from 1 to 7 years but an analysis of the age at death in Norway and Denmark for gays who are legally married confirmed a reduced life span of 24 years. What justification is there for condemning smoking and endorsing homosexuality, especially in the case of a school curriculum.

A gay couple aged 35 is, roughly speaking, as close to death as a married heterosexual couple of 55.

The established promiscuity and lack of faithfulness of many homosexuals is a cause for concern since it can involve children and opposite sex spouses to the detriment of many on a continuing basis. The first American same-sex couple married, proceeded to a divorce three months later.

EFFECT ON CHILDREN

This shortened life span certainly has serious implications now that **homosexuals can adopt children** or use reproductive technology, surrogacy etc to obtain children; children can be orphaned at an early age. Same-sex marriage will further consolidate such a situation to the detriment of the children.

Data from same-sex unions in Norway and Sweden indicate that **the unions are fragile with a higher rate of divorce than heterosexual marriages. The divorce risk for male partnerships is 50% higher than that for heterosexual marriages and the divorce risk for female partnerships is about double.**

DISCRIMINATION

Two elderly spinster sisters who have lived together all their lives in England were denied recently by the European Court of Human Rights, the right to receive the same inheritance tax benefits as lesbian couples. Does this mean there must be some type of sexual activity before a relationship can exist?

Would they have been guilty of incest if they developed such a relationship? How does one establish that there is a sexual relationship? **These ladies loved each other just as validly as homosexuals claim they love each other.**

The primary purpose of marriage, as a protected institution legislated for by the state, is to provide for the orderly continuation of the human race by bringing children into the world and being responsible for them. The establishment of same-sex marriage means there is no need to continue protecting marriage as a special male/female institution and **any type of relationship deserves to be accepted since marriage has lost its inherent rationale and function.** Consideration must be given to polygamy, polyamory, group marriages, multi-sex marriages, incest, under age (arbitrary age?), bestiality, short term contract marriages, trial marriages or any consensual relationship as long as some form of sexual activity (however defined) is involved. **People will be able to justifiably cry discrimination if their preference is ruled out.**

What is not being recognised in the above instances and in same-sex unions is that that **the issue is not one of discrimination but of difference.** These are different from marriage because they do not reflect the identical characteristics of marriage. They cannot together produce children, they cannot engage in the full gambit of sexual activities, they cannot reflect a male and female personality etc to children, they cannot replicate the same love as that between a heterosexual couple. The fact that there are marriage prohibitions on these unions is because they do not meet the intended meaning of marriage in the Constitution. Difference is not discrimination.

The fact that marriage is a public and registered institution indicates that the state has an interest in it, primarily because it is unique and produces children who require nurturing, support, role models and

protection. Without children, anything else is just a private relationship between individuals, capable of termination on the request of one party after one year and then no further involvement.

On what basis can it be said that the 'love' relationship between people of the same sex is the same as that of a heterosexual couple. The heterosexual couple is composed of two fundamentally and biologically different humans who can complement each other in a physically sexual and emotional manner as well as strengthen that relationship by procreating their own offspring. Homosexual couples can only simulate these differences.

SEX EDUCATION

If same-sex marriages are permitted, then schools will be required to provide appropriate lessons in detailing the sexual activities available and practised by homosexuals and children can therefore legitimately experiment for themselves. This is not desirable when the children are still developing their individual sexual awareness, and parents in some countries are not permitted to remove them from such lessons. This is exactly what has happened in Britain effective from September 2011 as a result of an amendment to the Children, Schools and Families Bill.

Magazines will then be able to include descriptive articles on such sex activities as are possible in a same-sex marriage and also provide for input from readers. Films and television will also be able to cover such activities.

HOMOSEXUAL PROSTITUTION would have to be accepted and legalised else discrimination would be a valid claim.

HOMOSEXUAL PORNOGRAPHY of all types would have to be accepted as legitimate portrayal of sexual activities in this new legal marriage and we already experience the problems caused by the existing pornography.

WHY

The demand for same-sex marriage is about seeking an alleged legitimacy and acceptance at a time when de facto relationships are increasing and marriages are both breaking up at an increasing rate and earlier than ever before as shown by the Bureau of Statistics data. Not only are homosexual relationships more fragile, but promiscuity is common as evidenced by the significant spread of various health problems of a contact nature. Homosexuals themselves do not shy away from promiscuity claims.

Merely having the state recognise your relationship does not have much effect for most people as is evidenced by the number of people who move in and out of short-term de facto type arrangements so constantly. We hear of people being referred to as being in a relationship or in a new relationship, hanging out with, sharing a house with, going steady, ending a relationship, being together for several years and then deciding to marry, having a mistress, regularly engaging with a particular prostitute, etc.

The homosexual lobby wish to consolidate their acceptance by obtaining an entry into an institution which is not compatible with their genre but which they believe carries a status capable of giving them

wide community acceptance and approval but no actual benefits since legislation has been amended to already meet those needs.

We have already seen a push to lower the age of consent for homosexual relationships and the emphasis on encouraging it to be seen as a perfectly acceptable life style with no handicaps for young people still finding themselves. Permitting same-sex marriages will enhance their chances of being confused, uncertain and distressed. Will paedophilia eventually be seen as another form of sexual orientation and preference with a genetic basis (Homosexuals are born that way !) Already we see the apparent widespread activity of men engaging in homosexual activities with boys which has triggered an enquiry.

THE FUTURE

If same-sex marriage is permitted, it will be necessary to provide for the recognition of a same-sex de facto relationship if the concept of marriage is to be radically altered in this way to embrace this new type of relationship as a marriage. All the benefits applicable to current heterosexual de facto relationships must be applied to homosexual de facto marriages since they are a sexual relationship. Similarly, all the legal obligations etc on separation would also have to apply else there is discrimination. The whole issue could become a social and legal minefield.

We have become aware of the impetus now for homosexual couples to obtain children by a variety of means. In doing so, they are inadvertently confirming that the action of a male and female in marriage is the fundamental method of creating children but they cannot produce such a result from their relationship.

DIFFERENCE NOT DISCRIMINATION

The big difference is that no such homosexual relationship can produce children without an external person(s) not involved in the relationship. Unlike other couples who subsequently prove infertile, they enter their union with the prior knowledge that they cannot mutually and simultaneously contribute to an action which creates a child. Therefore, their union is not comparable to marriage. It is a means of satisfying a particular type of sexual appetite which, if legalised in a marriage context, enables others with a different type of sexual preference to claim discrimination if they are denied their method of choice for satisfying their particular sexual appetite.

The common thread between same-sex marriage and the already existing reproduction technologies is that both **disconnect procreation from sexual intimacy. Same-sex marriage involves a type of sexual intimacy with no possibility of a creative result while reproductive technologies involve creation with no sexual intimacy.**

Currently, a child “produced” in a homosexual relationship can have up to 5 parents; the two homosexual partners (non biological parents), a sperm donor, an egg donor and a surrogate mother. We are creating **another stolen generation**, stolen from the opportunity for a life with a true biological mother and father by the selfishness of their non-parents. When did the right for anyone and everyone to have a child, irrespective of the means used, come into existence! Children are produced with anonymous biological parents creating major problems for them later in life which is being attested to now by many such young adults. Incest can now occur unwittingly between both homosexual couples and heterosexual couples. Same-sex marriage adds to this likelihood.

When do such children learn how males and females interact together, where are **the role models**. There is a mountain of authoritative research confirming not only the advantages of heterosexual parenthood for children but also highlighting the negative aspects of single parenting and same-sex parenting. In all of this, it is the child who has no say in it but who has to bear the consequences.

While many single parents are doing so not by deliberate choice and deserve to be assisted, homosexual relationships are chosen deliberately as are the children for such relationships.

The community is concerned with current rate of divorce amongst heterosexual couples and the consequences for their children so why embrace another construct knowing that **the likelihood of divorce is so much greater in those relationships**.

Children will eventually seek an answer to the question as to why they were allegedly wanted by their homosexual parents when the parents objected to the natural and common practice of creating a child by joining with a person of the opposite sex and why the potential of breast feeding, pregnancy etc was not acceptable or possible. We know parents influence children and such a situation must affect the sexual understanding and development of the child, especially when the child becomes sexually aware.

Unfortunately, children from a homosexual partnership will often become promiscuous to prove they are straight and this can lead to further problems for them.

One wonders if anyone ever considers the plight of sperm donors, egg donors and surrogate mothers when they hear that their child's "Parents" have now divorced which is a frequent occurrence when children are involved in such relationships. Biological parents can be removed from their child's birth certificate but this only compounds the anxiety and problems for the child.

WHY THE CHANGE

It is worth asking where is the **impetus for a change** to marriage coming from now. Same sex marriage is available in 11 countries, most of which are in Western Europe and in a small minority of American states. This means 95% of the world's population has not accepted the need for such marriages. No country in Asia has accepted these marriages and these countries are not considered Christian; they are simply following the successful practice of thousands of years. No country in the Islamic world has changed marriage and there is only the one in Africa and one in South Africa who have done so. Where is the alleged overwhelming support that is quoted so blithely. There is not one state in the USA in which the people have voted directly for same sex marriage. It has been introduced through either legislation or judicial interpretation. There have been over 20 states in the USA where the people have been asked whether they support same sex marriage, they have all voted against it.

The most recent US Census indicates that only 150,000 same sex couples were prepared to have their relationship registered for reciprocal benefits over the past 15 years in the 19 states where this was possible and this represents only one in five of self-identified same-sex couples. Norway legalised same sex unions in 1993 and only 1,300 homosexual couples registered in the eight years subsequent to that compared with 190,000 heterosexual marriages, that is less than 0.7%, not a compelling demand. Similarly in Sweden, from 1995 and 2002, there were 1,526 such relationships registered compared with 280,000 heterosexual marriages, that is only 0.5%, not much interest! The Netherlands has experienced a continuous lack of enthusiasm for the change as the number of same sex gay marriages has constantly continued to fall and was less than 2% by 2009.

Based on these figures one could hardly justify a failure to give a right to any other small groups demanding recognition of various types of sexual/love relationships. To do otherwise would be comparable to the discrimination arguments currently put forward by the homosexual lobby .

SOME FURTHER RESEARCH

Another interesting, very recent and relevant piece of research is outlined below.

A new study shows why **children raised by homosexual couples suffer more** and why previous studies are flawed. The new study in the USA by Mark Regnerus was published in the June 2012 edition of *Social Science Journal*. Some of the findings are :

Children with a parent in a same-sex relationship “underperform” in almost every category. Some of these differences may be relatively benign — whether one voted in the last presidential election, for example — but most are decidedly not. One deficit is particularly worrying: Less than 2 percent of children from intact, biological families reported experiencing sexual abuse of some nature, but that figure for children of same-sex couples is 23 percent. Similarly disturbing is that 14 percent of children from same-sex couples have spent some time in foster care, compared with around 2 percent of the American population at large. Arrest, drug experimentation, and unemployment rates were all higher among children from same-sex families.

Regnerus’ comprehensive study examines nearly 3,000 adult children from eight different family structures and evaluates them within 40 social and emotional categories. The results reveal that children who remain with intact biological families were better educated, experienced greater mental and physical health, less drug experimentation, less criminal activity and reported overall higher levels of happiness. The greatest negative outcomes were found among children of lesbian mothers. This contradicts defective studies popularized by the media claiming children fare as well, or better, with lesbian mothers. In his study Regnerus, relies solely on information directly from adult children rather than opinions from their parents who would have had a bias towards a positive image of their children and their adult lives now.

In November 2012 the UK Social Justice Cabinet Committee confirmed that the number of UK children experiencing the separation of their birth parents is already 45%. Currently, 40% of 15 year olds are experiencing separated parents. Knowing the instability etc associated with same sex relationships as validated by research, why would we want to provide for an increase in such an undesirable outcome for our children.

Americans David McWhirter and Andrew Mattison, themselves gay, in a survey for their book *The Male Couple* interviewed 156 gay couples and found that although most had intended to be faithful, only seven still were. Every one of the couples who had been together for at least five years had made arrangements for affairs on the side.

The authors concluded ”Many couples learn very early in their relationship that ownership of each other sexually can become the greatest internal threat to their staying together.”

In Victoria, Associate Professor Paula Gerber, a human rights activist and co-author of *Jack & Jill or Jack & Bill: The Case for Same-Sex Adoption*, cites the “highly regarded” National Lesbian Longitudinal Family Study as authoritative on same-sex families. That survey of lesbian couples found

more than half separated by the end of the study - almost double the rate for married heterosexual couples with children the same age.

Registering a same-sex relationship as a type of recognised contract placing obligations and responsibilities on the partners (including when a breakup occurs) would meet the reasonable claims of the homosexuals if what they say about recognition is to be believed and leave marriage as a unique institution, with its defining characteristics, as it has always been. The homosexuals define themselves as different by having a relationship so a different relationship mode is required for them which does not match the marriage context.

I submit there is ample evidence from different reliable sources to support marriage remaining only between one male and one female and not extending it to encompass same sex couples or other types of arrangements such as polygamy, polyamory, group marriages, multi-sex marriages, incest, under age (arbitrary age?), bestiality, short term contract marriages, trial marriages.

Thank you for noting this submission.

Michael Sobb