

**Submission
No 315**

INQUIRY INTO SAME SEX MARRIAGE LAW IN NSW

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Argument: Marriage is just a cultural construct. Marriage between one man and one woman was just a cultural and religious construct to suit the conservative values of the past.

The culture has changed, values have changed, therefore marriage can be redefined to include same-sex marriage.

Response 1: Marriage is a cultural institution built around a very real biological fact: that the sexual union of a man and a woman is an inherently procreative relationship.

Marriage is a compound right in both international and domestic law: it's the right to marry and to found a family.

Giving same-sex couples "the right to have children" negates the rights of all children with respect to their biological origins and natural families, not just those born into same-sex marriages.

Australians don't want another stolen generation of children who don't know their identity because they don't know their biological parents, brothers, sisters, aunts, uncles and grandparents.

Hence, the institution of marriage cannot accommodate same-sex relationships and maintain its current functions.

Response 2: The nations of the world define natural marriage as between one man and one woman only, to provide a legal and financial framework that:

- strengthens families and ensures stability for future generations;
- protects kids' identity and their right to know and to be raised by their natural mum and dad.

Natural marriage is enshrined in the 1948 UN Declaration of Human Rights: "Men and women ... have the right to marry and to found a family, (which is) the natural and fundamental group or unit of society and is entitled to protection by society and the State" (Art. 16).

All 193 nations of the UN adopted this Declaration.

Argument: It won't harm anyone. Legalising same-sex marriage won't harm anyone; it won't damage traditional marriage. It will simply give equality between opposite sex couples and same sex couples.

Response 1: Same-sex marriage creates new forms of discrimination and limits civil and religious freedoms.

First, schools will be forced to teach children about same-sex marriage in sex education classes, as happened in Massachusetts after the courts ruled that same-sex marriage was legal.

Second, it will discriminate against children conceived by donor-conception, children who are denied the right to know and be raised by both their biological parents.

Third, the legalization of same-sex marriage in Canada (2005) resulted in restrictions on freedom of conscience and religion, and freedom of speech.

Complaints filed before Human Rights tribunals or courts have sometimes resulted in substantial penalties.

Those targeted have included civil marriage celebrants for refusal to conduct same-sex marriages; a teacher and an author of a letter to the editor questioning the morality of homosexuality; a Roman Catholic organisation that rescinded an agreement to rent a church hall for a lesbian wedding reception; and school trustees for their decision not to include books on homosexual families on a reading list for kindergarten students.

Response 2: Legalising same-sex marriage makes marriage no longer about children but only about "sexual love".

If marriage is only about "sexual love", then marriage law could logically be extended to include polygamists or any mixed or same-sex group of three, four, six or more people.

As early as 2006, in the statement 'Beyond Same-Sex Marriage,' prominent American figures including Cornel West, Gloria Steinem, Barbara Ehrenreich, and Judith Butler called for the legal recognition of polyamorous households, i.e. three, four, six or more people

Hence, it can be said that same-sex "marriage" redefines marriage for everyone, destroying the tried and tested, universal definition of natural marriage as necessary to protect the best interests of children and future generations.

Argument: same-sex couples can be good parents. Same-sex couples can be good parents just like opposite sex couples.

Response: Two homosexual men can be good fathers but they cannot be a child's biological mother and father.

Two lesbian women can be good mothers, but they cannot be the biological father and mother of the child.

Children need a mother and a father to function best in a society made up of both sexes.

Argument: children won't be disadvantaged. Children of same-sex couples are not disadvantaged in comparison to children of opposite-sex couples. Research suggests children need only one role model, therefore, two same-sex parents can adequately raise a child.

Response: Australia's stolen generations of children have demonstrated the damage done to children who are denied the right to know and be raised by their biological parents.

"Find my family" is one of the most popular programs on TV, helping people track their relatives and ancestors that they have not known.

One of the first responsibilities of the state is to protect the rights of children. A 2009 Galaxy Poll found that 86% of Australians believe that children should be raised by their biological mother and father, wherever possible.

It is irresponsible for the state to sanction the creation of yet another class of children who don't know their biological parents, children who can't use Ancestry.com to find their biological parent(s), brothers, sisters, aunts, uncles, grandparents, ancestors.

Argument: right to a child. Same-sex couples have the right to equality with opposite sex couples, including the right to have children.

Response: Legalising same-sex marriage means more same-sex couples claiming "the right" to have children by donor IVF, surrogacy and adoption.

This treats children as commodities to satisfy adult desires and demands.

Nobody has the "right to a child", any more than a man has a "right" to a woman.

Children need a mother and a father to function best in a society made up of both sexes.

Argument: give politicians a conscience vote. Politicians should be allowed to have a "conscience vote" on the issue of same-sex marriage.

Response: Allowing a "conscience vote" will say to members of parliament, if you want, "you can vote to create yet another stolen generation of children who don't know their biological mum/dad."

Further, it will say that the parliament is incapable of defending natural marriage.

Argument: A primary argument against allowing same-sex couples to marry is that it's an institution for raising children and should be preserved for those who procreate.

Therefore Bob and Jill who've been married for years and chose international holidays over school fees shouldn't have been able to get married, even more so if they are past a procreative age.

Response: This argument misses the point.

It would be totally impractical, invasive and unreasonable, not to mention unethical, for the state to test the fertility of every marrying couple.

Opposite sex couples are biologically oriented to procreation. Marriage is preserved for opposite sex couples so that if and when they do procreate, the rights of children are protected.

Children have the right to know and be raised by their biological parents.

Argument: access to children. Opposite sex couples already have access to children by IVF, donor conception and surrogacy, and in some states, same-sex couples have the same access to children. Marriage for same-sex couples will give stability to their relationships and to the raising of their children.

Response: Yes, some states have variously given singles, de-factos and in some cases, same-sex couples, access to children through either adoption, surrogacy, or donor-IVF.

But as the donor-conceived advocacy group Tangled Webs states, "The desire to provide children for infertile couples does not override the child's need for and right to [the] vital relationship with his or her genetic parents."

The Federal government should not be making a bad situation worse. They should not be widening the access to children by donor-IVF, surrogacy and adoption to even more groups of people

One of the primary responsibilities of the state is to protect children, particularly the right of children to their identity.

A child's identity comes from knowing and being raised by their biological mum and dad and knowing all their brothers, sisters, aunts, uncles, grandparents and being able to trace the ancestors on Ancestry.com.

A 2009 Galaxy Poll found that 86% of Australians believe that children should be raised by their biological mother and father, wherever possible.

Argument: same-sex marriage is more inclusive. Allowing same-sex couples to marry will make marriage more inclusive, and this will mean even more people can share in the benefits of marriage.

Response: The fact is, marriage is a form of government regulation. Through marriage, the government regulates a specific category of private relationships, by registering them as lifelong, exclusive, "solemn and binding" relationships.

A government needs very clear policy reasons for having any role in the most intimate of all human relationships. Because opposite sex relationships are inherently geared towards producing children, the government does have a serious reason for regulating those relationships, albeit in a very limited way.

The same reason obviously does not extend to same-sex couples. Submitting more kinds of relationships to government regulation just to make marriage more "inclusive" is not a well-reasoned policy initiative.

Argument: it's inevitable. Six US states and the district of Columbia have legalised same-sex marriage; it will inevitably spread across the US.

Response: In the six states and the District of Columbia, where homosexual marriage has been legalised, it has been imposed either by activist judges (as in Connecticut, Iowa and Massachusetts) or by state legislatures (as in Vermont, New Hampshire, New York and Washington DC).

Yet, in all of the 30 states where referenda have allowed the electorate to have the final say on whether or not marriage should be between one man and one woman only, the majority have always voted for traditional marriage.