

**Submission
No 186**

INQUIRY INTO ADOPTION BY SAME SEX COUPLES

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Date received: 13/02/2009

CHRISTIAN DEMOCRATIC PARTY

PROTECTING CHILDREN AND FAMILIES, PROMOTING VALUES AND ETHICS.



The Director
Standing Committee on Law and Justice,
Parliament House
Macquarie Street
Sydney NSW 2000.

Dear Director,

Please find herewith the Submission of the Christian Democratic Party to the *Inquiry into Adoption by Same-Sex Couples*, with supporting documents.

Yours sincerely,

Rev Hon. Fred Nile MLC
(National / State President)

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SUBMISSION

By the Christian Democratic Party

To the

Inquiry Into Adoption By Same Sex Couples

**By the Standing Committee On Law And Justice,
NSW Legislative Council**

**Authorised by Reverend Hon Fred Nile MLC
National and NSW President**

13/02/2009

Objectives

The objectives of this inquiry are to analyse and report on law reform issues regarding whether NSW adoption laws should be amended to allow same sex couples to adopt, with particular reference to:

- (a) ascertaining whether adoption by same sex couples would further the objectives of the Adoption Act 2000
- (b) the experience in other Australian and overseas jurisdictions that allow the adoption of children by same sex couples
- (c) whether there is scope within the existing programs (local and international) for same sex couples to be able to adopt
- (d) examining the implications of adoption by same sex couples for children, and
- (e) if adoption by same sex couples will promote the welfare of children, then examining what legislative changes are required.

The Christian Democratic Party will demonstrate that adoption of children by same-sex couples is not in the best interests of those children so concerned.

A – Objectives of Adoption Act 2000

The NSW *Adoption Act 2000* clearly stipulates that adoption is to be regarded a **service** for all children so concerned and that the **children's best interests must be paramount** in all considerations throughout the process.¹

Further, in regard to the determining factors for consideration when ascertaining the suitability of persons seeking to adopt, the Act states that these individuals must be “fit and proper persons”² that would best serve the interests of the child as parents. The Act clearly states that “**no adult has a right to adopt**”³, regardless of any egalitarian, socio-economic or relational considerations.

Therefore, the inquiry must ignore any issues of perceived ‘equality’ for same-sex couples that may be raised by advocates and special interest groups and put aside any related personal socio-political considerations. The only factors for consideration should be what is best for the child.

B – Other Jurisdictions

New South Wales, Victoria, Queensland, South Australia, Tasmania and the Northern Territory do not allow same-sex couples to adopt children within their jurisdictions. Each has stringent requirements of heterosexual couples seeking adoption, including a demonstrated relationship history of at least 2-5 years.

Whilst the Victorian Premier John Brumby stated that legislators should be “motivated at all times by what is believed to be the best interests of the child...It is about providing children with a safe environment to grow up in”, he was “examining the issue (same-sex adoption) in the context of a national approach”⁴. However, Prime Minister Kevin Rudd had stated on 2DayFM (24/10/07) that the option should only be considered in circumstances where there is no likelihood of finding adoptive parents at all. There is nothing to suggest the Prime Minister has altered this position.

Queensland reaffirmed their commitment to the prohibition on same-sex adoption when Premier Anna Bligh stated to the ABC (24/07/08)⁵, “In an environment when you have such a small number of babies and such a large number of couples seeking to adopt, the onus is on the state to make a judgement about the best possible placement for a child and the prospect of that being anything other than couples (heterosexual) as I have described, we think is very low”.

Western Australia on the other hand has allowed same-sex adoption since 2002 with the passage of the *Acts Amendment (Lesbian and Gay reform) Act 2002*, but because legislation required the consent of the mother, it wasn't until June 2007 that the WA *Department of Child Protection's Accommodation and Care Services* was able to find a suitable child for a same-sex couple. The Amendment was made because previous legislation was deemed to be discriminatory against same-sex couples.

The ACT followed the example of WA on 10/2/04, passing the *Parentage Bill 2003*, again to remove ‘discriminatory’ legislation.

C – Scope Within Existing Programs

The inquiry seeks to analyse and report on the implications of allowing same-sex couples to adopt children in NSW, thereby adding another pool of potential parents to that already in existence.

In fulfilling the aforementioned mandate of this inquiry and the objectives of the Adoption Act, this should only be considered if it is in the best interests of the children so concerned. This would only be the case if there was a current or projected shortage of “fit and proper” persons seeking adoption or there was an inherent advantage to having homosexual parents. Neither is the case.

Existing programs within NSW and around the nation have sufficient numbers of such persons to adequately fulfil the needs of Australian children. In reality, demand for adoption far exceeds the national supply of children, forcing many couples to seek children from overseas.

The *NSW Department of Community Services* currently has 1,363 heterosexual couples on their books seeking to adopt a child, of which 1083 are being forced to seek children from overseas due to a lack of children domestically.

According to the latest figures from the *Australian Institute of Health and Welfare*⁶ only 440 children were successfully adopted nationally in 2007-2008, of which only 70 were regarded ‘local’ from within Australia. The other 374 were sourced predominantly from China, South Korea, Philippines, Ethiopia and India.

Only 15 NSW couples were successful in adopting a child from within Australia in 2007-2008 and figures for 2009-2010 are projected to be about the same.

Increasing demand in and of itself does not necessarily further the interests of the children unless it can be demonstrated that there is an inherent advantage to same-sex parenting. However, the very small number of children available for adoption in NSW proves there is no need to change the *NSW Adoption Act* to include same-sex homosexual or lesbian couples to fulfil the demands of a vocal minority.

D - Implications For Children

Is there any advantage in placing children for adoption with same-sex parents?

There have been some research papers published to date that claim that there is “no difference” between the parenting of heterosexual and homosexual couples. If this were indeed true, it alone would preclude the need to allow same-sex couples access to the already scant supply of children up for adoption, but it is not. A great deal of research suffers from significant statistical and analytical errors, engendered through personal paradigms of perceptual bias and socio-political pressures.

The recurrent myth of “no difference” is refuted by several reports of repute. Dr Robert Lerner and Dr Althea K. Nagai from the University of Chicago both conclude “objective analysis, however, demonstrates that there is no basis for this assertion (ie. no difference between homosexual and heterosexual parentage). The studies on which such claims are based are all gravely deficient”⁷

The research paper⁸ published by Professor Judith Stacey and Associate Professor Timothy J. Biblarz from the University of Southern California, is another that debunks the myth of “no difference”. Whilst they dismiss all negative implications of same-sex parenting as a consequence of the so-called “heterosexist ideology” and “homophobic stigmas” inherent in our heterosexual society, they nonetheless concluded that a meta-analysis of 21 significant psychological studies “identified conceptual, methodical and theoretical limitations in the psychological research on the effects of parental sexual orientation” and “given the weighty political implications of this body of research, it is easy to understand the social sources of such a defensive stance”. There was indeed a difference.

As the majority of same-sex couples with children were women, most research tended to be a comparative analysis of these children raised by self-selected homosexual women having undergone IVF and random samples of those raised in traditional heterosexual relationships. Research found these homosexual women were “more likely to receive psychiatric care in adult life” (Golombok et al. 1983) and more likely to suffer “depression” and issues with “self-esteem” (Rand et al. 1982; R. Green et al. 1986; Chan, Ranbooy and Patterson 1998; Golombok et al. 1983).

A twin study published in the journal *Archives of General Psychiatry* by the *American Medical Association*⁹, supports these findings. Their research found that homosexuals

in a relationship were at much greater risk of suffering significant mental health problems and were 6.5 times more likely to attempt suicide than heterosexuals in a relationship.

Stacey and Biblarz mention that both boys and girls were more likely to experience “disruption” within the family home post separation of homosexual parents and the inclusion of new live-in same-sex partners. (Kweskin and Cook 1982; R Green et al. 1986). This would likely be compounded by the transient nature of most homosexual relationships, with few lasting more than 2 years.^{10 11}

But the “disruption” is not limited to events of separation. A study published in the *Journal of Interpersonal Violence*¹² found that 90% of homosexual women had been the victim of significant verbal abuse from their partner within the past 12 months, 31% reported physical abuse.¹³ A report in the *Journal of Social Service Research*¹⁴ found more than 50% of homosexual women had been abused by their partner, the most common forms of abuse being verbal, emotional and psychological in conjunction with physical-psychological abuse. Similarly, a study into the relationships of homosexual women found that 60% reported a pattern of abuse with 71% claiming it was growing worse over time. A *National Violence survey*¹⁵ by U.S. Department of Justice found that “same-sex cohabitants reported significantly more intimate partner violence than did opposite-sex cohabitants”. Homosexual women were almost twice as likely to have been raped, physically assaulted and/or stalked by their partner as heterosexual women. Statistically, homosexual men fair much worse, being over three times more likely to suffer the same fate. Some postulate that “the incidence of domestic violence among gay men is nearly double that in the heterosexual population”¹⁶.

Professor George A. Rekers concluded, “Homosexually-behaving adults inherently suffer significantly and substantially higher rates of partner relationship break-ups, psychological disorder, suicidal ideation, suicidal attempt, completed suicide, conduct disorder and substance abuse; therefore, as a group, households with a resident homosexually-behaving adult are substantially less capable of providing the best psychologically stable and secure home environments (for children).”¹⁷

Stacey and Biblarz also mention that girls raised by homosexual women were more inclined to experience homoerotic attraction and same-sex sexual relationships (Tasker and Golombok 1997), be “more sexually adventurous” and have a greater number of sexual partners from puberty (Tasker and Golombok 1997). They were more likely to depart from traditional gender role expectations and behaviours from an early age (Hoeffler 1981; Golombok et al. 1983; R. Green et al. 1986; Steckel 1987; Hotvedt and

Mandel 1982) and likely to feel parental homosexual expectations regarding their own sexual orientation (Tasker & Golombok 1997).

Boys raised by homosexual women also tended to depart from traditional gender role expectations and behaviours (Hoeffler 1981; Golombok et al. 1983; R. Green et al. 1986; Steckel 1987; Hotvedt and Mandel 1982) and they tended to be less aggressive, assertive and domineering (Steckel 1987). The women also had a significant effect on the boys' libido, having fewer sexual partners from puberty (Tasker & Golombok 1997). Boys with homosexual fathers had an increased likelihood of having a homosexual sexual relationship in adulthood (Bailey et al. 1995).

The *American College of Paediatricians*¹⁸ goes so far as to say that these children are at significant risk of being gender disordered or gender discordant (GID). "The emotional suffering of these children is indisputable and many homosexuality affirmative researchers agree that GID is treatable. Up to 75% of untreated gender discordant boys and one to two thirds of untreated discordant girls will develop same-sex attraction (SSA). On the other hand, SSA may be prevented when GID is treated successfully".

Further, the United Nations' *Declaration of the Rights of the Child*¹⁹ states that "a child shall enjoy special protection and shall be given every opportunity to develop socially in a healthy and normal manner". This would imply the ability of a child to develop freely to natural / biological maturity without artificial socio-sexual constructs being enforced upon them.

E – Welfare of Children

In accordance with the objectives of this Inquiry and by association, those of the NSW *Adoption Act 2000*, the welfare and "best interests" of the children so concerned must remain paramount. All other considerations must only ever be regarded supplementary to this objective. This inquiry must determine whether allowing same-sex couples to adopt children is in the best interests of those children and not those seeking the adoption.

Whilst there are no certainties in life, those tasked with the care and protection of the most vulnerable element within our society have a duty of care to ensure all children placed for adoption are afforded the greatest possible opportunity in life with as little potential risk as possible to their physical, mental and emotional development.

Considering that there is already an ample supply of “fit and proper” heterosexual couples, the burden of proof lies at the feet of proponents of same-sex adoption. These proponents must prove beyond reasonable doubt that same-sex parenting either offers some additional benefit to children or at the very least poses no additional risks to those already face by children. As shown, scientific research is either inconclusive or unfavourable to such a finding. In point of fact, there exists significant research to confirm that same-sex parenting actually increases the risks to children.

The principles established within the NSW Adoption Act and those of the *Hague Convention on the Protection of Children*, to which Australia is a signatory, are contravened by subjecting children to unnecessary risks and stressors by seeking to place them with adoptive same-sex parents when there are ample “fit and proper” heterosexual persons already able to undertake the important task of caring for these children.

As such, the Inquiry should find against such a proposal as this is clearly NOT in the best interests of the children so concerned.

The *American College of Paediatricians* state, “The research literature on child-rearing by homosexual parents is limited. The environment in which children are reared is absolutely critical to their development. Given the current body of research, the *American College of Paediatricians* believes it is **inappropriate, potentially hazardous** to children, and **dangerously irresponsible** to change the age-old prohibition on homosexual parenting, whether by adoption, foster care, or by reproductive manipulation. This position is rooted in the best available science.”²⁰

Whilst Western Australia and the ACT have allowed same-sex adoption, their reasons for doing so are not compatible with the objectives here in NSW. The ‘Terms of Reference’ of this inquiry clearly state that it is to ascertain “whether adoption by same-sex couples would further the objectives of the Adoption Act 2000”. The Act states clearly that “no adult has a right to adopt”. The children are not to be regarded a right, nor regarded a commodity or possession to which all must be provided access in the interests of some twisted form of equality. Such distorted egalitarian concepts only serve the personal interests of the proponents, not those of the children. Children should not be used as a socio-political tool by special interest groups and minorities.

Again the *American College of Paediatricians* state, “All adoption decisions should be made with the best interests of the child foremost. Adoption policies should reflect adults' commitment to meeting the needs of the child, rather than the child fulfilling the

needs or wishes of the adults. All adoptions should take place under strict legal, moral, and ethical standards.

We support those court decisions declaring that persons have no inherent "right to adopt." Children are not property or societal awards."²¹

Further, not only have studies raised concerns about same-sex parenting but they have also consistently concluded that children are more likely to thrive mentally, emotionally and physically in a loving, supporting home with both a heterosexual mother and father.^{22 23 24 25 26}

"Men and women are different, and both bring unique qualities to parenthood. Fatherhood is indispensable, and is premised on masculinity, maleness, being a man. Research is quite clear that children need a loving father to protect, defend and guide them. Children growing up without fathers experience numerous problems, including:

- an increased risk of being involved in crime and criminal activities;
- a greater likelihood of involvement in illicit drug use, alcohol consumption and tobacco use;
- a greater chance of committing suicide; a greater likelihood of developing mental health problems; an increased risk of sexual promiscuity and other sexual problems, including, gender confusion issues; an increased risk of becoming a victim of child sexual abuse; and a greater chance of growing up poor or in poverty.

Due to the enormous efforts of highly devoted, hard-working mothers and/or others brought in to aid them, children who grow up without fathers do not always experience these negative outcomes, but generally speaking, such problems are the usual result of growing up in fatherless families. The research on this has become quite extensive and persuasive."²⁷

We believe the lesbian and homosexual lifestyles are also not in the best interests of the child from both a moral and health perspective. For example the highest level of HIV/AIDS is found amongst homosexual males.^{28 29 30 31}

The Christian Democratic Party acknowledges that all children have a right to a father (male) and mother (female), to love, care and protection from as many threats to their well-being and growth as humanly possible.

The Christian Democratic Party therefore urges the inquiry to find against same-sex adoption. Same-sex couples should not be allowed to adopt as it is not in the best interests of the children or our nation.

¹ NSW Adoption Act 2000, No 75. 7 (a) & (b)

² NSW Adoption Act 2000, No 75. 28 (1) (b)

³ NSW Adoption Act 2000, No 75. 8 (1) (c)

⁴ Debate, *Assisted Reproduction Treatment Bill*, Victorian Legislative Assembly, 7 October 2008

⁵ ABC News, 15/07/2008 www.abc.net.au/stories/2008/07/15/2303685.htm

⁶ *Adoption Australia 2007-08*, Child Welfare Series, No. 46, 2009, Australian Institute of Health and Welfare, (Cat. No. CWS 34)

⁷ R. Lerner; A.K. Nagai, *No Basis: What the Studies Don't Tell Us About Same-Sex Parenting*, 2001

⁸ J. Stacey; T. J. Biblarz, *American Sociological Review*, Vol. 66, No. 2. (Apr., 2001), pp. 159-183.

⁹ R. Herrell, et al., "A Co-Twin Study in Adult Men," *Archives of General Psychiatry* 56 (1999): 867-874.

¹⁰ M. Pollak, "Male Homosexuality," in *Western Sexuality: Practice and Precept in Past and Present Times*, ed. P. Aries and A. Bejin, translated by Anthony Forster (New York, NY: B. Blackwell, 1985): 40-61, cited by Joseph Nicolosi in *Reparative Therapy of Male Homosexuality* (Northvale, New Jersey: Jason Aronson Inc., 1991): 124, 125.

¹¹ M. Saghir and E. Robins, *Male and Female Homosexuality* (Baltimore: Williams and Wilkins, 1973): 225; L. A. Peplau and H. Amaro, "Understanding Lesbian Relationships," in *Homosexuality: Social, Psychological, and Biological Issues*, ed. J. Weinrich and W. Paul (Beverly Hills: Sage, 1982).

¹² Gwat Yong Lie and Sabrina Gentlewarrier, "Intimate Violence in Lesbian Relationships: Discussion of Survey Findings and Practice Implications," *Journal of Social Service Research* 15 (1991): 46.

¹³ Lettie L. Lockhart et al., "Letting out the Secret: Violence in Lesbian Relationships," *Journal of Interpersonal Violence* 9 (1994): 469-492.

¹⁴ William C. Nichols, et al, editors, *Handbook of Family Development and Intervention* (New York: John Wiley and Sons, Inc., 2000): 393.

¹⁵ "Extent, Nature, and Consequences of Intimate Partner Violence," U.S. Department of Justice: Office of Justice Programs (July, 2000): 30.

¹⁶ D. Island and P. Letellier, *Men Who Beat the Men Who Love Them: Battered Gay Men and Domestic Violence* (New York: Haworth Press, 1991): 14.

¹⁷ G. A. Rekers, Review Of Research On Homosexual Parenting, Adoption, And Foster Parenting, 2004, pg 3

¹⁸ *The American College of Pediatricians*,

<http://www.acpeds.org/index.cgi?BISKIT=6792&CONTEXT=art&cat=10005&art=167%>

¹⁹ *Declaration of the Rights of the Child, United Nations General Assembly, Resolution 1386 (XIV), 20/11/1959, Principle 2.*

²⁰ *The American College of Pediatricians*,

<http://www.acpeds.org/index.cgi?cat=10005&art=171&BISKIT=3965309844&CONTEXT=art>

²¹ *The American College of Pediatricians*,

<http://www.acped.org/index.cgi?cat=10005&art=171&BISKIT=3965309844&CONTEXT=art>

²² Elizabeth Thomson et al., "Family Structure and Child Well-Being: Economic Resources vs. Parental Behaviors," *Social Forces* 73 (1994): 221-42.

²³ Sotirios Sarantakos, "Children in Three Contexts: Family, Education, and Social Development," *Children Australia*, vol. 21 (1996): 23-31.

²⁴ David Popenoe, *Life Without Father* (Cambridge: Harvard University Press, 1996), pp. 144, 146.

²⁵ Jeanne M. Hilton and Esther L. Devall, "Comparison of Parenting and Children's Behavior in Single-Mother, Single-Father, and Intact Families," *Journal of Divorce and Remarriage* 29 (1998): 23-54.

²⁶ Sara McLanahan and Gary Sandfeur, *Growing Up with a Single Parent: What Hurts, What Helps* (Cambridge: Harvard University Press, 1994), p. 45

²⁷ 21 Reasons Why Gender Matters, 2007, pg 6

²⁸ A.P.M. Coxon et al., "Sex Role Separation in Diaries of Homosexual Men," *AIDS* (July 1993):877-882.

²⁹ Jon Garbo, "More Young Gay Men are Contracting HIV from Steady Partners," *GayHealth* (July 25, 2001).

³⁰ G. J. Hart et al., "Risk Behaviour, Anti-HIV and Anti-Hepatitis B Core Prevalence in Clinic and Non-clinic Samples of Gay Men in England, 1991-1992," *AIDS* (July 1993): 863-869, cited in "Homosexual Marriage: The Next Demand," Position Analysis paper by Colorado for Family Values, May 1994.

³¹ Xiridou, et al., 1033.