

INQUIRY INTO SAME SEX MARRIAGE LAW IN NSW

Name: Mr A. Kent Kingston

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As a private citizen of NSW, I submit the following:

1. Marriage is currently covered under Commonwealth law and any changes to marriage law should be through the Federal Parliament, thereby avoiding legal complications and confusion between jurisdictions. The NSW Government should leave the matter of same-sex marriage / civil unions to the Federal Government, apart from voting through statements of support or recommendations to the Federal Government for a particular course of action, as state governments have done in the past.
2. Governments should have a minimal role when it comes to sexual activity and personal relationships, with legislation limited to protecting vulnerable individuals such as minors and adults mentally unable to comprehend the consequences of their involvement in personal relationships.
3. It is normal for people to have a range of views on relationships and sexuality and to see a range of behaviours/relationships as acceptable or unacceptable. Most people are against the idea of group sex. Most people are against adultery. Many religious groups teach that sexual activity should only occur within marriage. A minority of people believe sexual relations should be for procreation only. Another minority of people believe in polygamy. So long as the airing of such views does not promote the harming of vulnerable individuals (as defined in 2), it is unhelpful to use judgemental terms such as "permissive", "promiscuous", "bigoted", "misogynist", "homophobia" and "hate speech". In the process of "normalising" same-sex relationships, governments are at risk of sidelining the large numbers of citizens who believe homosexuality is not normal, and/or that homosexual activity is morally wrong. In choosing language to discuss these issues, a careful balance is required that avoids legislators running roughshod over the sensibilities of their constituency.
4. I support the concept of same-sex marriage generally, as I believe all adult relationships should have equal recognition under law.
5. I support the concept of same-sex marriage because research demonstrates that married couples stay together longer than de facto couples. The stability of relationships is to the benefit of society, as it avoids the disruption to employment and housing as well as the traumatic effects on family and children that often occur when a long-term relationship ends.
6. I support the concept of same-sex marriage because I believe that society benefits when people stay in long-term committed relationships rather than being involved with a series of sexual partners - a situation that involves both emotional and health risks and is sometimes associated with drug and alcohol misuse.
7. My main concern with same-sex marriage law is that it will fail to protect individuals and organisations that disagree with homosexual practice on cultural, moral, religious or other grounds. For example, a marriage celebrant (be they employed by a religious body or a private operator) should not be forced to conduct a same-sex marriage service. A government employee such as a court registrar, should be able to opt out of processing the paperwork for a same-sex marriage or civil union if they state a conscientious objection to this. A person employed as a counsellor in a government or non-government organisation should be allowed to choose whether or not to provide counselling to a same-sex couple preparing for marriage or having relationship difficulties. A person or organisation providing accommodation on the condition that only married people share double rooms should be allowed to maintain their conscientious belief and traditional definition of marriage as heterosexual and monogamous. Failing to provide these exemptions would place large numbers of people and organisations in a vulnerable legal situation where they would be required to act against their conscience or risk termination of employment or legal action. People with conscientious objections to same-sex marriage would essentially be blocked from seeking employment in certain sectors.
8. The concerns in point 7 are probably more connected with anti-discrimination law than marriage law. Again this is a matter for Commonwealth legislation, which reinforces my first recommendation that marriage reform legislation should be left with Federal Parliament where it is more likely to be enacted in a careful and coordinated manner with anti-discrimination law. To change marriage law without providing for thorough and simultaneous anti-discrimination exemptions is a recipe for disaster.