

27 March 2012

Submission to Senate Inquiry re  
**Marriage Equality Amendment Bill 2010**

Those who want same-sex marriage legalised rely chiefly on two arguments, namely that there is a right to such a marriage and that they are discriminated against by the present position.

No right for two members of the same sex to marry is found in any recognised document of human rights and valid human rights cannot be established by simple claim or assertion. It was reported on 22 March 2012 that the Court of Human Rights in Strasbourg had just issued a judgement saying that the European Convention on Human Rights "does not require member states' governments to grant same-sex couples access to marriage" and that this is not a question of discrimination or human rights.

Article 16 of the *Universal Declaration of Human Rights* provides that men and women have the right to marry and found a family but it would be very rare for a child created within a same-sex marriage to have any possibility of being raised by both its mother and father. (Sperm donors have been known to father up to one hundred children). Article 18 of the 1989 UN Convention on the Rights of the Child provides that 'both parents have common and primary responsibilities for the upbringing and development of the child and the best interests of the child is to be their basic concern'. Depriving a child of relationships with his or her parents is an injustice to the child, and should not be inflicted without some compelling or unavoidable reason. The child's rights to care and relationship must be supported pro-actively, before harm is done, for those rights to be protected at all.

Marriage is adult society's institutional structure for protecting the legitimate interests of children. Without this public purpose, marriage as a distinct social institution would not be needed.

Same sex couples and opposite sex couples are obviously different with respect to this essential public purpose of marriage. Treating different things differently is not discrimination. That is why, in the few cases where courts have found opposite sex marriage to be unlawful discrimination, they have had to come up with purposes for marriage that have nothing to do with procreation or attaching children to parents. Trivial arguments frame the gay marriage debate solely in terms of the emotional needs of adults, ignoring the child's point of view

If marriage is all about adults who love each other, by what rational principle should three (or more) adults who love each other not be allowed to marry?

David Blankenhorn is a supporter of gay rights in the US who nevertheless draws the line at same-sex marriage. He writes "Redefining marriage to include gay and lesbian couples would eliminate entirely in law, and weaken still further in culture, the basic idea of a mother and a father for every child." and "Should this proposed reform become law, even to say the words out loud in public – 'every child needs a father and a mother' -- would probably be viewed as explicitly divisive and discriminatory, possibly even as hate speech."

Instead of marriage being a bedrock social institution, same-sex marriage would become nothing but a government registry of friendships, a pointless legal convention that frankly doesn't deserve any government benefits or recognition at all

Since homosexual couples now enjoy equality with male-female couples in every way short of traditional marriage, it is appropriate that their valid entitlement stops there, because the demands of adults must end where the birthright of a child begins. The rights and needs of children to a mother and a father should be protected by the state. Adults do not have a right to deprive children of a father or a mother. Same sex marriage is still at the stage of being a social experiment, with known serious risks for children, though it may satisfy some adults' personal desire for social equity.

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