

Adoption Law:

Sidelining stability and security

**The case against abandoning the
current grounds for adoption**



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CHRISTIAN INFLUENCE IN A SECULAR WORLD

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Introduction

The Prime Minister is right to say that “too often in the past adoption has been seen as a last resort”.¹ Around 55,300 children in care are currently eligible for adoption but only around 2,000 of these children are adopted each year.² Maybe as many as 10,000 children in care could be adopted successfully. Yet they are not.

Research shows that children in care are far more likely to have no educational qualifications, to commit crime, become homeless and, in the case of girls, to become teenage mothers.³ In addition to these worrying facts there have been many high profile child abuse scandals in children’s homes.

For all these reasons the Government is determined to increase the number of children who are adopted from care. Adoption must be made simpler and there should be more support for adoptive parents. These moves have been widely welcomed.

However, some MPs, adoption agencies and gay rights groups have an additional agenda. They believe that the grounds for adoption should be changed so that unmarried and homosexual couples are legally permitted to jointly adopt children. This booklet argues that changing the law in this way will harm children.

Adoption law must protect children. The law must be based on what generally is the case, not on the exceptions which break the rule. There may be 12 year old boys and girls who would be capable of driving a car or sitting as a magistrate. Such children would be wholly exceptional. The risks of allowing all 12 year olds to drive cars or sit on the magistrate’s bench are far too great for society to permit it. Children need stability and security. All the research shows that by a long way married families are most likely to provide this. The Government’s own adoption law review reached this conclusion. Changing the law would put children at risk.

The legal grounds for adoption

Most Western countries only allow married couples or single people to adopt. Legal challenges to this under the European Convention on Human Rights have all failed even as recently as February 2002.

- In the UK, the Adoption Act 1976 provided that *joint* adoption can only be by a married couple.⁴ Some 95 per cent of all adoptions are by a married couple.⁵
- Single people can also adopt under the 1976 Act and they make up the remaining five per cent of adoptions.⁶
- In 1967 Britain signed up to the European Convention on the Adoption of Children which permits only married couples and single people to adopt.⁷
- In February 2002 the European Court of Human Rights ruled that there is no right for homosexuals to adopt.⁸ The Court ruled that a homosexual man *did not* have a ‘human right’ to adopt a child. It upheld the decision of Paris’ social services to refuse his request.

The Court said that the *desire* to adopt a child does not constitute the *right* to adopt one.⁹ It also said “...that the decisions refusing authorisation pursued a legitimate aim, namely *protecting the health and rights of children...*”¹⁰ [emphasis added].

- According to the Department of Health, the majority of European countries only allow joint adoption by married couples. Some countries have introduced partnership schemes to recognise unmarried couples. However, most of these schemes specifically *exclude* joint adoption.¹¹

Why marriage is the basis for adoption

Marriage is popular. Most people marry and most marriages last for life. The vast majority of children, around 71 per cent, live in a household headed by a married couple.¹²

Children need a father and a mother. They need both complementary role models. They also need the stability and security that are provided when their parents commit themselves to each other for life.

Children need a father and mother as committed to each other as they are to them.¹³ Only married couples have made a public and legal commitment to each other for life. That is why only married couples can jointly adopt.

Social science research shows that children do best when they are raised by married parents.

A H Halsey is Emeritus Professor of Social Policy at Nuffield College, Oxford and co-author of *English Ethical Socialism*. He summarises the research as follows:

“No one can deny that divorce, separation, birth outside marriage and one-parent families as well as cohabitation and extra-marital sexual intercourse have increased rapidly. Many applaud these freedoms. But what should be universally acknowledged is that the children of parents who do not follow the traditional norm (i.e. taking on personal, active and long-term responsibility for the social upbringing of the children they generate) are thereby disadvantaged in many major aspects of their chances of living a successful life. On the evidence available such children tend to die earlier, to have more illness, to do less well at school, to exist at a lower level of nutrition, comfort and conviviality, to suffer more unemployment, to be more prone to deviance and crime, and finally to repeat the cycle of unstable parenting from which they themselves have suffered... The evidence all points in the same direction, is formidable, and tallies with common sense.”¹⁴

Life-long and loving marriage is the ideal context in which to raise children. As the Government has stated “Marriage is still the surest foundation for raising children and remains the choice of the majority of people in Britain”.¹⁵

Adoption cannot undo the past. What it can do is to provide substitute parents who are as near to the ideal as possible. So when it comes to adoption, marriage is in practice the norm. This is why some 95 per cent of all adoptions are by a married couple.¹⁶

Single person adoption

Only 5 per cent of all adoptions are by single people.¹⁷ Where a young person finds it very difficult to relate to two carers, perhaps because of abuse or multiple foster placements, single person adoption may be the answer.

There have been some cases where local authorities have placed a child for adoption with a single person in the knowledge that he or she is actually cohabiting with someone. This subverts the intention of the law.

This technique is sometimes used to allow adoption by a homosexual couple. It is difficult to quantify exactly how many such cases there have been. According to press reports citing a Cardiff University study, in 1998 there were only three such adoptions by homosexual couples.¹⁸

British Social Attitudes has found that 84 per cent of the public are against homosexual men adopting children.¹⁹ There appears to be no gay rights measure so unpopular with the public as homosexual adoption.

In fact, same-sex couple households are very rare. According to Government statistics same-sex households comprise only 0.2 per cent of all households.²⁰

For and against changing the grounds for adoption

For

“It does not really matter what the configuration of the people is. It is the quality of the relationship with the prospective parents that matters.”²¹

Susanna Cheal, Chief Executive of the Who Cares? Trust

“Couples choose not to marry for a variety of reasons, including beliefs or circumstances that prevent them from doing so. However, if the adoption is appropriate for the child, it should go ahead, regardless of the reason why the couple have not married.”²²

Jonathan Shaw MP

“Children need parents who love them and whether that is two parents, three parents or four parents, heterosexual or gay, makes no difference.”²³

Ali Jarvis, Stonewall Scotland

“I think the central issue is the family. I want to see lesbians and gay men reclaiming the idea of the family. We all come from families, and I believe the vast majority of us aspire to create our own families. We are family and we know that families do indeed come in all shapes and sizes.”²⁴

Angela Mason, Director of Stonewall

Against

“I’m not in favour of gay couples seeking to adopt children because I question whether that is the right start in life. We should not see children as trophies.

Children, in my judgement, and I think it’s the judgement of almost everyone including single parents, are best brought up where you have two natural parents in a stable relationship. There’s no question about that. What we know from the evidence is that, generally speaking, that stability is more likely to occur where the parents are married than where they are not.”²⁵

The Rt Hon Jack Straw MP

“The adoption law review, when considering this issue, concluded that joint adoption should remain limited to married couples on the grounds that adoption by a married couple was more likely to provide the stability and security that the child needed because married couples have made a joint, publicly recognised, legal commitment to each other. In addition, marriage provides for mutual legal and financial obligations, and importantly in the event of divorce, the couple must be prepared to have plans for the future of their children scrutinised by the courts. There is no provision in law to protect the child’s interests when unmarried couples separate.”²⁶

Jacqui Smith MP, Minister of State, Department of Health

“...why then would [a cohabiting couple] not see – not necessarily in church but under the law – defining their relationship in terms of a more public, legal contract as being a precursor to actually adopting a child?”²⁷

Caroline Flint MP

Questions for prospective adoptive parents

Social workers have to meet with would-be adoptive parents to assess their suitability. The following questions are fairly typical of those asked. Good practice dictates that they are asked dispassionately:

- Are you in a happy and satisfactory relationship that is going to endure?
- Will the family be isolated, or are close relatives (grandparents/aunts/uncles) willing to offer support and encouragement?
- Are you ready to change your previous lifestyle? Do you realise that it will not be easy? What is your motivation in applying to adopt a child?
- Are you in good health? What is your life expectancy?

Asking the questions of married, unmarried and homosexual couples

“Are you in a happy and satisfactory relationship that is going to endure?”

- A committed couple provides the secure environment in which children can thrive.
- Cohabitation is by definition a temporary relationship where neither party is willing to make a permanent commitment.
- A study by gay researchers funded by the Department of Health and published by HMSO concluded that the average length of a closed homosexual relationship was 21 months.²⁸ “Closed” meant that monogamy had been maintained in the past month.²⁹
- Reports of life satisfaction show that homosexuals (and divorced people) are significantly more ‘unhappy’ than married couples.³⁰

“Will the family be isolated, or are close relatives (grandparents/aunts/uncles) willing to offer support and encouragement?”

- An adopted child acquires grandparents/aunts/uncles via a married couple’s legal relationship. Children and their parents need a wider network of relatives and friends for essential emotional and practical support.
- By definition cohabiting couples do not have ‘in-laws’ and may have no extended family.³¹ Certainly there is no wider social commitment. Cohabiting couples actually create ‘one-generational’ families. Even manuals for lone parents and lesbian parents acknowledge the problem caused by this lack of wider support.³²

“Are you ready to change your previous lifestyle? Do you realise that it will not be easy? What is your motivation in applying to adopt a child?”

- The reviewer must assess if the couple can adapt their lifestyle to having the new child (especially if they have no other children). But there is evidence that cohabitees are more likely than married couples to put their own satisfaction above the needs of others.³³
- Jack Straw has voiced concern that gay couples may seek to adopt children for the wrong reasons. He argued that it is wrong to see children as trophies – adopting them in order to validate a lifestyle rather than for the children’s own sakes.

“Are you in good health? What is your life expectancy?”

- A Government study looking at 30 years of health data for men concluded that marriage was correlated with longer life expectancy.³⁴
- One study in an internationally recognised journal found that homosexual men have a life expectancy of up to 20 years less than heterosexuals.³⁵ Indeed, the first homosexual to be allowed to adopt a child in New Jersey, USA, died of AIDS a few months later.³⁶

Benefits of marriage for children

The Government's adoption review said that marriage, above all other relationships, provides stability and security for children.³⁷ The evidence backs it up. *On a range of social indicators the children of married couples generally have much better outcomes in life. In general they:*

- ...have better health
- ...do better at school
- ...are safer from child abuse
- ...have fewer behavioural problems
- ...are less likely to have had under-age sex

- Infant mortality is between 25 and 35 per cent lower for the children of married parents than the children of cohabiting parents.³⁸
- An assessment of primary school children showed that the scores in language skills and mathematics for the children of homosexual couples were 29 per cent and 30 per cent lower than those with married parents. The scores for the children of cohabiting heterosexual parents were 12 and 11 per cent lower than those of married parents respectively.³⁹
- One study showed that young men were 1.5 times more likely to be out of school and not working if their parents were not married.⁴⁰
- In a prominent study, adolescent children in stable married families consistently came out better for behaviour, competence and education than comparable children in both divorced-lone-mother and step-families.⁴¹
- Married parents are less likely to abuse their children. The incidence of child abuse in one study was 20 times higher for children living with their cohabiting parents and 33 times higher among children living with

their mother and her boyfriend compared to children living with their biological, married parents.⁴²

- One study based on a sample of over 44,000 households found that teenagers living with cohabiters (their mother and her boyfriend) were between two and 14 times more likely to have emotional and behavioural problems than teenagers living with their married biological parents.⁴³
- In one survey of over 2,000 children, 31 per cent of those with cohabiting parents had had under-age sex compared to 13 per cent of those with married parents: more than double the number.⁴⁴

Contrasting marriage and cohabitation

There is a great paucity of studies on adoption by unmarried cohabiting couples. Getting together a suitable sample of people to assess is very difficult. The next best thing is to look at the evidence on children raised by their natural cohabiting parents.

Here are some examples:

- Cohabiting couples with dependent children have substantially lower earnings than other families with children, they are also more likely to be on Income Support, be in council housing, be in deprived inner-city areas, and be in lower socio-economic groups.⁴⁵
- One report showed that nearly 75 per cent of the children who committed criminal offences had cohabiting parents compared with 25 per cent with married parents.⁴⁶
- Children of cohabiting couples appear in larger proportions than children of married couples among those who have used illicit drugs, begun drinking earlier in life and drink more.⁴⁷

Cohabitation – a transitory arrangement

Living together doesn't last long

The study *Seven years in the lives of British Families* was based on data from the British Household Panel Survey, in which 10,000 adults were interviewed every year between 1991 and 1997. The study concluded that cohabitation is essentially a transitory arrangement: “Cohabiting unions last only a short time before being converted into marriage or dissolving: their median length is about two years.”⁴⁸

The study found that 60 per cent of cohabitations turned into marriage.⁴⁹ But of the rest, very few endured. Of the remaining cohabitations, 83 per cent broke up within 10 years.⁵⁰ In contrast 60 per cent of marriages last for life.⁵¹

Some might say that unmarried adoption is OK because the majority of cohabitees marry anyway. But even if cohabitees do get married, which is a good thing, there are still much greater risks of instability. The General Household Survey has found that those who cohabit before marriage are “60 per cent more likely to have divorced after eight years of marriage.”⁵²

The largest and most detailed study to date on sexual behaviour in the UK concluded that: “... it is striking that cohabitation does not appear to exert any strong influence on monogamy”.⁵³

Choosing not to marry

The option to marry is always open to heterosexual cohabittees, but by definition they have freely chosen not to marry. As Ruth Deech, Principal of St Anne's College, Oxford has said:

“A unique commitment is made by those who marry and not, as they are well aware, by those who refrain from marrying, and no amount of emphasis on the similarities between spouses and cohabitants can obscure the difference, one of the most fundamental in human existence.”⁵⁴

Cohabiting couples want complete freedom to leave their relationship. This is why they choose not to marry. But children need to be raised within a secure relationship. Adopted children in particular should not be given over to a life lived in flux.

The writers of *Seven years in the lives of British Families* concluded:

“While cohabitation is widely seen as a preliminary or as an alternative to marriage, it often turns out to be a temporary relationship...Where children are involved, though, it may be a mistake to regard cohabitation as a more modern form of joint parenting, a ‘marriage without a licence’. The BHPS analysis shows that children born to cohabiting parents are *much* more likely to see their parents split up, and *much* more likely to experience a period in a one-parent family, than children born within marriage. The rise in cohabitation is implicated in the increasing prevalence of lone-parenthood, and hence in the growth of child poverty...”⁵⁵ [emphasis in the original]

Gay adoption

Despite repeated assertions to the contrary, many studies indicate significant differences between homosexual and heterosexual parenting outcomes for children, particularly the likelihood that children of homosexuals may become involved in homosexual behaviour themselves.

- Despite their flaws (see next section), pro-gay studies on same-sex parenting still show that between eight per cent⁵⁶ and 33 per cent⁵⁷ of children with homosexual parents subsequently embrace a homosexual lifestyle as adults.
- This is greatly out of proportion to the population as a whole. In the UK, only 3.6 per cent of men (aged 16 to 59) report any same-sex genital contact ever in their lives.⁵⁸ In the US, 5.5 per cent of people reported having ever had homosexual intercourse.⁵⁹
- Why are the children of homosexuals more likely to be gay themselves? The foremost pro-gay researchers say this is because these children are brought up to regard ‘same-gender sexual attraction’ as a positive trait derived from open-mindedness and acceptance of homosexuality.⁶⁰
- Even some of the researchers who are in favour of gay adoption admit that such children are more likely to be homosexual.⁶¹

The children of homosexual parents often suffer from gender confusion and relationship problems.

- 40 per cent of the sons of lesbian mothers in one study displayed mainly feminine qualities whilst 50 per cent of their daughters showed mainly masculine qualities. By contrast, among the children of heterosexual mothers, none of the boys had predominantly

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feminine characteristics or the girls predominantly masculine characteristics.⁶²

- In another study 60 per cent of the children of lesbian mothers and over 20 per cent of the children of 32 gay fathers experienced relationship problems with other people because of the knowledge of their parents' homosexuality. According to the author of the study this was because of the fear and confusion that resulted in the children's minds.⁶³

The children of homosexual parents tend to be 'loners' and to have difficulty at school.

- One study found that many children living with homosexual couples avoid involvement in group activities or out-of-school activities and are considered by teachers to be 'loners' or 'introverts'.⁶⁴
- The study reported that "Experiences in their personal and family life were thought to have motivated them to avoid working with and relying on others, and to mistrust other children - in the case of children of lesbians, males in particular."⁶⁵
- This cannot be blamed on a 'homophobic' culture. Often the children themselves have much more conservative beliefs than their homosexual parents. Prominent gay businessman Ivan Massow, in arguing against gay adoption, wrote: "Many parents I talked to expressed concerns as their child went through a phase of noticing, usually in the company of their schoolfriends, that they were missing something that everyone else had... kids aren't PC. They just want to know which one is their dad."⁶⁶

Homosexual parents and their children are often not accepted by other homosexuals.

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- One pro-gay writer states “The lesbian and gay club scene does not cater to the needs of lesbian or gay parents and rarely, if ever, acknowledges their existence, and some are still shocked to discover that lesbians and gay men do have children.”⁶⁷
- The lesbian community is not supportive of mothers and sons “are often treated as second class people”.⁶⁸
- One study showed that women “did admit to curtailing lesbian activity because of parenting” because of an “anti-family, anti-children slant... within the very communities they had counted on for emotional, social, and political alliance.”⁶⁹

It is cruel deliberately to deny children a mother or a father.

- Children need a mother and a father because each parent acts as a role model providing complementary but different parenting.
- Even lone- and lesbian-parenting manuals acknowledge this and often encourage the creation of an ‘extended’ family consisting of friends and past partners.⁷⁰ But this could never be a substitute for a father.

Gay adoption “research”

There have been a number of high profile claims that research shows homosexuals and lesbians are just as good at parenting as heterosexuals - if not better. In fact, there has been little real research in this area, especially in relation to adoption itself. Often the claims are just advocacy parading as research.

The fact is, there is not a single published comparative study on the effects of homosexual foster care or adoption. Advocates of gay adoption can only cite studies on homosexual *parenting*. (A typical example of homosexual parenting would be where a married woman leaves her husband for another woman and takes the children with her into the new relationship.)

In studies looking at same-sex parenting, recognised standards of research are often ignored in order to prove that homosexuals are fit parents.

- None of the studies have a large sample of children. Confident generalisations were rarely possible because few of the studies had appropriate comparison groups (“controls”).⁷¹
- In most studies the parents were self selected volunteers, often recruited through homosexual publications. The comparison groups or controls were also unrepresentative, often from pressure group newsletters and feminist publications.⁷²
- The studies attempted to demonstrate the positive effects of homosexual parenting compared with other ‘family structures’ but commonly failed to either properly test the hypothesis or tested the wrong one.⁷³

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Studies often rely on very small sample sizes and use them to produce far-reaching conclusions.

- One often-quoted study that looked at gay fathers and their children interviewed only 40 men.⁷⁴
- One of the most well-known studies, which followed up the children of single mothers, both lesbian and heterosexual, over 15 years had 78 children (39 in each group) at the beginning. However, by the end of the study only 25 children from the lesbian families and 21 children from the heterosexual families were willing to participate.⁷⁵
- In many homosexual parenting studies, anecdotal evidence or personal opinion is repeatedly presented as fact. One study which was headlined as “Gay men make better fathers” did not even have any children in the study but merely asked opinions from about 100 men, some of whom were not even fathers.⁷⁶

Some pro-gay researchers argue that gay adoption should go ahead despite the lack of evidence in support of it. Stacy and Biblarz put it this way: “[T]he case for granting equal rights to nonheterosexual parents should not require finding their children to be identical to those reared by heterosexuals. Nor should it require finding that such children do not encounter distinctive challenges or risks...”⁷⁷

The best interests of children

The phrase “the best interests of children” is currently much bandied about. The long-standing commitment that adoption should be for the benefit of the child rather than the benefit of the adopting adult is threatened by moves to allow unmarried couples and homosexual partners to adopt. To allow any configuration of adults to adopt a child – just because they think they should have a right to – is a flagrant rejection of the very Judaeo-Christian beliefs which pioneered adoption and fostering in the UK in the first place.

In pagan and ancient cultures adoption was for passing on inheritance and the maintenance of the family line. According to this view, adoption is solely for the interests of the adopting adult, not the child. Elizabeth Cole and Kathryn Donley conclude that in early history:

“...the primary purpose of adoption was to serve adult interests rather than child interests. If a child benefited it was a secondary gain. Certainly the concept of the ‘best interests of the child’ was not paramount, if indeed it was given any weight at all. Most European countries, with the exception of England, built their law upon the Roman and later Napoleonic codes.”⁷⁸

As Cole and Donley point out, England – and later the United States – followed a different route. Adoption in England followed more closely to the Christian model where the primary motive for adoption was to benefit the adopted child.

Although there was no actual legislation until 1926, adoption had previously been informally carried out between families with the courts recognising what had already taken place.⁷⁹ English law was slow to tackle the issue of inheritance and only did so because of the need to protect the adoptee.⁸⁰

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In the 18th and 19th centuries Christians set up many orphanages. Dr Barnardo is well known for his work with children's homes. It is less well known that he enthusiastically set up what were known as 'boarding-out' schemes. These pioneered the shift away from residential child care to large-scale adoption. In 1904 he said:

“Still, although our families [children's homes] are so good...there is something better – boarding-out, because it gives them the natural instead of the artificial, and then it gives the family instead of the institution. ‘He setteth the solitary in families,’ [Psalm 68:6] and we cannot do better than imitate the Divine order and let every child who can be brought up in a family be so brought up, and give it family life, and family love...”⁸¹

In Christian understanding the ordering of the family is based on marriage. It is solely to married couples that the responsibility of procreation is given.⁸² Dr Barnardo believed that children are to be set in families, in the same way that God himself welcomes into his family those who trust in Jesus Christ.

The concept of 'adoption' runs deep in Christian theology. So much so, in fact, that believers are called joint-heirs with Christ – God's own son.⁸³ Christian believers are privileged to be called sons and daughters adopted into God's family.

Christians are to love their neighbour. It is because Christians are themselves beneficiaries of God's adoption that Christians have a very strong motive to love children in need. The Bible commends caring for widows and orphans as “pure and faultless” religion.⁸⁴

Adoption should be for the benefit of children not for the benefit of adults.

Conclusion

In the Government's own words, 'marriage is still the surest foundation for raising children'.⁸⁵ Marriage involves a public undertaking to stay together for life, come rain or shine. That is a considerable undertaking. It requires both parties to act with forethought, with responsibility and with commitment. It is precisely because marriage requires these qualities that it is so stable and secure and the best environment to adopt children.

There is no case to change the law.

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Jacqui Smith MP, Health Minister:

“The adoption law review, when considering this issue, concluded that joint adoption should remain limited to married couples on the grounds that adoption by a married couple was more likely to provide the stability and security that the child needed because married couples have made a joint, publicly recognised, legal commitment to each other.”

(29 November 2001, House of Commons, Hansard, col. 383)

Rt Hon Jack Straw MP, when Home Secretary:

“I’m not in favour of gay couples seeking to adopt children because I question whether that is the right start in life. We should not see children as trophies.

Children, in my judgement, and I think it’s the judgement of almost everyone including single parents, are best brought up where you have two natural parents in a stable relationship. There’s no question about that. What we know from the evidence is that, generally speaking, that stability is more likely to occur where the parents are married than where they are not.”

(4 November 1998, on the *Today* programme)

Ali Jarvis, Co-ordinator of Stonewall Scotland:

“Children need parents who love them and whether that is two parents, three parents or four parents, heterosexual or gay, makes no difference.”

(7 March 2002, BBC News Online)

