

## **Gay Families: A Quest for Adoption Rights**

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### **Abstract**

*Most societies are now comprised of many non-traditional families, yet some family members are unable to access their fundamental human rights. Gay men and lesbian women have fought for equal marriage and family rights with some success, but there hasn't been enough change to constitute full equality with heterosexuals. Activists are often so focused on the issue of gay marriage that they forget an important and related issue: Gay and lesbian people are systematically denied adoption rights. Denying homosexuals the ability to adopt children infringes on the right to form a family of one's own choosing, as outlined in the 1948 Universal Declaration of Human Rights. This paper explains why denied adoption is a human rights violation under international law, as well as how heterosexist assumptions about gay and lesbian parenting are used to validate excluding them from receiving their adoption rights. Case studies from the countries of Norway, the United States, and Italy represent a spectrum of whether this right is being upheld. Lastly, this paper provides recommendations for individuals, adoption agencies, and the international community to increase respect for and protection of adoption as a human right.*

Family and marriage rights were included in the United Nation's 1948 Universal Declaration of Human Rights and subsequent international laws because of a desire to protect the rights of a fundamental unit of society: the family. The way these rights were scripted did not specifically include sexual orientation and gender identity, which left it up to states to interpret whether this included gay and lesbian people. Some interpreted human rights to include gay and lesbians by focusing on equality

and non-discrimination, while others opposed including homosexuals in the protection of family rights. The assumptions of people who oppose homosexual family rights are based in heterosexist views that create social stigmas against gay and lesbian parenting. These stigmas manifest themselves in unequal adoption laws and are a form of structural violence against homosexuals. This structural violence is a human rights violation because it denies individuals their fundamental freedoms based on sexual orientation and gender identity.

### **Family and Equality in International Law**

Family rights in the UDHR were left intentionally vague because many felt that changing views of marriage needed protection. No longer did the citizens of the Western world view marriage as an institution for the sole purpose of gaining property rights and political privileges. The move from viewing marriage as an economic and political institution started in response to growing condemnation of forced marriages. People were unhappy being forced to follow their family's interests rather than their desires (Coontz, 2009). "The belief that a woman's identity was subsumed in her husband's upon marriage," and that the "husband has sole ownership over all property a wife brought to marriage and any income she earned while in it," was broken (Coontz, 2009, p. 3). This changing view demanded a new definition of marriage; one based in equality for individuals choosing to marry. The framers of the UDHR included Article 16 because they felt that people should have a choice in who they marry. This addition outlined family and marriage rights as a way of giving protection to households that previously did not have rights. Article 16 states that, "men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family" (United Nations, 1948). Men and women are permitted to "equal rights as to marriage, during marriage and at its dissolution" (United Nations, 1948). Such marriage and family rights are only equivalent if both individuals agree. The article further stresses

that “the family is the natural and fundamental group unit of society and is entitled to protection by society and the State” (United Nations, 1948).

Various legally-binding frameworks have come about since the UDHR was adopted to uphold family and marriage rights. These international laws protect the family, marriage, and adoption. The 1949 European Convention for the Protection of Human Rights and Fundamental Freedoms sets forth legally binding Article 8, outlining the right to privacy and a family life. Article 8 states that everyone shall respect each other’s rights to private and family life, and no public authority should interfere with this law except when necessary (such as in the protection of others’ individual rights or to protect the public) (Council of Europe, 1949). Article 16 of the 1961 European Social Charter contains social, legal, and economic protections for the family (Council of Europe, 1961). The International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations in 1966, also aims at protecting family rights. Article 23 further guarantees the family and marriage rights outlined in the UDHR (United Nations, 1966). The 1967 European Convention on the Adoption of Children supports same-sex parenting based on the best interest of the child (Council of Europe, 1967). The International Covenant on Economic, Social and Cultural Rights, which entered into force in 1976, re-states the importance of family in Article 10 (Office of the United Nations High Commissioner for Human Rights, 1976). In 1989, the Convention on the Rights of the Child went into force stating that family is vital for the livelihood of children and should be protected (United Nations, 1989). Lastly, the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption went into force in 1995 and “promotes ethical and transparent processes, undertaken in the best interests of the child” (Hague Conference on Private International Law, 1995).

The UDHR and international laws expressly outline fundamental rights to family but do not include provisions for sexual orientation. The UDHR’s articles make no mention of sexual orientation or gender identity as real human components. Yet Article 16 of the UDHR is not rigid on the forms of

families and marriages set forth because there are many different kinds of bonds between people (Naik, 2003). Families and marriage definitions are not outlined as only being heterosexual relationships in either the UDHR or in international law, yet legal frameworks were formulated while many people held assumptions about a binary model of sex and gender involving only men and women (Waites, 2009). This model of marriage and family consisting of a man and women is hetero-normative in character because it assumes that heterosexuality is the norm and is normatively desirable (Tobias, 2005).

Several articles of the UDHR may be interpreted to protect the rights of gay and lesbian people; in particular, advocates focus on equality and non-discrimination provisions and emphasize defining marriage in a non-hetero-normative way. Individuals that focus on equality and non-discrimination do not consider sexual orientation and gender identity to be a motive to withhold family and marriage rights. Some people argue that marriage and family is based on love between two individuals, regardless of their sexual orientation. This approach stresses that gay and lesbian people not given these rights then suffer from inequality based on discrimination. Advocates interpret equality and non-discrimination in a way that includes all individuals, including gay and lesbians. Article 2 of the UDHR states that rights and freedoms outlined are unrestricted to all people, no matter what (United Nations, 1948). This article, when viewed through a family and marriage rights lens, can be interpreted in a way that shows that one's sexual orientation and gender identity are not valid reasons to infringe upon fundamental rights. Article 7 of the UDHR states that "all are equal before the law and are entitled without any discrimination to equal protection of the law" (United Nations, 1948). This article can be interpreted to mean that gay and lesbian individuals have the right to have their family and marriage rights equally protected before the law. Article 12 of the UDHR states that all people have the right to a family and if this right is interfered they are to be protected by the law (United Nations, 1948). Some individuals infer that this article gives gay and lesbian people the protection against individuals who interfere with their family life. The Human Rights Education Foundation states that international law

should be interpreted to “uphold positive rights of all people to marry and found a family,” as well as to “uphold the ideal of equal and consenting marriage” (Naik, 2003, paragraph 2).

International law adopted after the 1948 UDHR does not explicitly specify homosexual family rights, but a number of provisions regarding the right to marry and have a family, the right to equality, and the right to non-discrimination can be interpreted require equal protections for homosexuals (Naik, 2003). The European Convention prohibits discrimination in Article 14, for example, which reaffirms what was already stated in Article 2 of the UDHR (Council of Europe, 1949). Gay rights advocates were affirmed by the 1994 landmark ruling by the United Nations Human Rights Committee upholding gay and lesbian rights using the concept of non-discrimination. The ruling, based in part on Article 2 (1) of the International Covenant on Civil and Political Rights, rendered discrimination against same-sex sexual behavior illegal when measured in combination with Article 17’s right to privacy. This interpretation concluded that discrimination against sexual orientation was illegal, yet this decision only applies when countries sign on to the Covenant’s Optional Protocol (Waites, 2009).

### **The Impacts of Social Stigma**

Advocates of gay rights face critics who base their opposition on assumptions and social stigmas that prevent sexual orientation from being included in family and marriage rights. Some believe that gay and lesbian people should not be given adoption rights because of their gender orientation and sexual identity. The belief that it is unnatural for homosexuals to become parents and that heterosexuality is the desirable norm dominates the policies of adoption. The scope of their assumptions encompasses four assumptions for opposing adoption by same sex couples: First, some believe that it is very important for the child’s cognitive and emotional development to have a mother and father. Second, challengers of homosexual adoption believe that such sexual orientation and gender identity negatively affect the child. Third, others trust that children with gay and lesbian parents will experience stigma and

discrimination that will negatively affect their societal interactions. Lastly, opponents of gay and lesbian adoption contend that allowing this group to adopt is ultimately contrary to the rights and best interests of children (Tobin & McNair, 2009). Many opponents of gay adoption rights stand firm in their belief that a child adopted by homosexuals will suffer cognitive and emotional impairments. People who believe this assumption tend to have a high religiosity based in Catholic or Christian values, which results in hetero-normative sexual prejudices (Tobin & McNair, 2009).

Such negative attitudes based on sexual prejudices aids in the discrimination of gays and lesbians, and ideas about harming adopted children's cognition and emotional development are based on false assumptions. "There is no difference in cognitive function in school performance or on formal IQ testing; no evidence on emotional function; psych development and behavior are the same as heterosexual counterparts" (Tobin & McNair, 2009, p. 122). The American Psychological Association states that data on a child's psychosocial growth has no correlation to heterosexual or homosexual home environments in which they were raised, yet homosexual parents' abilities to raise children continues to receive stigma (Tobin & McNair, 2009, p. 123). Studies show that gay and lesbian parents have key strengths when raising children, such as supportive and egalitarian family environments, co-parenting skills, and positive couple relationships (Tobin & McNair, 2009, p. 123). Children who temporarily leave their heterosexual parents are found to be more assertive, bossy, domineering, and negative. In contrast, children from homosexual parents tend to have a more positive self-image, as well as be more affectionate and caring of others (Fitzgerald, 1999). As research shows, the presence of a same sex co-parent rather than a heterosexual partner does not negatively affect a child's cognitive and emotional development.

The fear that the sexual orientations of gay or lesbian adoptive parents will have disadvantaging effects for children is an assumption that creates social stigma against homosexuals. This fear is contested by literature attesting that "sexual orientation is fundamentally irrelevant to a person's

capacity to be a good parent” (National Center for Lesbian Rights, 2012, p. 1). The literature and research conducted on the matter corroborates that being a good parent by caring for one’s child is far more important than the parent’s sexual orientation. The lifestyle and parenting skills of heterosexual people and homosexual people are transparently similar (National Center for Lesbian Rights, 2012). “Not a single study has found children of gay or lesbian parents to be disadvantaged in any significant respect relative to children of heterosexual parents” (American Psychological Association, 1995). One cause of stigma stems from the gender roles given to mothers and fathers by society; Mothers are said to be nurturing and caring while fathers are stern and supportive of the family. The genderization of these roles proves to be incorrect because all types of parents have the ability to parent in a way that generates positive child outcomes equally. Evidence that mothers and fathers have equal capability to provide care ultimately helps combat the assumptions that a child’s interests will be at a disadvantage in some way if he or she is raised by gay or lesbian parents (Tobin & McNair, 2009). The American Academy of Pediatrics also refutes the assumption that children raised by homosexual parents will face sexual identity confusion, noting that “the gender identity of preadolescent children raised by lesbian mothers has been found consistently to be in line with their biologic sex” (Tobin & McNair, 2009, p. 121). Ultimately the activities, relationships, and lives of boys and girls who have gay or lesbian parents are markedly similar to children raised by heterosexual parents (Tobin & McNair, 2009).

The beliefs that children of same-sex parents are more likely to experience social stigma and discrimination, and be less able to develop effective social relationships, are also not based on factual evidence. Research shows that children of homosexual parents are generally not stigmatized more than others (Tobin & McNair, 2009). Homophobic bullying because of their parents’ sexual orientation is experienced, yet Dower argues that using this problem as a reason to ban gay adoption “would effectively allow discrimination to perpetuate itself and would run the risk of legitimizing homophobia” (Tobin & McNair, 2009, p. 124). Research shows that bullying aimed at children with same-sex parents

does not make victims' school adjustment levels, self-esteem, relationship problems, or temptation to succumb to peer pressure any greater (Tobin & McNair, 2009). Children from all types of families experience forms of social stigma and discrimination, yet children from homosexual families are less likely to discriminate against others. They tend to be more socially responsible because they are aware of the inequality and prejudice their parent(s) face with respect to sexual orientation as well as gender, race, and class (Fitzgerald, 1999).

Finally, some assume that gay and lesbian adoption ultimately is contrary to the rights of a child. Thinking that the children's best interests and rights are at stake, some opponents believe that the child is better off living at an orphanage. This "best interest approach," however, usually ends up being a tool to serve the political and moral agendas of others. Assumptions that reflect the value system of some must be replaced by empirical evidence related to what is actually best for a child. Political and moral oppositions based on the assumption that every child needs a mother and father, for instance, influence laws to exclude gay and lesbian people. Yet states who facilitate legal adoption (and endeavor to protect the best interests of the child) should allow homosexual people to apply. To protect children's rights and battle discrimination, states have a duty to evaluate potential parents based on their merits, rather than on irrelevant factors such as sexual orientation (Tobin & McNair, 2009).

These negative assumptions of the dominate culture manifest themselves in economic and social inequalities and are a form of structural violence against a minority. Galtung defines violence as an "avoidable impairment of fundamental human needs" (Ho, 2007). This unnecessary impairment of fundamental needs is created by the dominant culture because it holds privileged status and institutional power. This power gives them standing to influence rules and social norms that limit and restrict access of gay and lesbian individuals to opportunities, privileges, and rights regarding adoption (Eldridge & Johnson, 2011). Society's privileged members desire to deny and restrict rights of non-heterosexual forms of identity is due to an ideological system called "heterosexism". Heterosexuals may



participate in two forms of heterosexism: old fashioned heterosexism and modern heterosexism. Old-fashioned heterosexism is easily identifiable and includes “prejudicial acts such as name calling and declarations that gay and lesbian people are inferior to heterosexual people” (Eldridge & Johnson, 2011, p. 383). It “refers to the clear and blatant expression of dislike of and negative attitudes toward gay and lesbian people” (Eldridge & Johnson, 2011, p. 383). Modern heterosexism is “a method of discrimination that is subtler than old fashioned heterosexism, but is fueled by the same belief in the inferiority of gay and lesbian people” (Eldridge & Johnson, 2011, p. 384). This form of heterosexism includes the belief that homosexuals make excessive demands for change, as well as prevent their own acceptance by exaggerating the importance of sexual orientation (Eldridge & Johnson, 2011). These forms of heterosexism makes the attainment of gay rights difficult, as illustrated by the 2008 case of *E.B. v. France*. In this European Court of Human Rights case, a French homosexual nursery school teacher was refused the ability to adopt by French authorities based on her sexual orientation. The lesbian woman refused to back down, and she used Articles 8 and 14 of the European Convention on Human rights as tools to defend her position. After years of fighting, the European Court of Human Rights finally concluded that the refusal of the applicant’s authorization was a human rights violation, awarding her 10,000 euros for non-pecuniary damage and 14,528 euros for costs and expenses (European Court of Human Rights, 2008). As the Court ruled, the restriction of homosexual adoption rights based on a heterosexist ideological system is a human rights violation.

## **Case Studies**

Case studies show that gay and lesbian adoption rights are approached in vastly different ways around the world. The countries of Norway, the United States, and Italy are highlighted here because

they illustrate the range in which homosexual family rights are protected (or not protected, as the case may be).

### *Norway*

The country of Norway represents the rights -respecting side of the spectrum. Norway gives equal marriage and parental rights to individuals living within state boundaries. It has a liberal political system that is not common in many societies. Norway's political values are "not just to secure law and order and supply basic infrastructure, but to actively ensure the general well-being of its citizens" (Howell, 2006, p. 155). The carefully-written policies ensure that family and adoption laws are "national and that the adoption bureaucracy is nationally organized" (Howell, 2006, p. 155).

Norway began its path toward national laws aimed at expanding rights to same-sex couples in 1993, with the passage of the Registered Partners Act. The Act did not give homosexual couples the full range of rights available for heterosexual couples, but an amendment to the Act nine years later allowed gays and lesbians the right to adopt the biological children of their registered partner. Norway's Ministry of Children and Equality proposed new legislation in 2008, entitled "A Marriage Act for All," aimed at making marriage gender-neutral by amending the definition of civil marriage in federal law. Norway's lower house of Parliament approved the Act, 84 to 41, and the law took effect on January 1, 2009. The passing of this law granted full marriage and parental rights to same-sex couples in Norway, including homosexual adoption (Glass, Kubasek & Kiester, 2011).

Legislation protecting adoption rights for gay and lesbians is the result of actions by politically liberal Norwegians who demanded equality. Today, because Norway secured equal legal rights for homosexuals, it is considered one of the most liberal countries in the world. Norwegians believe that

relationships between two adults are private matters and that a parent's sexual orientation is not correlated to her/his ability to provide a healthy and nurturing environment for children. Among 1,246 Norwegians surveyed in 2011, "more than half the women and more than a third of men reported that they were in favor of granting gay and lesbian couples the same parenting rights as heterosexual couples" (Hollekim, Slaatten & Anderssen, 2012, p. 16). Supporters say that giving gay and lesbians adoption rights facilitates freedom from discrimination and prevents "prejudiced and moralizing notions concerning lesbian and gay parenting and children growing up with lesbian and gay parents" (Hollekim, Slaatten & Anderssen, 2012, p. 16). The environment of equality and diversity has given gay and lesbians equal adoption rights compared to heterosexuals.

#### *United States*

The United States represents the middle ground of the spectrum, as it has upheld only some gay and lesbian marriage and adoption rights. These social issues are still often relegated to the state (rather than federal) level within the U.S.; some states include homosexual people in family rights by protecting their marriage and adoption rights, while other states do not. Allotting states the power to legislate such human rights to gives them the opportunity to exclude homosexuals. Same-sex marriage opponents mobilized and created legal restrictions at both federal and state levels, validating homophobic activism and paving the way for state election victories (Glass, Kubasek & Kiester, 2011). U.S. President Bill Clinton signed the Defense of Marriage Act (DOMA) in 1996, defining marriage in a hetero-normative way that excluded gay and lesbian couples. DOMA also gave states the power to recognize same sex marriage couples in their state, meaning that same-sex marriage rights are not recognized federally and are not transferable across state lines. DOMA not only effectively restricts over one thousand federal benefits to same-sex couples, but it also limits the latent impact of state-level marriage laws that

identify same-sex partnerships as well. DOMA's provisions influenced thirty-eight states to sign on to legislation and amendments that ban same-sex individuals to marry and adopt (Glass, Kubasek & Kiester, 2011). Mississippi and Utah are but two examples of states that do not support homosexual adoption; both prohibit "adoption by couples of the same gender" (National Center for Lesbian Rights, 2012, p. 3). State laws also prohibit adoption by "a person who is cohabiting in a relationship that is not a legally valid and binding marriage under the laws" of its state (Mississippi Code of 1972); since gays and lesbians are also not allowed to marry in these states, that immediately excludes homosexuals from adopting.

Despite the fact that many states deny gay and lesbian marriage and adoption rights, homosexuals are being integrated into the framework of existing family law; for instance, by utilizing options for second-parent adoption and joint adoption. A homosexual can adopt her or his partner's biological or adoptive child through the legal process of second-parent adoption, or partners can adopt under the joint adoption procedure. Second-parent and joint adoptions protect children in same-sex parent families by giving children legal security and entitling them to crucial benefits (National Center for Lesbian Rights, 2012). Second-parent adoptions also protect the rights of the same-sex second parent "by ensuring that he or she will continue to have a legally recognized parental relationship to the child if the couple separates or if the biological (or original adoptive) parent dies or becomes incapacitated or incarcerated" (National Center for Lesbian Rights, 2012, p. 3). States that recognize marriage between same-sex couples permit couples joined in legal unions to use the step-parent adoption measures that married couples may use (National Center for Lesbian Rights, 2012). There are currently 16 states/districts that allow joint gay adoptions: Arkansas, California, Colorado, Connecticut, the District of Columbia, Illinois, Indiana, Iowa, Maine, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Oregon, Vermont, and Washington. Nine states (California, Colorado, Connecticut, Illinois, Massachusetts, New Jersey, New York, Pennsylvania, and Vermont) and the District of Columbia

tolerate second parent adoption by law. Even when laws don't allow second parent adoption, some homosexuals have been granted this access; this occurs in the aforementioned 16 states, as well as in Alabama, Alaska, Delaware, Hawaii, Iowa, Louisiana, Maryland, Minnesota, Nevada, New Hampshire, New Mexico, North Carolina, Oregon, Rhode Island, Texas, and Washington. As reported in the 2000 Census, about 65,000 children lived with same sex parents; in 2012, 110,000 live with gay parents" (Florida Domestic Partnership Law Blog, 2012).

Despite these promising steps, many states do not recognize the right to step-parent adoption and joint adoption. In the absence of these legal recognitions, combined with bans on gay and lesbian marriages, homosexuals and the children of non-biological parents do not always have entitlements to rights and protections. Partners are not entitled to "social security benefits, retirement benefits, or state worker's compensation benefits if the second parent dies or becomes incapacitated or incarcerated" (National Center for Lesbian Rights, 2012, p. 5). A child's non-biological parent has no parental rights when the biological parent dies or is incapable of taking care of them. The child could potentially be placed in foster care or with relatives of the biological parent, regardless of the strength of bond between them (National Center for Lesbian Rights, 2012). Gay and lesbian parents use "wills, guardianship agreements, authorization to consent to emergency medical treatments, and other private documents in an attempt to protect their relationship with their non-biological child" if they live in a state that does not recognize second-parent or joint adoptions (National Center for Lesbian Rights, 2012, p. 6). These private documents and agreements do not allow children to claim their federal benefits, including financial support or inheritance rights from the second parent (National Center for Lesbian Rights, 2012). While some U.S. states do give parental rights to homosexual couples, others infringe upon gay and lesbian family rights by not allowing them to adopt children.

## *Italy*

Italy represents the side of our case study spectrum that does not protect family rights for homosexual individuals. Italy does not recognize gay and lesbian rights, including same sex-unions and adoption rights, partly because of close political ties to the Roman Catholic Church. The Church has strong opposition to giving homosexuals family and marriage rights, and narrowly defines marriage as a union between a man and a woman. The Vatican pressures lawmakers to oppose civil rights advancements for gays. Italian bishops have warned politicians that it is wrong to give legal rights to gay couples, and Catholic political leaders often support laws that reflect “respect for human life and families built upon marriage between a man and a woman” (Americans United for Separation of Church and State, 2007, p. 21). The Vatican contends that giving homosexuals adoption rights would “mean doing violence to children and prevent them from their full human development” (Prendergast, 2004, p. 18).

Gay rights supporters are active in fighting for equal adoption rights, even though they are frustrated by failed attempts to open dialogue with the Vatican. The non-governmental organization (NGO) Arcigay was founded in 1985 to fight for equality regardless of sexual orientation and gender identity (Arcigay, 2011). Since then, the organization has been working to realize its mission to “promote and protect the right to equality of every person, no matter their sexual orientation, by attempting to end violence and discrimination and uphold the human rights of homosexuals (Arcigay, 2011). The NGO has introduced bills attempting to forward that mission, but homosexuals continue to be discriminated against in Italy. Arcigay highlights the 1998 killing of homosexual Enrico Sini Luzi, blaming the Vatican for “creating an atmosphere of homophobia” (Malcolm, 1998, p. 9). The World Pride 2000 march in Rome is but one example of people trying to claim rights; 200,000 people came together in support of gay rights and in the fight for equality. The protesters wanted the Vatican to understand that they were also Catholic and deserved rights just like heterosexuals. These protests were confronted by strong

opposition from the Roman Catholic Church, which disagreed with the opposition and stated that their goals were an “insult to Rome and the church” (Allen, 2000, p. 1). Today, Pope Benedict XVI believes that it is the obligation of lawmakers to echo the church’s teachings on marriage between heterosexual people (Americans United for Separation of Church and State, 2007). In a Vatican report entitled “Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons,” the Church stated that allowing gay and lesbians to adopt would harm the child (Prendergast, 2004). This document was viewed by gay rights advocates as an “attack upon the humanity of [homosexuals]” (Prendergast, 2004, p. 8). Many religious leaders also agreed that the Vatican’s unwillingness to protect the human rights of gay and lesbian people on “the basis of sexual orientation over which they had neither choice nor control” is wrong (Prendergast, 2004, p. 19). Some gay and lesbian activists have attempted to have a dialogue with the Catholic Church, but have “become so frustrated in attempting to dialogue with the official church that many members have given up and dismissed the church as having nothing to say in such an important area of life-sexuality” (Prendergast, 2004, p. 20).

Even when many gave up, others still took an initiative to change their positions in society. In 2006, activists attempted to move a bill through the Italian parliament to legalize same-sex marriage. The bill was opposed by the Roman Catholic Church; such religious opposition had profound effects on the lives of gay and lesbian people in Italy, who suffered stigma and were made to feel inferior to heterosexuals (Off Our Backs, 2006). A study published in 2001 showed that gay and lesbian individuals internalize a sense of inadequacy when it comes to parenthood, and that such internalized societal discrimination harms gay men’s perceptions of their parenting abilities (Pacilli et al., 2011). The study found that gay and lesbian individuals are beginning to regard same-sex parents as less competent than heterosexuals, and that these effects were mediated by internalized homophobia (Pacilli et al., 2011).

## Recommendations

Gay and lesbian people face many obstacles when they attempt to adopt, yet there is still hope for protecting family rights. Keeping the above case studies in mind, I recommend actions and shifts in thinking by state governments and the broader international community, adoption agencies, and individuals. First, domestic and international politics that result in refusing gay and lesbian adoption rights must be combated if the fundamental rights to a family are protected. Current state policies and practices are not effective in protecting homosexual adoption rights; new laws need to be created, and existing laws must be changed or monitored. The international community must take measures to promote equal adoption rights using existing frameworks, such as the UDHR. International laws are needed to “enact a comprehensive anti-discrimination legislation that includes discrimination on grounds of sexual orientation and gender identity” (Human Rights Watch, 2011). The United Nations must ensure that combating discrimination on grounds of sexual orientation and gender identity is included in all national human rights institutions (Human Rights Watch, 2011). UN treaty bodies must “establish legal recognition of same sex marriages and adoption by demanding that international treaties...be reformed and grant same-sex couples the same rights as different-sex married couples” (International Conference on LGBT Rights, 2006, p. 4). Although the monitoring of international human rights regimes is difficult, such international activities must be “constructed to help facilitate the identification of economic and social rights violators and their victims... by using the ‘violations approach’ for monitoring (Ho, 2007, p. 15). This requires the serious commitment and cooperation of international actors; the human rights regime must commit and cooperate by “addressing the shortcomings of enforcement mechanisms for states and creating incentives for other actors in the international community to participate in its efforts” (Ho, 2007, p. 15). This approach would allow for greater protection and promotion of adoption rights.



Changes in adoption agency practices are also extremely important for creating an environment of equality in adoption. Currently, sexual orientation influences adoption in three phases (preparatory, placement, and post-placement) and agencies must avoid discriminating against homosexuals. The preparatory phase should not be influenced by hetero-normative assumptions by adoption officials, but rather should include homosexuals into the context of adoption. During the placement phase, adoption professionals should consider the potential and abilities of homosexual parents, rather than focusing on stigmatized stereotypes. During the post-placement phase, adoption officials can devise programs and policies that include the diversity of adoptive parents. Once children have been placed in the homes of lesbians and gays, for instance, adoption professionals can work with gay advocacy organizations to design programs and policies that support diverse family structures (Matthews & Cramer, 2006).

On a micro level, individual changes are needed to eliminate views of heterosexism, prejudice, and homophobia. Education will teach diversity, gender non-conformity, and tolerance of homosexuals that ultimately contribute to equal opportunities for homosexuals to found families. By eliminating heterosexism, the structural violence contained in laws will change to benefit opportunities for homosexuals to practice their rights (Eldridge & Johnson, 2011). This will create a positive atmosphere that eliminates the prejudice that prevents them from having equality. The elimination of prejudice will allow homosexuals to better debunk the heterosexist assumptions that create structural violence, “thus contributing to less homophobia and more progressive legal changes that favor equality for gay people and same-sex couples” (Badgett, 2004, p. 2). Eventually, progressive laws will be supported and upheld to match the new- found cultural belief of equality for homosexuals. Anti-homosexual individuals will begin to relate to homosexual individuals and surrender their assumptions, as well as their desire to determine the best interests of a child by reference to their own inclinations (Tobin & McNair, 2009). By changing international laws, adoption agency practices, and individual assumptions to include support

for the rights of homosexuals, the human rights issue of equal family rights will finally be adequately addressed.

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