

Findings



Dedicated to the
Preservation of the Family

Should Homosexuals Adopt?

Why Adoption Is Not a Homosexual “Rights” Issue

By Angela Xenakis and Alysse M. ElHage

The movement to legitimize the homosexual life-style goes far beyond the push to get same-sex marriage legalized. Members of the homosexual community are fighting for more than just special classifications under the law—they are fighting to redefine the very meaning of family. Because opening the door to parenthood is not easy for homosexuals, many have resorted to extreme measures to satisfy their personal desires to have children. Following are just a few examples of efforts by the homosexual community to circumvent biological and legal barriers to adopting, parenting, and even giving birth to children:

- Some affluent male homosexual couples have hired surrogate mothers to help them create a child for them to raise.¹
- A Massachusetts court ruled that two lesbian women can have their names placed on a baby’s birth certificate, one of which would be in place of the baby’s father.²
- Lesbian couples have exchanged ova to enable both women to claim biological, and thereby legal, maternal status to the same infant.³
- In Rhode Island, the state Supreme Court granted a lesbian woman parental rights under a paternity statute.⁴
- In Greensboro, North Carolina, a homosexual man adopted twin boys from overseas and is raising them with his same-sex partner.⁵

Unfortunately, these stories are just the “tip of the iceberg,” when it comes to attempts by homosexuals to find ways to manufacture a family for themselves. One of the primary areas targeted by the homosexual community in this effort is the

area of adoption, with homosexuals fighting to adopt in courtrooms nationwide. The American Civil Liberties Union (ACLU) has vowed to fight any laws or policies that ban homosexuals from adopting, arguing that it is discriminatory to deny homosexuals the “right” to adopt children. However, a close examination of the issue reveals that the decision to place a child in a particular home must not be based on flawed research or the faulty assumption that adoption is a “right.” It also should not be driven by a desire to advance an agenda or to satisfy someone’s personal desires to parent. Instead, the decision must be based on a careful determination of what is in the best interest of the child—which is to grow up in a home with a married mother and father.

Current Legal Status

Many states, including North Carolina, do not have laws that specifically address the issue of homosexual adoption. However, in response to recent court decisions or to correct ambiguities in their own laws, some states have passed legislation either in favor of or against allowing homosexuals to adopt.

Currently, all states allow single individuals to adopt.⁶ Only two states have statutes preventing a single individual who is a homosexual from adopting. For example, Florida has legislatively prohibited an individual homosexual from adopting a child, but the ban is being challenged as unconstitutional.⁷ Oklahoma’s legislature recently developed a child welfare system reform review committee to review policies concerning the child welfare system. One of the committee’s tasks is to develop procedures to prohibit homosexuals from adopting.⁸

In all other states, the statutes that allow single individuals to adopt are silent on the issue of whether homosexuals can adopt.

For example, under North Carolina’s adoption laws, “any adult may adopt another individual.”⁹ The result of this legislative silence is that most decisions regarding child placement are left to administrative agencies or judges. The overriding principle used by judges and social workers in making a placement decision is based on what they perceive to be in the best interest of the child. While this standard still favors a heterosexual married couple, many decision makers are being swayed by the false research (which will be discussed in the following section) that is perpetuated by homosexual rights organizations. Therefore, it would seem that the door is open for homosexuals to adopt nationwide.

Because adoption by single individuals is allowed in every state, homosexual couples often use this as a way to get around laws that may otherwise prevent them from adopting as a couple. For instance, North Carolina specifically prohibits unmarried couples from adopting a child—only married individuals and singles can adopt.¹⁰ Therefore, one partner of a homosexual couple will petition the court as a single individual, and then both partners will raise the child.

Adopting a child as a single individual can pose some problems for a same-sex couple. Because only one partner of a homosexual couple has adopted the child, the other partner has no legal rights with regard to that child. As such, some states are allowing homosexual couples to adopt so that each partner is legally considered the “parent” of the child. While the legislative bodies in Florida, Oklahoma, Mississippi and Utah have banned homosexual couple adoptions, other states are opting to allow these adoptions to take place.¹¹ Just last year, Connecticut revised its adoption laws to allow homosexual couples to adopt.¹²

In other states where the statutes are silent on the issue, the courts have stepped in. In over 22 states, the courts or administrative agencies have created what is known as “second-parent” adoption. (Wisconsin is one of the few states where the highest court interpreted their law as prohibiting second-parent adoption.)¹³ Basically, in a second-parent adoption, one partner is the legal custodian of a child, either through adoption or because they are the biological parent. The same-sex partner then petitions the court to become the child’s second parent. They analogize the second-parent adoption to stepparent adoptions. For homosexuals seeking to adopt, this can be a particularly effective method, since stepparent adoptions are the least regulated form of adoption in most states.¹⁴ Many states streamline the adoption process for stepparents or allow the courts discretion in waiving many of the procedural steps, such as pre-adoption reports.

While North Carolina does not directly prohibit same-sex couples from adopting, an analysis of the current law appears to show that it is difficult for homosexual couples to adopt here. As stated earlier, North Carolina prohibits more than one individual from adopting, if the couple is not married; and under state law, homosexuals cannot marry.¹⁵ Additionally, in order to adopt a child, the biological parents’ rights first must be terminated.¹⁶ This means, for example, that a biological mother would have to relinquish her parental rights in order for her lesbian partner to be able to adopt her child. Taken together, these statutes would appear to show that in North Carolina, homosexuals are not able to adopt as couples but may be able to adopt as single individuals. Because the door is open for homosexuals to adopt at all, it is critical that there be an understanding of what is truly in the best interest of the child when it comes to adoption and parenting in general.

Same-Sex Parenting: What’s the Impact on Children?

When it comes to the question of whether homosexuals should be able to adopt, the impact of same-sex parenting on children must be addressed. Is there a difference between children raised by two heterosexual parents and children raised by homosexuals? For years, researchers have speculated that as many as six to 14 million children are being raised by homosexual parents. These same researchers have also claimed that there are no notable differences between children raised by homosexuals and those raised by heterosexual couples.

However, new research from both opponents and supporters of homosexual parenting has challenged the validity of these assertions.

A study published in the April 2001 edition of *American Sociological Review* reveals that the six to 14 million figures are derived from an uncertain origin, and that more recent studies indicate the actual number of children with a homosexual parent is closer to one percent of all minors.¹⁷

The “no difference” stance taken by homosexual rights groups, the media, social scientists, and policy makers is also being seriously challenged by both sides. In their book, *No Basis: What the studies don’t tell us about same-sex parenting*, Drs. Robert Lerner and Althea Nagai discuss the results of an objective analysis of 49 empirical studies on same-sex parenting. Because legal and policy decisions are often based on the assertion that there is no difference, Drs. Lerner and Nagai concentrated their approach on the validity of these studies, focusing on the scientific methodology of each one. They found at least one fatal research flaw in each study examined. The flaws included: missing or inadequate comparison groups; self-constructed, unreliable and invalid measurements; and missing and inadequate statistical analysis.¹⁸ As a result of these major scientific flaws, Lerner and Nagai conclude that no generalizations can be made from any of the studies and that public policy decisions should not be based on the findings.¹⁹

In a *University of Illinois Law Review* article, Lynn Wardle, a law professor at Brigham Young University, highlights additional flaws in most of the literature supportive of legalized homosexual adoption. “Most of the studies of homosexual parenting are based on very unreliable quantitative research, [are] flawed methodologically and analytically, and provide a very tenuous empirical basis for setting public policy,” writes Professor Wardle.²⁰ He points to studies with very small sample sizes, which make it impossible to derive conclusions that are statistically reliable or predictive. In fact, most of these studies only involved a few dozen subjects and some contained a sample size as small as five.²¹ In addition, many of the subjects were not randomly selected—a fatal flaw in research design, which results in unscientific findings. Finally, the researchers compared children raised by homosexuals to those raised in single parent homes or in unmarried parent families,

instead of with children from traditional, married parent families.

Opponents of homosexual parenting are not the only ones critical of the “no difference” studies. Researchers at the University of Southern California (USC), who are supportive of homosexual parenting, recently published the results of their review of 21 homosexual parenting studies in the *American Sociological Review*.²² Not only did they find flaws in the majority of studies, they also discovered that most of the studies do in fact show that there are differences between children raised by homosexuals and those raised by heterosexuals. They write: “We have...challenged the predominant claim that the sexual orientation of parents does not matter at all.”²³ Some of the findings include:

- Sons of lesbian mothers behave in less traditionally masculine ways than those raised by heterosexual mothers;
- A significantly greater proportion of young adult children raised by lesbian mothers than raised by heterosexual mothers reported having had a homoerotic relationship—24% raised by lesbians vs. zero raised by heterosexuals;
- A study on gay fathers and their adult sons found a “moderate degree of parent-to-child transmission of sexual orientation;”
- 64 percent of young adults raised by lesbian mothers report having considered same-sex relationships (in the past, now, or in the future), compared with only 17 percent of those raised by heterosexual mothers;
- Lesbian mothers reported that their children, especially daughters, more frequently dress, play and behave in ways that do not conform to sex-typed cultural norms.²⁴

As proponents of homosexual parenting and adoption, the USC researchers highlighted what they perceived to be the positive outcomes of these differences. For example, the researchers emphasized the positive impact on a child of having two female parents, writing: “Children who derive their principle source of love, discipline, protection, and identification from women living independent of male domestic authority or influence should develop less stereotypical, symbolic, emotional, practical and behavioral gender repertoires.”²⁵ The problem with this “two-female” premise is that it fails to recognize the positive (albeit different) influence a father has on a child’s life.

Why Mother and Father Are Best

When it comes to adoption, the type of family into which a child is placed is vitally important to that child's future. Study after study indicate that children raised in homes with two married parents do better than children raised in homes headed by a single parent.²⁶ While it is certainly true that either a single mom or a single dad can create a loving environment for their children, there is a big difference between deliberately *choosing* to parent alone and having to do so as a result of a divorce or the death of a spouse. There are those who would argue that single parenting is different from same-sex parenting. But children need more than just two parents—they need two parents who are married and of the opposite sex. Just as in a single parent home, when a child has two same-sex parents, either a mother or a father is missing from the child's life. Both mothers and fathers have something unique and necessary to contribute to a child's development into adulthood.

In describing the importance of having both a mother and a father, Mary Beth Style, former vice president of the National Council for Adoption (NCF), writes:

*"It is undisputed that mothers and fathers behave differently with their children in play, in terms of demands, discipline, and social interactions. Both parents contribute to the intellectual, emotional, moral, psychological, and social development of children in different ways, enabling a child to be more secure in his identity."*²⁷

Along the same lines, Professor Wardle writes about the difference between fathers and mothers, stating:

*"Fathers more than mothers tend to appreciate the value of and foster child interaction with extra-familial socializing influences, to provide instrumental leadership, to establish and enforce standards regarding unacceptable emotions and behaviors, and 'absorb hostility' from children, whereas mothers provide more expressive, integrative and nurturing childrearing, and their love is more unconditional."*²⁸

What happens when one parent is missing? Increased delinquency and drug and alcohol use, lower school performance, earlier pre-marital sexual activity, and poor mental health are higher in children raised absent from their fathers.²⁹ Girls raised without fathers are more at-risk for becoming pregnant out-of-wedlock.³⁰ Likewise, boys raised in father-absent homes are more likely to father a child out-of-wedlock,

commit violent crimes and end up in jail.³¹ The absence of a mother can be equally detrimental to a child's welfare. Studies have shown that children who spend large amounts of time away from their mothers are more aggressive and disobedient.³²

In addition to the absence of the opposite sex parent, there is another danger to placing children in same-sex parent families. Homosexual relationships—like cohabiting relationships—have a higher rate of dissolution/disruption.³³ According to a recent review of 21 homosexual parenting studies in the *American Sociological Review*, lesbian co-parent relationships experience somewhat higher dissolution rates than heterosexual co-parents.³⁴ In addition, studies show that most homosexuals are not monogamous, with the majority of homosexuals having multiple partners over their lifetime. According to one 1997 study, 91 percent of the homosexual men surveyed reported having had an average of 43 male sexual partners in their lifetime.³⁵ Another study of more than 2,000 older, homosexual men reported in the *Journal of Sex Research* found that 2.7 percent claimed to have sex with only one partner, while 21.6 percent claimed to have had 100 to 500 lifetime sexual partners.³⁶

Placing children into this home environment puts them at risk for family disruption and/or dissolution and increases their chances of spending at least some time in a single parent household. Even if the family remains intact, the child will be exposed to a life-style where monogamy is rarely practiced and high risk sexual behavior is prevalent.³⁷ In fact, homosexual men are at a significantly increased risk of contracting deadly sexually transmitted diseases, including HIV/AIDS.³⁸

Homosexual parenting goes against the natural order of child birth and child rearing. A father is more than just a sperm donor, and a mother is more than the vehicle through which a child grows and is born. Both a father and a mother are best for the healthy development of that child into an adult. Same-sex parenting removes one parent—either the mother or the father—from the parenting equation. To support same-sex adoption is to ignore the unique and irreplaceable contribution that both mothers and fathers make to a child's life. Through adoption, the state and other agencies choose to place a child into a specific family environment. The environment that is chosen should not depend on the desires of the adult(s) seeking to adopt—it should depend on the healthiest and safest family environment for the child.

The Best Interest of the Child

Most of the discussion surrounding homosexual adoption is centered on a homosexual's "right" to adopt a child. Statutes or policies preventing homosexual adoption are being legally challenged on the premise that it is an infringement of their rights. However, the discussion should not be framed in this regard. Adoption is not a "right." Whether a person is single, married, heterosexual or homosexual, no one has the "right" to adopt a child. Instead, adoption is about what is best for the child.

Mary Beth Style describes adoption as a process "to provide a child with a permanent legal family, when the family he was born into cannot or will not fulfill its responsibilities to him." She goes on to explain:

*"As such, society attempts to replace as far as possible the family the child would have had by birth under the best of circumstances. The world is not perfect and children sometimes get less than desirable families. But when you have the opportunity to plan for a child's family, as you do with adoption, you might as well do it right. And since the state has taken on the role of creating families, it has a special obligation to look after the best interest of the child—the only legitimate reason for the state to be involved in the first place."*³⁹

According to the NCF, there are approximately 2 million Americans interested in adopting.⁴⁰ William Pierce, the former president of the NCF, reports that "there are at least 40 qualified, two-parent adoptive families for every infant relinquished for adoption."⁴¹ There is certainly no shortage of qualified, married, opposite sex couples waiting to adopt in this country. The shortage is in the number of available infants, with many couples going overseas to adopt because the waiting list in the United States is so long.

Proponents of homosexual adoption often point to hard-to-place children in the U.S., such as older children in foster care, or those with physical, mental or other health problems. They argue that it would be better for these children to be placed with homosexuals, rather than remain institutionalized or in foster care. However, is it precisely these children who need both a mother and a father, and the state should do everything in its power to find a traditional home for them. Public policy should never be framed around the rare or exceptional case—it should be based on setting the highest standards for the best interest of all.

When it comes to the issue of homosexual adoption, Professor Lynn Wardle suggests focusing less on the so-called “right” of homosexuals to adopt and more on what is in the best interest of children. According to Professor Wardle, “States should adopt a rebuttable presumption that ongoing homosexual relations by an adult seeking or exercising parental rights is not in the best interest of the child.”⁴² This strategy would allow potential adoptive parents the opportunity to prove that they can provide a home environment that is in the child’s best interest and should help in cases of hard-to-place children.

A 1998 North Carolina Supreme Court decision, concerning a custody dispute, addressed this issue of homosexual parenting and the best interest of children. In *Pulliam v. Smith*, the North Carolina Supreme Court upheld a district court decision, ruling that the primary custody of two children should be awarded to their mother and not their father, when it was discovered that he was a practicing homosexual and involved in a very open, live-in relationship with a man. In the decision, the justices wrote: “We conclude that the activities such as the regular commission of sexual acts in the home by an unmarried couple, failing and refusing to counsel the children against such conduct while acknowledging this conduct to them, allowing the children to see unmarried persons known by children to be sexual partners in bed....support the trial court’s finding of ‘improper influences’ which are ‘detrimental to the best interest and welfare of two minor children.’”⁴³

Conclusion

The debate over whether or not homosexuals should be allowed to adopt must not be based on the misconception that every person has the “right” to adopt a child. Adoption is not a homosexual rights issue, and children should never be used as part of a social experiment or to advance a particular political agenda. More importantly, the decision to place a child in a particular environment must not be based on faulty or misleading research. The evidence shows that there is a difference between children raised by homosexuals and those raised by heterosexuals. Beyond the research, there is

still only one question that must be answered when it comes to deciding if homosexuals should adopt—what is best for the child? Intentionally depriving a child of a married mother and father is not looking out for that child’s best interest and could have a harmful impact on his or her future.

Angela Xenakis is a legal intern, and Alysse ElHage is Director of Communications for the North Carolina Family Policy Council.

Copyright © 2001. North Carolina Family Policy Council. All Rights Reserved.

Endnotes:

1. Stacey, Judith and Biblarz, Timothy, “(How) Does the Sexual Orientation of Parents Matter?” *American Sociological Review*, 2001, Vol. 66 April 2001, pg. 166.
2. Family Research Council. *Legal Facts* June 28, 2001, Vol. 3 No. 31 (referencing *Knoll and Finn v. Beth Israel Deaconess Medical Center, Inc.*).
3. *Ibid.*, #1.
4. Family Research Council. *Legal Facts*. June 28, 2001, Vol. 3, No. 31 (referencing *Rubano v. DiCenzo*).
5. Steadman, Tom. “A gay couple is learning the joys and social challenges of raising adopted twins.” *Greensboro News & Record*. 11/26/00.
6. “State Laws Regarding Adoption by Gay and Lesbian Parents” National Adoption Information Clearinghouse Website - <http://www.calib.com/naic/pubs/1-same.htm>
7. F.L. Gen. Stat. Title VI, Chapter 3.042 (d)(3).
8. O.K. Gen. Stat. §7007-1.4.
9. N.C. Gen. Stat. §48-1-103.
10. N.C. Gen. Stat. §48-2-301(c).
11. F.L. Gen. Stat. Title VI, Chapter 3.042(d)(3), M.S. Gen. Stat. §93-17-3-(2), U.T. Gen. Stat. §78-30-(3)(b), O.K. Gen. Stat. §7007-1.4.
12. C.T. Gen. Stat. Public Act No. 00-228 §2(a)(3).
13. National Adoption Information Clearinghouse. “State Laws Regarding Adoption by Gay and Lesbian Parents: Second-Parent Adoptions.” See: www.calib.naic/pubs.
14. *Ibid.* Also: Sultan, Sheryl L. “The Right of Homosexuals to Adopt: Changing Legal Interpretations of ‘Parent’ and ‘family.’” *Journal of the Suffolk Academy of Law*. v. 10, 1995.
15. N.C. Gen. Stat. §51-1.2.
16. N.C. Gen. Stat. §48-1-106(c)
17. *Ibid.* #1 (Stacey and Biblarz), pg. 165.
18. Lerner, Robert, Ph.D. and Nagia, Althea, Ph.D., *No Basis: What the studies Don’t tell us about same-sex parenting*. Marriage Law Project, Washington D.C. 1/01.

19. *Ibid.*
20. Wardle, Lynn D., “The Potential Impact of Homosexual Parenting of Children.” *University of Illinois Law Review* 1997, pg. 844.
21. *Ibid.*, pg. 846.
22. *Ibid.* #1 (Stacey and Biblarz).
- 23-25. *Ibid.*
26. Fagan, Patrick F. and Robert Rector. *The Effects of Divorce on America*. The Heritage Foundation Backgrounder. June 5, 2000. pgs. 1-2.
27. Style, Mary Beth. “Homosexuality and Adoption.” *Same-Sex Matters: The Challenge of Homosexuality*, edited by Christopher Wolfe, Spence Publishing 2000, pg. 116.
28. Wardle, Lynn D., “The Potential Impact of Homosexual Parenting of Children.” *University of Illinois Law Review* 1997, pg. 858.
29. *Ibid.*, #26 (Fagan and Rector).
30. *Ibid.*
31. *Ibid.*
32. *Associated Press*. “Day Care Linked to Child Aggression.” 4/19/01. See also:
33. M. Saghir and E. Robings. *Male and Female Homosexuality*, Williams and Wilkins, Baltimore, 1973, p. 225. (qtd in: Knight, Robert H. and Daniel S. Garcia. “Homosexual Parenting: Bad for Children, Bad for Society.” Family Research Council. May 1994.)
34. *Ibid.*, #1. (Stacey and Biblarz) pg. 177.
35. Seage, George (PhD), Kenneth Mayer (MD), et. al. “HIV and Hepatitis B Infection and Risk Behavior in Young Gay and Bisexual Men.” *Public Health Reports*. v. 112 (2). March-April 1997, pg. 161.
36. Paul Van de Van, et. al. “A Comparative Demographic and Sexual Profile of Older Homosexually Active Men.” *Journal of Sex Research*. 34 (1997): 354. (Qtd. in FRC Insider: “The Negative Health Effects of Homosexuality.” 3/31/01.)
37. Centers for Disease Control and Prevention (CDC). “Increases in Unsafe Sex and Rectal Gonorrhoea Among Men Who Have Sex with Men—San Francisco, 1994-97.” *Mortality and Morbidity Report*. 1/29/99.
38. CDC. *Tracking the Hidden Epidemics: Trends in STDs in the United States, 2000*. pg. 4.
39. *Ibid.*, # 27. Style, Mary Beth. pg. 114.
40. Pierce, William L., “Adoption, Adoption Seeking, and Relinquishment for Adoption in the U.S.” National Council for Adoption (NCFA). *Adoption Factbook III*. 9/99: 72.
41. William L. Pierce, (former) President, NCFA. Telephone Interview. 5/26/00.
42. *Ibid.*, #28 (Lynn Wardle).
43. *Family Policy Fax*. “N.C. Supreme Court Overturns Decision in Homosexual Child Custody Case.” July 31, 1998.

Organized in 1992, the North Carolina Family Policy Council is a nonpartisan, nonprofit, research and education organization. Our goal is to serve as a voice for families and traditional family values in the public policy arena. We are supported solely by private contributions which are tax deductible as provided by law. Our mailing address is P.O. Box 20607, Raleigh, NC 27619. Phone: (919) 807-0800. Fax: (919) 807-0900. *Findings* is a publication of the North Carolina Family Policy Council which is intended to communicate research findings and perspectives on public policy issues that affect the family. Nothing written here should be construed as necessarily reflecting the views of the North Carolina Family Policy Council or as an attempt to aid or hinder the passage of any bill before Congress or the North Carolina General Assembly. Printed August 2001.