

Metka Mencin Čeplak, Roman Kuhar

FIGHTS FOR EQUALITY

FROM DISCRIMINATION OF HOMOSEXUALITY TO REDEFINITION OF FAMILY

The new proposal of Family Code in Slovenia is the fifth bill, aiming at (among others) legal protection of same-sex partnerships and same-sex families in Slovenia. Just like previous bills – some of them never made it to the parliamentary procedure – it causes a lot of protests. The key dominator of these upheavals is the discursive interpolation of »nature« and »natural« into arranging social relations (such as partnerships and families). This argument is then used as an excuse for discriminatory treatment, based on one's sexual orientation. The history of several attempts to legalize same-sex partnership and families in Slovenia is presented and the key discourses, which emerged alongside, are analysed. The analysis shows that the new proposal of the Family Code does not introduce something, which can be classified as strange and new. It is rather a consequence of more than 25 years of endeavors for equality in Slovenia regardless of one's sexual orientation.

KEYWORDS: same-sex partnership, same-sex family, legislature, homosexuality, gay and lesbian movement.

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Bogdan Lešnik

HATE SPEECH IN PSYCHOANALYTICAL PERSPECTIVE

Looking at hate speech in psychoanalytical perspective reveals as its most striking feature the achievement of a certain satisfaction best described as sadistic. This feature is analysed in the light of Freud's drive theory and it is shown that the three typical forms of hate speech, the sexist, the racist and the homophobic speech, are perfectly complementary and combine into a pattern that binds satisfaction to a value-based splitting of the object and the sexualisation of the social status. In the heart of this pattern, there is the sexist assumption of the passive, inferior »female« enjoyment that arouses the subject, so that the latter repudiates it in the way analogous to psychosis, and instead develops a dominant, aggressive attitude deemed »masculine«, which serves to ward off castration anxiety. Because of these characteristics hate speech can never be rational and a compromise with it will prevent any rational politics of inclusion and non-discrimination.

KEYWORDS: psychosis, sadism, moralism, sexism, racism, homophobia.

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Barbara Rajgelj

RELATIONSHIPS IN THE SAME SEX-FAMILIES – WHERE DO WE STAND AND IN WHICH DIRECTION CAN WE MOVE?

The analysis of existing Slovenian legislation shows that in comparison to heterosexual families same-sex families are discriminated in the field of family law as well as in other parts of their legal lives, such as inheritance law, law of damages, criminal law, tax law, labour and social security law. Irrespective of the fact that the case-law, adopted by Slovenian courts, progressively eliminates inequality in different legal fields, a comprehensive new legislation is needed to reduce legal uncertainty and to guarantee foreseeable regulation of human rights and fundamental freedoms.

Slovenian Constitutional and Supreme Court decisions direct adoption of the new Family Code, in which the legislator has almost no other option than to enforce absolute equality of same-sex and heterosexual families.

KEYWORDS: family law, Family Code, parenthood, partnership, same-sex families, discrimination.

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Neža Kogovšek

**LOOKING FOR LEGAL REASONS
FOR RECOGNISING EQUAL RIGHTS TO
SAME-SEX PARTNERS AND THEIR FAMILIES**

One of the key questions arising in the process of passing of the Family Code is whether or not the law requires full equality of same-sex partners with different-sex ones. On the international law level there are no clear and explicit requirements for the states to ensure full equality in relation to marriage and joint adoption, as the European Court of Human Rights and the Charter of Fundamental Rights of the EU leave this area to the domestic legislations of the states. For further development of the international law the legal situations within the states are therefore crucial as the European Court stresses that it is impossible to ignore the emerging consensus in Europe that same-sex partnerships require some kind of legal recognition. However, the international law recognizes same-sex couples' access to a large set of rights deriving from partnerships as well as protection from discrimination on the grounds of sexual orientation. Irrespective of international obligations of the states, the analysis of the situation of same-sex partners and their families indicates that limiting access to equal rights is sistemically intolerable and causes legal inconsistency.

KEYWORDS: discrimination, sexual orientation, European Court of Human Right, adoption, marriage.

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Raquel (Lucas) Platero

POPPING THE QUESTION

POLITICS AND THE SAME-SEX MARRIAGE IN SPAIN

Spain has captured international attention with the approval of the legislation allowing same-sex couples to marry and adoption rights (Law 13/2005). This has caused large controversy along with positive recognition. Law 13/2005 reforming the Civil Code has been portrayed as the symbol of equality, challenging the catholic and conservative past. Nonetheless, it has also shown that designing neutral legislation has negative impacts. No concrete remarks were included, resulting in discriminatory implementation for lesbians and foreigners for instance. Policy design matters and a closer look on gender and intersectional impact on the Spanish Law 13/2005 can provide some hints. The current available data on marriage and divorce in same-sex marriages is analysed and some reflexions on the side effects of neutral policy design are provided.

KEYWORDS: intersectionality, same-sex marriage, Spain, policy design, public policies.

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Alenka Švab

WHO'S AFRAID OF (DIVERSITY OF) FAMILIES?

SOCIOLOGICAL VIEW ON CONTEMPORARY FAMILY LIFE

Contemporary family life is characterized by changes and trends which lead to pluralisation of family and family life. Families are changing in form, in way of life, in structural aspects (changes in parenthood, gender relations, division of labour etc.) as well as in family life course. These changes are influenced by broader social changes of late modernity as well as by some demographic changes. These trends challenge the ideology of modern heterosexual conjugal or nuclear family and open a series of conceptual questions, among others the question of defining family (in sociological and legal sense). In sociological evaluation of contemporary family trends, it is claimed that diversity of families is a reaction to broader social changes, meaning that family as a modern institution preserves its vital functions and is in this sense not in a »crisis« as some conservative ideological discourses want to prove.

KEYWORDS: families, family pluralisation, definition of family, parenthood, children.

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Nina Tuš Špilak

TREATING SAME-SEX FAMILIES IN SLOVENIAN KINDERGARTENS

In heterosexual environment found in educational systems, same-sex families face many challenges. Their position in Slovenian kindergartens is dealt with. Theoretical part encompasses findings of different research papers in the field of homosexuality within the educational area and analysis of kindergarten curriculum. Empirical data were gathered from preschool teachers and assistant preschool teachers in 2010 by

the author of the article. Results of curriculum analysis indicate that discussion on same-sex families could be included in educational process on various levels. The key finding of the research is that Slovenian kindergartens are, despite clear goals of the curriculum, still predominantly heterosexually oriented and that preschool teachers and assistant preschool teachers do not include the themes of same-sex families in their discussions with children (75 % of research respondents). Guidelines on how homosexuality and same-sex families issues could be included in the kindergarten environment are presented.

KEYWORDS: same-sex family, heteronormativity, preschool education, curriculum, research findings.

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Elke Jansen

GERMANY AND ITS RAINBOW FAMILIES

MAIN RESULTS FROM THE FIRST REPRESENTATIVE RESEARCH ABOUT FAMILIES WITH TWO MOTHERS OR TWO FATHERS

Almost until recently, a substantial part of our society, including homosexual individuals, has found it unimaginable to think of parenting in connection to homosexuality. In the last years, nevertheless, this has been changing in a number of European countries. On the one hand, this tells us that younger generations of gay men and lesbian women do not automatically give up the idea of parenthood and family life when they come out of the closet. A survey, conducted at the beginning of the new millennium in the most populous German region (North Rhine Westphalia), has provided us with information, that every second young lesbian and every third young gay imagine a part of their life with children. On the other hand, the so called rainbow families (lesbian mothers, gay fathers and their children) are more and more visible in the media and everyday life. While in the 90s rainbow families were only a topic of the yellow press, nowadays we can read about gay and lesbian couples in reports on different types of

families in respectable German journals. In the article the results of a German research, that explored the life in rainbow families, and the media and political responses to its results, are presented.

KEYWORDS: same-sex families, German research, registered partnership, lgbt rights, gays and lesbians.

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Elisabetta Ruspini

ITALIAN HOMOSEXUAL FATHERS BETWEEN STEREOTYPES AND DESIRE FOR PATERNITY

Some preliminary findings based on an ongoing and self-funded research project on gay parenthood in Italy are presented. The research involves two small groups of gay fathers: those who had children in the context of heterosexual relationships and those who became fathers in the context of their gay identity. The results from the study may have implications for both social policy and educational programmes. Gay fathers are influenced (both personally and in social relationships) by negative stereotypes about gay men and parenting. They identify many complex issues related to coming out with children and spouses. Gay men who have children after coming out, face different, but no less challenging issues: most significant are the complexities involved in acquiring children through adoption, surrogacy or co-parenting arrangements.

KEYWORDS: gay fatherhood, homosexuality, homosexual fathers, Italy, stereotypes.

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