



**Third Party Intervention by Alliance Defending Freedom in
Orlandi and Others v. Italy, Application No. 26431/12 before the Second Section
of the European Court of Human Rights**

Introduction

1. The Alliance Defending Freedom (ADF) is a not-for-profit international legal alliance of more than 2100 lawyers dedicated to the protection of fundamental human rights. ADF has argued cases before the United States Supreme Court and the European Court of Human Rights. It has also provided expert testimony to the European Parliament and United States Congress. ADF has full accreditation with the Organization for Security and Co-operation in Europe, full accreditation with the European Union (Fundamental Rights Agency and European Parliament) and has garnered consultative status at the United Nations. This brief addresses this Court's governing jurisprudence as it should apply to the issue of marriage redefinition in Italy. By direction of the Court, this brief does not address the specific facts of this case or its applicants.
2. The following third party brief will evaluate the questions surrounding same-sex "marriage" on several fronts: (a) first it will look to the previous jurisprudence of this Court; (b) second, the brief will examine the treatment of same-sex "marriage" in the domestic law of other nations; (c) third, the sociological theory behind the definition of marriage and family will be examined; and (d) the brief will conclude with a section on what legal and social harms could come with legalizing same-sex "marriage" under the Convention.

(a) Jurisprudence of the European Court of Human Rights

(i) Margin of Appreciation

3. For the European Court of Human Rights to impose the redefinition of marriage on a Member State would be inconsistent with Article 4, paragraph 3 of the European Charter on Local Self-Government which affirms the role of the principle of subsidiarity among Council of Europe Member States. The Charter calls for action and respect for the work of those authorities closest to the citizen with regard to the specific functions of state government. This same principle was reaffirmed by the Council of Europe in 1995 in its Recommendation

*On the Implementation of the Principle of Subsidiarity.*¹ The manifestation of the principle of subsidiarity in European Court of Human Rights jurisprudence is the “margin of appreciation” doctrine which holds that local authorities are better suited to assessing the cultural, legal and social elements of their own nation than is the Strasbourg Court.

4. The Court has held that the legal and factual features which characterize the life and culture of a society cannot be disregarded and must play a measure in deciding a dispute. To ignore these basic precepts of respect for national sovereignty and subsidiarity would damage the nature of the international treaty law and the relationship among inter-governmental bodies and participating states.² With regard to sensitive moral and cultural questions, among which the definition of marriage would certainly fall, this Court has found it appropriate to cede authority over such issues to Member States themselves exclusively. The Court has held that it could not impose a single moral code over Europe regarding issues of ethical controversy where the opinions among Member States are so diverse.³ This Court has previously held in cases where the morally sensitive question of homosexual behavior was at play that Member States should enjoy a broader margin of appreciation.⁴ Under the governing jurisprudence of this Court, the question of marriage redefinition clearly falls within the margin of appreciation afforded to High Contracting Parties.⁵

(ii) Article 12 and Article 8 of the Convention

5. In recent years, there has been an exponential increase in this Court’s treatment of the question of private life and the definition of family. The Convention deals with the issue of the right to marriage under Article 12: “Men and woman of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.” This Court has held that in no way can Article 12 be held to infer a right to same-sex “marriage”:

The Court observes that, looked at in isolation, the wording of Article 12 might be interpreted so as not to exclude the marriage between two men or two women. However, in contrast, all other substantive Articles of the Convention grant rights and freedoms to

¹ Council of Europe, Committee of Ministers, *On the Implementation of the Principle of Subsidiarity*, Recommendation No. R (95) 19 (adopted on 12.10.1995).

² ECHR, *Belgian Linguistic Case*, no. 1474/62; 1677/62; 1691/62; 1769/63; 1994/63; 2126/64, 23 July 1968, Part I.B. § 10, ECHR Series A, No. 6.

³ ECHR, *Case of Vo v. France*, application no. 53924/00, judgment of 8 July 2004, § 82.

⁴ ECHR, *Case of Eweida and Others v. the United Kingdom*, application nos. 48420/10, 59842/10, 51671/10 and 36516/10, judgment of 15 January 2013.

⁵ ECHR, *Case of Schalk and Kopf v. Austria*, Application no. 30141/04, judgment of 24 June 2010, §105.

“everyone” or state that “no one” is to be subjected to certain types of prohibited treatment. The choice of wording in Article 12 must thus be regarded as deliberate. Moreover, regard must be had to the historical context in which the Convention was adopted. In the 1950s marriage was clearly understood in the traditional sense of being a union between partners of different sex.⁶

6. This same textual analysis must be afforded to other substantive provisions in international law regarding marriage such as Article 16(1) of the Universal Declaration of Human Rights: “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. They are entitled to equal rights as to marriage, during marriage and at its dissolution.”⁷
7. This Court has held that the question of marriage also falls within the gambit of Article 8 of the Convention.⁸ However, the Court reiterates that the Convention must be read as a whole and its articles should be construed in harmony together. The Court therefore refused to extend Article 8 when taken in conjunction with Article 14, which is more general in nature, to include same-sex “marriage” when Article 12 is so clear on the point.⁹
8. Furthermore, where states, like Italy, have already conferred a legal status upon same-sex couples similar to marriage through recognized same-sex unions, a state is therein not obligated to redefine marriage altogether. Precisely stated, the state has a right to provide certain material benefits only to heterosexual marriage, such as those in the domain of parental rights, because of the public benefit of conjugal marriage^{10, 11}.
9. This Court has directly held therefore, on more than one occasion, that no right to same-sex “marriage” exists under the European Convention of Human Rights and that the question of marriage definition belongs to the Member States.¹²

(b) Comparative Jurisprudence

10. An analysis of international jurisprudence evidences that of the 13 countries which have redefined marriage to include same-sex couples, 11 have done so without the involvement of

⁶ *Case of Schalk and Kopf v. Austria*, § 55.

⁷ UN General Assembly, *Universal Declaration of Human Rights (UDHR)*, G.A. Res. 217A(III), U.N. GAOR, 3d Sess., U.N. Doc. A/810 (Dec. 10, 1948).

⁸ *Case of Schalk and Kopf v. Austria*, § 90.

⁹ *Id.*, 101.

¹⁰ Conjugal marriage, also known sometimes as traditional marriage, is highlighted by its being permanent, exclusive and family centered; the union of a single man and a single woman to be father and mother to any children their union may produce. *See*: Section (c) below.

¹¹ *Case of Schalk and Kopf v. Austria*, §108-109.

¹² *Case of Schalk and Kopf v. Austria*, *op. cit.*; ECHR, *Gas and Dubois*, application no. 25951/07, judgment of 15 March 2012.

judicial bodies.¹³ The trend judicially has been to show restraint in either deferring to the legislature or rejecting redefinition claims all together. As noted above, this has also been the practice of this court.¹⁴ The Court of Justice of the European Union has likewise held that the Convention “protects only traditional marriage between two persons of opposite biological sex.”¹⁵

11. In 2011, prior to the adoption of same-sex “marriage” by the French legislature, the Constitutional Council held that it was not the prerogative of the court to substitute its competency for that of the legislator regarding the question of marriage definition.¹⁶ The Italian Constitutional Court one year early also rejected marriage redefinition.¹⁷ The Council of Europe’s second largest state, Germany, also exercised judicial restraint in holding that it would not redefine marriage to include same-sex couples.¹⁸
12. While this Court has suggested that an emerging consensus exists towards legal recognition of same-sex relationships¹⁹, reality suggests that an equally strong counter-trend towards recognizing marriage as exclusively between one man and one woman exists. As of 2010, thirty five nations had specific legal provisions defining marriage as being between one man and one woman.²⁰ And since the publication of that study, several other nations in Europe alone have either adopted legal protections for marriage or rejected same-sex “marriage.” Hungary, in Article L, of its new Constitution protects not only marriage as between a man and a woman, but the family that ensues from conjugal marriage as well. In December 2013, two thirds of Croatians who voted in a nationwide referendum voted to enshrine conjugal marriage within its Constitution.²¹ And in 2012, Slovenian voters voted down, by referendum, a revised Slovenian family code which would redefine marriage.²²

¹³ In Canada, despite a provincial appellate court ruling that the Charter of Rights and Freedoms necessitated creation of same-sex “marriage” (*Halpern v. Att’y Gen. of Can.*, 65 OR3d 161, 172 OAC 276, P 71 (2003)), marriage was nonetheless not redefined until the passing of the Civil Marriage Act of 2005 by the Canadian Parliament. Similarly, in South Africa, it was the legislature which effectuated the judgment of the Constitutional court in redefining marriage. See: Macarena Saez, *Same-Sex Marriage, Same-Sex Cohabitation, and Same-Sex Families Around the World: “Why “Same” Is So Different*, 19 J. Gender, Soc. Pol’y. & L. 1, 7-8 (2011).

¹⁴ *Schalk and Kopf v. Austria*, § 63.

¹⁵ CJEU, *K.B. v. National Health Service Pensions Agency*, Case No. C-117/01 (2003), § 55.

¹⁶ French Constitutional Council, *Corinne C. and Other*, Decision No. 2010-92 QPC. Decision of January 28, 2011.

¹⁷ *Judgment No. 138 of 2010*, Corte Costituzionale.

¹⁸ *Entscheidungen des Bundesverfassungsgerichts [BVerfGE]* July 17, 2002, 1 BvF 1/01.

¹⁹ *Case of Schalk and Kopf v. Austria*, § 105.

²⁰ See: Lynn D. Wardle, *Who Decides? The Federal Architecture of DOMA and Comparative Marriage Recognition* 4 Cal. West. Int’l. L.J. 143, 186 note 251 (2010).

²¹ <http://www.bbc.co.uk/news/world-europe-25172778>.

²² <http://www.turtlebayandbeyond.org/2012/turtle-bay-un/slovenia-says-no-to-same-sex-marriage/>.

(c) Competing Definitions of Marriage

13. Paramount to the question of marriage is the definitional component. The reality is that this Court is faced with two competing definitions of marriage. The first definition of marriage, often referred to as traditional marriage, but more properly as conjugal marriage, is a view of marriage which is defined by three components: (a) exclusivity, (b) permanence and (c) family centeredness. The second view of marriage, here defined as the revisionist view, focuses on the two individuals who make up the relationship and the intensity of that relationship. In this very important sense, adopting same-sex “marriage” is not an extension of marriage, but a complete redefinition of it. All the consequent social benefits of marriage, as will be explained below, are thereafter lost.
14. For the state to be involved in the marriage question, it must have a compelling interest. Traditionally, this interest has been in the procreational nature of conjugal marriage. The state has otherwise only involved themselves in more formal dealings among individuals (i.e. laws surrounding business relationships are commonplace whereas the state has never regulated non-romantic friendships no matter how intense the bond was).²³ For this reason, the dicta of this Court in *Schalk and Kopf* suggesting that same-sex couples, being just as capable to enter stable committed relationships as opposite sex-couples and therefore needing legal protection for their relationships, should be rejected as missing the point.²⁴ The state interest in regulating marriage is not the fact that a stable relationship is possible, it is the reality that the state has a significant stake in the well being of the familial relationship and the raising of children. Non-romantic best friends could form an equally stable relationship as to a marital bond but no state interest suggests that legal recognition of that friendship would be appropriate. Nor should the sole additional element of sexual activity between the two partners be definitive as to whether legal recognition is appropriate.²⁵ The reality is that ample legal protections between same-sex partners can be established through private contract law. The legal recognition of marriage however, is an entirely different type of relationship centered around family.

²³ See: Sherif Girgis, Ryan T. Anderson, and Robert P. George, *What is Marriage? Man and Woman: A Defense*. New York: Encounter Books, 2012, p. 15 ff.

²⁴ *Case of Schalk and Kopf v. Austria*, § 99.

²⁵ Girgis, Anderson, and George at 16-18.

15. Government recognizes marriage because it is an institution that benefits society in a way no other relationship does.²⁶ It therefore has a public and a private purpose. Marriage first and foremost ensures the well-being of children which serves a concrete state interest. The Child Trends institute has noted that research clearly demonstrates that the family structure matters and that the optimal family structure is that headed by two biological parents in a low-conflict marriage.²⁷ Within this family structure children do better in all major indices including educational achievement, emotional health, familial and sexual development, and child and adult behavior.²⁸ The redefinition of marriage however, which removes the focus of family centeredness, hurts the well being of children and therefore goes against state interests costing taxpayers billions of dollars in social and welfare benefits.²⁹ Furthermore, the marital satisfaction realized in a healthy conjugal marriage culture, where the state promotes permanence and sexual exclusivity, would be lost by redefinition. The result already has been mass social ills: state expansion to adjudicate break-up and custody issues, to meet the needs of spouses and children affected by divorce, greater state financial burdens regarding welfare benefits, police related to increased criminal activity and a weaker job force.³⁰
16. As a result of the prevailing social interests and policy concerns regarding the definition of marriage it is clear that this question must be left to the legislature rather than to the judiciary as this Court has already recognized.

(d) Social Harms in Legalizing Same-Sex “Marriage”

(i) Religious Liberty

17. Law shapes beliefs which in turn shapes behavior and culture. Redefining marriage has serious social and legal consequences for freedom of expression and freedom of religion. In both law and culture, those seen to be enemies of “equality” are disenfranchised and often vilified. Simple opposition to solemnizing same-sex relationships can lead to fines, imprisonment or loss of one’s employment.

²⁶ Patrick Fagan, “The Wealth of the Nations Depends on the Health of Families,” *Public Discourse*, February 6, 2013.

²⁷ Kristin Anderson Moore, Susan M. Jekielek and Carol EMig, “Marriage from a Child’s Perspective: How Does Family Structure Affect Children, and What Can We Do About it?” *Child Trends Research Brief* (June 2002) 1-2, 6, <http://www.childtrends.org/files/MarriageRB602.pdf>.

²⁸ See e.g.: *Marriage and the Public Good: Ten Principles* (Princeton, N.J.: The Witherspoon Institute, 2008), 9-19, http://www.winst.org/family_marriage_and_democracy/WI_Marriage.pdf.

²⁹ Jennifer Roback Morse, “Privatizing Marriage Will Expand the Role of the State,” *Public Discourse*, April 3, 2012. Also see: Section (d)(iii) below.

³⁰ See: Girgis, Anderson and George at 37-52.

18. Examples abound from the ADF's own casework. In New Jersey, ADF is representing a Methodist camping association facing a claim of discrimination after it declined to have a lesbian couple celebrate their "union" in its worship facility.³¹ In Georgia, ADF represented a Christian counselor who was fired for declining to counsel a woman in a same-sex relationship—even though she had promptly referred her to another available counselor.³² And in New Mexico, a wedding photographer's polite refusal to use her talents to capture images of a lesbian woman's "commitment" ceremony resulted in the state's Human Rights Commission ordering her to pay \$6,600 in attorneys' fees to the lesbian woman, a case which ADF appealed.³³
19. Moreover, countless cases have arisen in Western Europe where freedom has actually been restricted because of *opposition* to homosexual behaviour. For example, preachers have been arrested and convicted for speaking against homosexual behaviour,³⁴ employees have been demoted for supporting traditional marriage³⁵ and some have even been dismissed for refusing to act against their conscientious beliefs,³⁶ business owners have been sued and forced to close their businesses for refusing to condone same-sex relationships³⁷ and access to facilities have been denied because the proposed event supported the traditional view of marriage.³⁸ In one case, government funding was actually removed because a Christian charity *refused* to promote homosexuality.³⁹

³¹ *Harriet Bernstein, Luisa Paster, and J. Frank Vespa-Papaleo, Director, New Jersey Division of Civil Rights v. Ocean Grove Camp Meeting Association*, Oal. Dkt. No. Cr. 6145-09.

³² <http://www.adfmedia.org/News/PRDetail/3922>.

³³ <http://www.adfmedia.org/news/prdetail/5537>.

³⁴ For example, in 2002 Harry Hammond was convicted of a criminal offence for displaying a sign bearing the words "Jesus Gives Peace, Jesus is alive, Stop Immorality, Stop Lesbianism, Jesus is Lord" in his local city centre. See *The Guardian*, 18 January 2012.

³⁵ For example, in 2011 Adrian Smith, a housing manager in Manchester, was demoted and had his salary reduced by 40% because he stated his views on marriage on his personal *Facebook* page. See *The Daily Mail*, 23 October 2011.

³⁶ In 2007 Lillian Ladele was forced to leave her job as a civil registrar because her religious belief on marriage was not accommodated by her employer. See *Ladele v London Borough of Islington* [2009] EWCA Civ 1357. This Court ruled on the companion cases of Lillian Ladele and Gary McFarlane against the United Kingdom on 15 January 2013 [application nos. 48420/10, 36516/10, 51671/10, and 59842/10].

³⁷ In 2009 guesthouse owners Peter and Hazelmary Bull were sued £3,600 for refusing to offer double-bedded accommodation to unmarried couples. Their guesthouse now faces closure. Other Christian guesthouses have also been successfully sued. See *Bull and Bull v. Hall and Preddy and Hall* [2012] EWCA Civ 83.

³⁸ For example, in 2012 several organizations attempted to host a conference on the legal definition of marriage at the Law Society in London. The Law Society cancelled the booking, claiming that the conference breached its diversity policy. The conference was then due to take place at the Queen Elizabeth II Conference Centre, but the Government-run venue also cancelled the booking citing similar reasons. See *The Daily Telegraph*, 11 May 2012.

³⁹ For example, in 2008 a Christian care home had a £13,000 per year grant removed for refusing to promote homosexual behaviour to its elderly residents. After more than a year of internal appeals – amounting to £21,000 in legal fees – and after the case was made public, the council eventually backed down but did not offer to pay any of

20. Perhaps most telling in all of the examples listed above, is that at the time that every one of these lawsuits was brought, each jurisdiction mentioned above defined marriage as exclusively between a man and a woman. Precisely stated, punishment was being sought despite the fact that the law in each of those jurisdictions enshrined conjugal marriage.

(ii) Expanded Government

21. The redefinition of marriage necessarily injures a healthy marriage culture. When the marital norms of exclusivity, permanence and family centeredness are replaced by a malleable concept of marriage defined primarily by the individuals involved, a healthy marriage culture is than impossible to realize. The breakdown of a healthy marriage culture results in grossly expanded government stemming from the need for greater welfare benefits, more family court judges, greater stress on child social care divisions, more police and so forth. In the United States alone, the Brookings Institution estimates that between 1970 and 1996, the resulting government expenditures stemming from the breakdown of a healthy conjugal marriage culture was \$US 229 billion. This could be attributed to teen pregnancy, poverty, crime, drug abuse, health problems and other social ills attributable to broken marriages and broken families.⁴⁰ Another study found that divorce and unwed child bearing cost taxpayers \$US 112 billion each year.⁴¹ And a third study estimates that divorce alone costs local, state and federal government \$US 33 billion each year.⁴² Marriage redefinition exacerbates the problem. Rather than promoting a healthy marriage culture and intact families, marriage redefinition abandons marriage culture all together.

(iii) Child rearing

22. It has been well documented by social science research that: “Children who grow up in a household with only one biological parent are worse off, on average, than children who grow up in a household with both of their biological parents ... regardless of whether their resident parent remarries.”⁴³ This assertion has been confirmed by numerous analyses including one

the legal fees. See ‘Care home suffers under ‘equality’ laws: How traditional Christian beliefs cost an elderly care home a £13,000 grant,’ *The Christian Institute*, May 2009.

⁴⁰ Isabel W. Sawhill, “Families at Risk,” in *Setting National Priorities: The 2000 Election and Beyond*, edited by Henry J. Aaron and Robert D. Reischauer (Washington, D.C.: Brookings Institute Press, 1999), 97, 108; See: Girgis, Anderson, and George at 46.

⁴¹ Benjamin Scafidi, *The Taxpayer Costs of Divorce and Unwed Childbearing: First-Ever Estimates for the Nation and for All Fifty States* (New York: Institute for American Values, 2008), <http://www.americanvalues.org/pdfs/COFF.pdf>; See: Girgis, Anderson, and George, at 46.

⁴² David Schramm, *Preliminary Estimates of the Economic Consequences of Divorce* (Utah State University, 2003); See: Girgis, Anderson, and George at 46.

⁴³ S. McLanahan, G. Sandefur, *Growing Up with a Single Parent: What Hurts, What Helps*. Harvard University Press, Cambridge, MA, p. 1.

conducted in the United States on a data set of 35,938 children and their parents, which found that “regardless of economic and parental resources, the outcomes of adolescents (12-17 years old) in cohabitating families ... are worse ... than those ... in two-biological-parent families”.⁴⁴ Another study based on teacher-rating scale of performance concluded that “children of married couples are more likely to do well at school in academic and social terms, than children of cohabitating and homosexual couples”.⁴⁵

23. A unique empirical study concluded just a decade ago focused on long-term (post-18 year old) outcomes of children raised with parents who practices homosexual behavior. The study examined several outcomes of societal concern and used two heterosexual comparison samples (married parent sample and cohabitating parent sample). This study’s conclusion regarding outcomes of parents who self-identified as homosexual reads, in part: “If we perceive deviance in a general sense, to include excessive drinking, drug use, truancy, sexual deviance, and criminal offenses, and if we rely on the statements made by adult children (over 18 years of age) ... [then] children of homosexual parents report deviance in higher proportions than children of (married or cohabitating) heterosexual couples.”⁴⁶
24. Despite the divergence of scholarly studies regarding the difference in parenting among biological parents and same-sex parents, ultimately there are two reasons to expect same-sex parenting to be less effective than parenting vis-à-vis a biological family. First, every alternative to married biological parents has already been studied in depth and in high quality studies and has been consistently shown to be less effective (e.g. single- and step-parenting as well as parenting by cohabiting couples).⁴⁷ Second, equally reliable and high quality studies have shown that mothers and fathers foster-and their absences impede-child development in unique and different ways.⁴⁸
25. Girls who, for example, grow up without a father are likelier to suffer sexual abuse and to have children as teenagers and out of wedlock.⁴⁹ Boys who are reared without a father tend to have much higher rates of aggression, delinquency and incarceration.⁵⁰

⁴⁴ S.L. Brown, “Family structure and child well-being: the significance of parental cohabitation,” *Journal of Marriage and Family* 66, p. 364.

⁴⁵ S. Sarantakos, “Children in three contexts: family, education, and social development,” *Children Australia* 21, p. 24.

⁴⁶ S. Sarantakos, *Same-Sex Couples*. Harvard Press, Sydney, p. 131. The study also notes areas of no significant heterosexual-homosexual differences, i.e. “physical and emotional well-being”, p. 130.

⁴⁷ Girgis, Anderson and George at 61-62.

⁴⁸ *Id.*, 62.

⁴⁹ Sara McLanahan and Gary Sandefur, *Growing Up with a Single Parent: What Hurts, What Helps* (Cambridge, Mass.: Harvard University Press, 1994). Bruce J. Ellis, John E. Bates, Kenneth A. Dodge, *et al.*, “Does Father

26. In some Council of Europe member states studies have been conducted on the stability of same-sex partnerships. A recent 2012 study of same-sex couples in the United Kingdom found that same-sex couples of both sexes are more likely to separate than heterosexual couples.⁵¹ A 2006 study of same-sex marriages in Norway and Sweden found that “*divorce risk levels are considerably higher in same-sex marriages*” such that Swedish female same-sex couples are more than three times as likely to divorce as heterosexual couples.⁵²

Conclusion

27. To conclude, the definition of marriage does matter. A compelling state interest exists in defining marriage exclusively as between one man and one woman. Social science and statistical data are definitive as to the benefits of a healthy marriage culture. It is equally true that social science and statistical evidence are definitive as to the damage caused by marriage redefinition and an unhealthy marriage culture. Furthermore, of the thirteen nations to redefine marriage, only two have done so judicially. No intergovernmental court has ever recognized same-sex “marriage” as a right. It therefore stands that this Court should continue to follow its previous holdings that the Convention does not confer a right to same-sex “marriage”.



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Absence Place Daughters at Special Risk for Early Sexual Activity and Teenage Pregnancy?” *Child Development* 74 (2003) 801-21. Wilcox, Doherty, Fisher, *et al.*, *Why Marriage Matters: 26 Conclusions from the Social Sciences*, 2nd Ed. (New York: Institute for American Values, 2005), 6. Lorraine Blackman, Obie Clayton, Norval Glenn, *et al.*, *The Consequences of Marriage for African Americans: A Comprehensive Literature Review* (New York: Institute for American Values, 2005).

⁵⁰ Elizabeth Marquardt, *Family Structures and Children’s Educational Outcomes* (New York: Institute for American Values, 2005). Paul R. Amato, “The Impact of Family Formation Change on the Cognitive, Social and Emotional Well-Being of the Next Generation,” *The Future of Children* 15 (2005): 75-96. Cynthia Harper and Sara McLanahan, “Father Absence and Youth Incarceration,” *Journal of Research on Adolescence* 14 (2004) 369-97.

⁵¹ C.Q. Strohm, *The Stability of Same-Sex Cohabitation, Different Sex Cohabitation and Marriage*, California Center for Population and Research, UCLA, 1 February 2012 <<http://papers.ccpr.ucla.edu/papers/PWP-CCPR-2010-013/PWC-CCPR-2010-013.pdf>>

⁵² M. Andersson, F. Noack, T. Seierstad, H. Weedon-Fekjaer, “The Demographics of Same-Sex Marriages in Norway and Sweden”, *Demography*, Volume 43, February 2006, pp. 76-98. The same conclusion was reached by NFSS, which found that 58% of those children whose biological mother had a same-sex relationship also reported that their biological mother exited the respondent’s household at some point during their youth, and around 14% of them reported spending time in foster care system, indicating greater than average household instability. See M. Regnerus, “How different are the adult children of parents who have same-sex relationships?” Findings from the *New Family Structure Study, Social Science Research*, Volume 41, Issue 4, July 2012, p. 752-770, 757.