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The State of Studies and Research on the Homosexual Parent Family in Italy

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Abstract

The objective of this paper is a reflection on the state of the studies and research on homosexual parent families in Italy. We begin with a description of the cultural and legal context within which these new forms of parenting are now evolving to underline the need to overcome the Italian legal vacuum which has serious consequences for both the children and adults involved.

We then wanted to emphasize the need to avoid old study paradigms of homosexual parent families who often faced homosexual parenting in relation to that of heterosexuals to arrive at a 'paradigm of difference' or rather an approach able to grasp and see the diversity and differences of homosexual parenting enabling it to take on all its challenges. In this optic, homosexuality is no longer a qualification of parenthood, but only one of the conditions within which parenting can be exercised.

Keywords: homosexual parent families, Italian sociological research, homosexual parenting.

1. Introduction

Homosexual parent families are families with one or more homosexual parent. The term LGBT parenting, more precisely *Homoparentalité* (Gross, 2003) is a neologism created in 1997 by the French Association of parents and future lesbian and gay parents (APGL) to designate all those family situations in which at least one adult who defines himself as homosexual, is the parent of at least one child within the newly formed family. Homosexual parent

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families can be very different within themselves and may be the result of different choices: if more frequently in the past there were those who have become such within previous heterosexual relationships and are now living the dynamics of separation sometimes supported by a new partner, becoming more widespread today are families founded by homosexual parents where they seek to parent within the homosexual couple.

Roberta Bosisio and Paola Ronfani (2014) propose a classification of different configurations of the homosexual parent family based on parenting and relationships between generations:

- Gay or lesbian couples with children born of the previous heterosexual union of one partner. These mostly involve lesbian couples, particularly in Italy, because in cases of parental separation custody of children is less frequently awarded to fathers.
- Same-sex couples with children born through artificial insemination or self insemination for women and gestation of 'support' for men.
- Families composed of two family units and their children. This refers to co-parenting projects involving two homosexual persons (with or without a partner) intending to have a child through new reproductive technologies and to share the educational role of the child between the two family units, maternal (exclusively female) and paternal (exclusively male). It can thus constitute three-parent families (a gay man who has an arrangement with a lesbian couple and vice versa) or four-parent families (a gay couple that has an arrangement with a lesbian couple).
- Multi-parent families that consist of same-sex couples with children born through new reproductive technologies that share, in different ways and with various degrees of involvement, parenting with those who have contributed to the birth of the son or daughter by donating gametes and/or carrying the pregnancy to term.
- Same-sex couples with adopted children.

With the changing composition of the family, observe the Authors, from both a structural and relational point of view, the manner of exercising parental responsibility also varies, which is also affected by other variables such as social class, cultural level and ethnicity.

Homosexual parent families in our country are increasing, according to data from the 15th Population Census in 2011, ISTAT state that 7,513 couples of the same sex declared that they were united by a type of connubial affective bond, 529 of which had children. In 2005 the MODI.DI survey funded by the Higher Institute of Health reported that of 7,000 homosexuals, 18% of gay men and 21% of lesbian women over 40 stated to have children. In Italy, it is estimated that approximately 500,000 children live with at least one homosexual parent.

Despite the proportion and magnitude of the phenomenon in Italy it has taken a long time compared to other Western countries – especially those Anglo-Saxon – before scientific reflection on homosexual parenting has found adequate space.

According to Barbagli and Colombo (2007) in Italy there is a very big difference between what is said daily about homosexuals and how much one really knows about them. The press and the media devote considerable space to this topic often fueling stereotypes and clichés. In Italy, apart from a few exceptions (Fabris, Davis, 1978), it is only since the mid-nineties that we have seen actual growth in scientific and academic interest in psychology, law, sociology and anthropology relating to homosexual family parenting. The first Italian essays on the subject were those of Bonaccorso (1994), Danna (1998) and Ciriello (2000) together with a group of studies that highlighted the emergence of a pluralization of family forms (Fruggeri, 1998; Saraceno, 1998), but it was not until the 2000s that there was a real proliferation of studies on homosexual family parenting. The year 2005 (when the Rainbow Families Association was founded) also marks the start point of the social representation of homosexual parent families in Italy (Ferrari, 2015).

2. The Context

2.1. Law 20 May 2016, n. 76 Regulation of civil unions between same-sex and discipline in cohabitation

On 21 July 2015, the European Court of Human Rights condemned Italy: ‘The lack of recognition, in Italian law, of civil unions composed of persons of the same sex violates the right of the latter to respect for their family life and stands in contrast to Art. 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms’. Article 8 of the Convention has been violated because the Italian government refused any protection, if not sporadic and episodic, to homosexual relationships.

The judgment does not clearly indicate the minimum level of protection that the Italian government is obliged to grant, but it is obvious that this should not be apparent or negligible and, in contrast, must relate (overall) to all rights and responsibilities connected to married life, as well as those where the couple, as such, are under the jurisdiction of institutions (e.g. in the welfare sector). One cannot overlook the fact that the Strasbourg Court has had occasion to rule several times on the protection of homosexual couples and civil partnerships censoring specific discrimination against homosexual couples, in various areas of civil law. This has helped fuel a heated debate on

civil unions between persons of the same sex¹ which, in 2016, led to the approval of Law 20 May 2016, n.76 *Regulation of civil unions between same-sex and discipline in cohabitation*.

The Cirinnà law establishes civil unions between people of the same sex with specific social formation in accordance with Articles 2 and 3 of the Constitution and provides the regulation of de facto relationships. Two adult persons of the same sex establish a civil union with a declaration in front of a registrar and two witnesses. The registrar undertakes the recording of acts of civil union between persons of the same sex in the civil status archive. With the constitution of a civil union both parties acquire the same rights and assume the same responsibilities: they are mutually obliged to moral and material support and cohabitation. Both parties are obliged, each in relation to their resources and their professional capacity for work and home, to contribute to their common needs.

The parties agree between themselves the address of the family by declaring their common residence. The Civil Code is applied to the patrimonial regime of the family and the community of property and regulates the inheritance rights and the rules of reversibility. However, the *duty of loyalty* as for spouses in marriage was not specified for same-sex couples. The procedure for the dissolution of the union is simplified, it being sufficient to manifest individually the desire to separate before the registrar.

Causes of impediment to the introduction of a civil union or its invalidity are: the existence of a marriage or civil partnership already in place; the interdiction for mental infirmity; relationships of affinity or kinship; final sentence of a party for murder consummated or attempted against anyone who is married or civilly united with the other party; if the party was committed for trial namely for a first or second degree sentence of conviction or as a precautionary measure. The procedure for establishing a civil union between persons of the same sex is suspended until the acquittal has been pronounced. The existence of any of the impediments stated would nullify the civil union. Other grounds for nullification are also all those provided by civil code for marriage.

2.1.1. Pronouncing the fateful 'yes'

The Interior Minister, with the enactment of the decree of February 27, 2017, completed the legislative framework necessary for a fully functioning civil union approved by the law n. 76 of 20 May 2016. In particular, the decree also set out to ensure that records of civil unions are handled administratively

¹ For further information see the article by Paola Di Nicola (2016).

as per all other records of civil status awaiting the operation of a computerized archive.

The second part of the decree however is for the updating of the official's main operational instrument of civil status: the form, a list of useful formulas and notes for the preparation of acts of civil status. There are many new features in the form, that resolve a number of controversial points, the first of which underlines that civil unions should be constituted, as per marriage, in a room open to the public. The celebrating official wears the tricolor flag and reads the union form and goes over the lexical distinction, often underlined, between marriages which are 'celebrated' and civil unions which are instead 'constituted'. In these latter cases the registrar is assigned almost a 'support role' in the declaration statements of constituted unions. Now, in fact, even only in the procedural form, the civil union is in effect a celebration, as the registrar questions the parties on their desire to unite (they therefore will pronounce the fateful 'yes') and he then closes the act with his declaration of the constitution of the union. The form also contains all the necessary formulas for the constitution of the union in special cases (e.g. for imminent threat to life). With regard to the common surname this is reserved for purely symbolic use. In fact it is not foreseen that on the new form the choice of surname will be recorded on the act of union constitution nor on the birth certificate of the parties, therefore this new surname will not be reported on any certification. One part that will still retain, as may be expected, unequivocal doubts and interpretations is that which relates to the formula to be used in cases of the constitution of a civil union following the rectification of attribution of sex one either spouse. The ministerial decree also contains the formulas necessary for the transcription of civil unions and marriages contracted abroad (Tavani, from www.articolo29.it).

2.1.2. Stepchild adoption

The Cirinnà law was passed after deletion of Article 5 on *stepchild adoption*, namely the adoption of the partner's child. The proposal, albeit with many limitations², offered couples of same sex parents the opportunity to protect their children from uncertainties. The debate on filiation in homosexual parent families is left in the hands of the judges. In this way the rights of children and their welfare are not protected at all. As writes Paola Di Nicola (2016: 305) 'We need to safeguard the interests of these children, ensure that

² Stepchild adoption involves only the adoption of the partner's son and not the adoption of minors born of others and also creates links only between the adopting adult and adopted child but not, as is the case for legitimate adoption, with all kinfolk of the adopting parent. Finally, stepchild adoption is tied to the civil union and does not take into account separated couples.

they have affective continuity, assess the quality of the relationships they experience on a daily basis and respect their right to know about their origins'. 'The protection of children must be the main priority, as the whole debate about the recognition of same-sex couples presumes that these partners are bound by indissoluble ties and are therefore exempt from conflict and separations. There is actually nothing to suggest that these relationships will be for life, whereas the parental responsibilities that they assume most definitely are'.

Even though marriage or civil union between persons of the same sex is now openly discussed and legitimized, the possibilities for same-sex couples to have children in Italy is far from certain. The reasons given are often based on the alleged negative impact on well-being that comes from children having an affective and relational model different to that of heterosexual parents. Although there are now published studies and research which confirm that

there is no scientific basis for concluding that lesbian mothers or gay fathers are unfit parents on the basis of their sexual orientation. On the contrary, results of research suggest that lesbian and gay parents are just as likely as heterosexual parents to provide supportive and healthy environments for their children. [...] Research has shown that the adjustment, development, and psychological well-being of children is unrelated to parental sexual orientation and that the children of lesbian and gay parents are just as likely as those of heterosexual parents to flourish (American Psychological Association, 2005).

As can also be read in a report by the Canadian Justice Department on the development of social skills of children in different family types

the strongest conclusion that can be drawn from the empirical literature is that the vast majority of studies show that children living with two mothers and those living with a mother and father have the same levels of social competence. A few studies suggest that children with two lesbian mothers may have marginally better social competence than children in traditional nuclear families, even fewer studies show the opposite, and most studies fail to find any differences. The very limited body of research on children with two gay fathers supports this same conclusion (Bourassa, Varnell, 2007 from www.samesexmarriage.ca).

Recently, a team of researchers from the Columbia Law School in New York analyzed 78 of the most relevant studies on homosexual family parenting published since 1985 and concluded that only four of these indicated that the children of homosexual couples have more difficulty than others:

we identified 78 scholarly studies that met our criteria for adding to knowledge about the wellbeing of children with gay or lesbian parents. Of those studies, 74 concluded that children of gay or lesbian parents fare no worse than other children. While many of the sample sizes were small, and some studies lacked a control group, researchers regard such studies as providing the best available knowledge about child adjustment, and do not view large representative samples as essential. We identified four studies concluding that children of gay or lesbian parents face added disadvantages. Since all four took their samples from children who endured family break-ups, a cohort known to face added risks, these studies have been criticized by many scholars as unreliable assessments of the wellbeing of LGB-headed households. Taken together, this research forms an overwhelming scholarly consensus, based on over three decades of peer-reviewed research, that having a gay or lesbian parent does not harm children (2016).

‘Too often we forget that our children do not have, never have had and will never have other parents other than their two fathers or two mothers. And even though some may prefer that this did not happen, it happens every day and it will happen more and more. Burying your head in the sand does not help’ (La Delfa, 2016: 160).

3. New parenting: does love make a family?

Couples and parents of the same sex profoundly challenge the beliefs on parents and families. The challenge is understood by many to be a confrontation or even an affront to the fundamental values of the family. The main objections to homosexual parenting emerge from the widely shared belief that we can probably summarize in the phrase ‘every child needs a mother and a father’.

Despite the fact that history and society demonstrate a plurality of family forms (Saraceno, 1998; Di Nicola, 2008; Zanatta, 2008; Parke, 2013; Gigli, 2016), ‘family’ for many merely coincides with the image of a man and a woman, married, monogamous, heterosexual and possibly fertile. It is from this model that all other forms of family affection and kinship are regulated and somehow delegitimized.

Inevitably, at this point, is the dispute *natural vs. against-nature*, but according to Lingiardi and Carone (2016a) it is always culture that decides what is natural. Parenthood, says Speranza (2016) cannot be conceived as a ‘natural’ concept: it consists of behavior which is the adult’s ability to provide care, sustenance and the physical, emotional, social support and intellectual development of the child, but it also consists of mental representations, that

is, functions that are structured early in the life of every individual from its own early relationship experiences.

A process that weaves interpersonal and intra-psychic factors which is not only assigned to the physical and psychological care of children, but is primarily the ability to keep the child in mind as a subject endowed with autonomous states of mind and emotion. The assumption that children need a mother and a father to grow well is not supported by the last forty years of research (Lamb, Lewis, 2001; Lamb, 2012): mothers and fathers are important to children as parents and not as male or female, and the functions of care, love, commitment and education are not gender-related.

Today medically assisted procreation techniques allow adoption, not always reducible to the (hetero) sexual act thus allowing the formation of affective systems up to now considered inconceivable. 'One may object that in the desire to become a parent at all costs avoiding the narcissistic frustration you can detect unresolved mental and emotional transitions such as self-indulgent egotism which turns the child into an extension of themselves or the feeling of guilt of a sterile couple, but these feelings can also be seen in even the most traditional of parenting. No one is a child by their own will: many are conceived without being desired; others are sought at all costs, but most arrive following one of the many paths between these two extremes. Because today's technology allows the creation of situations which were once unthinkable, it is necessary to promote knowledge of these new bonds and not to surrender to *moral indignation* or *libertarian euphoria*' (Lingiardi, Carone, 2016a: 58). We all know that making a child takes an egg and sperm, a male and a female, but we also know that egg and sperm can meet in ways other than during sexual intercourse, that a family can consist of two biological parents or only one, or neither. So we know that there are different ways to become parents, and not all are based on biology.

With this in mind we are reminded of the words of Anne Cadoret (2008: 21):

The birth of a child, its physical construction, are not sufficient to turn its biological parents into parents in all respects. Being born to a man and a woman is not enough to be the son or daughter of that man and woman, nor does the reality of giving birth to a child automatically create parents. The birth and coming into the world is a physical reality, something that waits to be transformed into the parent-child relationship in a social reality. The biological procreation of a child, which takes place at a given time and involves a limited number of people (a man for the male gametes, a woman for the female gametes and pregnancy: functions that may be separated thanks to technical assisted procreation) must continue in the transformation of this little human being into an adult. This transformation

implies many activities ranging from nutrition to learning how to do or how to be and these activities can be carried out by a number of people or by one person alone. Unlike the physical procreation of children, they form part of a long-term dimension. They give the child the entire depth of time.

It is not therefore the gender, sexual orientation or biological link which characterize parenting skills, how parenting functions are performed by the adult regarding the child. Of the many risk factors in parenting we can certainly list early traumatic experiences, poverty, parental depression, substance abuse, domestic violence etc. but no research supports the inclusion of sexual orientation of a parent nor in a broader sense the genre (Speranza 2016).

Our task as researchers is to accommodate the complexity of these new family formations and recognize that homosexuality is not a qualification of parenting but one of the conditions under which parenting may be exercised (Fruggeri, 2016; Lingiardi, Carone, 2016b).

There may be many ethical concerns open to these new family structures: the rights of individuals, those of minors³, the rights of children to be informed of their origins, the potential hazards of scientific advances that offer various forms of ‘subrogation’ of the maternal role. The only way to address these challenges and complexities are knowledge and good documentation, ‘to accommodate the complexity of today’s families without stigmatizing or ideologizing’ (Barone, 2016: 92).

The success of the Association Rainbow Families slogan ‘love makes a family’ is undoubtedly an important and necessary starting point but it is not sufficient (Fruggeri, 2016; Lingiardi, Carone, 2016a; 2016b). The debate on homosexual parenting pushes us to think about what we mean when we say ‘parents’ (Cadoret, 2008; Ferrari, 2015; Everri, 2016; Saraceno, 2016; Lingiardi, Carone, 2016a). All (good) parenting must supercede the gender difference? What are the duties of a good parent? Who is the ‘real’ parent?

Today we find ourselves before a plurality of family forms and a conception of parenting not just down to gender roles. We are moving away from the traditional idea of heterosexual and heteronormative parenting and this pushes us to deal with things at a psychological, legal, historical and symbolic level with a multiplicity of parties involved in the reproductive stage, a true ‘choreography of procreation’ (Thomson, 2005) which, thanks to

³ Spina (2015) warns, before the change in our society and relationships between individuals and the spread of the ideology according to which ‘each claims their right to happiness as the right to contentment without any intrusion by another’ and which results in a lower demand for public controls in family relationships it is necessary to be careful not precede the right of adults to that of minors.

biotechnology can take on, for some worrying, increasingly complex forms because the generative act is carried out in the laboratory.

There are *families* and what matters most is 'good parenting' regardless of the prefixes homo- or hetero- (Bottino, Danna, 2005; Cavina, Danna, 2009; Lalli, 2009; Scaramozza, 2009; Schuster, 2001; Caristo, Nardelli, 2013; Bosisio, Ronfani, 2015; Bastianoni Baiamonte, 2015; Ferrari, 2011; 2015; Speranza, 2015; Trappolin, Tiano, 2015). Families have always been complex and we cannot have the nuclear family consisting of two heterosexual parents as a reference configuration. Today, to ignore the complexity of the reproductive stage and the parents role is to live outside reality (Lingiardi, Carone, 2016a) and to mourn a way we have never been (Coontz, 1992).

Overcoming this perspective has allowed scholars to shift the focus of their research on the outcomes of the homosexual parent family processes. In addition, as stated by Laura Fruggeri (2016), it is a perspective study and analysis of parenting and family processes that instead of starting from 'what should a parent do' asks questions such as 'what is required for the child's development'.

The question that now guides the study of homosexual parent families is no longer *if* same-sex parents are able to fulfill their functions, but more *how* they do it, or rather in scientific research homosexuality is not considered a qualification for parenting, but one of the conditions within which the parental function may be exercised.

Parenting emerges as a set of functions designed to meet the needs that children have to forge ties, experience evolutionary relationship dynamics, to build identity, acquire skills, develop social skills, project themselves in the exploration of different worlds and new bonds, and to find resources to pursue independence. Children require that those who are involved with their care guarantee support and protection, ensure containment, promote inter-subjectivity, help to manage conflict, encourage mutual acceptance and favor autonomy.

What a child needs to develop is internal safety and the function exercised by an adult in taking care of him or her and not the biology that connects them. Generativity, says Speranza (2016), is not a necessary condition of caring. The quality of parenting is rather a function of the complex process that develops from childhood through the internalization of nurturing received through the subjective experience that everyone, regardless of their gender or sexual orientation, has lived through commencing from their own experiences of childhood and which refers to the person's capabilities of providing for the other, ensuring protection and care, introducing affective resonance, teaching the meaning of limits and providing for the achievement of developmental milestones. As Lamb (2012)

demonstrated, in fact the most significant dimensions of parenting which influence good development and the psychological adjustment of children in contemporary families do not depend on the sexual orientation of the parents (Biblarz, Stacey, 2010; Farr, Forssell, Patterson, 2010) or on the biological link between parents and children, but the quality of parent-child relationships, a sense of competence and safety of parents in exercising parenting, the quality of the relationship between the parents, and the economic and social resources available.

Homosexual parent families often seem to realize the ‘democratic’ parenting model (Bosisio, Ronfani, 2014) considered by experts to be the parenting model most responsive to the child’s representation as a responsible social actor and owner of fundamental rights, in which parents exercise their educational role by sharing decisions, dialogue and negotiation with the children, with a preference towards care and protection, but also to advance their autonomy.

3.1. Parents at any cost

For those who have no difficulty in procreating the right to have children is not questioned nor is there prior requirement of a test or proof of parental proficiency, a so-called ‘licence’ for parents as Rossi Marcelli (2015) calls it, the mere implementation of an attempt to have a child by those who cannot procreate, be it through adoption or assisted reproduction techniques, with or without gametes donors, or appeals for a surrogate mother, is always subject, says Chiara Saraceno (2016), to the suspicion of being a manifestation of excessive desire, to be exaggerated, unreasonable, if not selfish, narcissistic and even illegitimate. Motherhood and fatherhood at all costs seems less legitimate than for those who achieve it without much visible intention, effort, medical and pharmacological mediation or otherwise. The assessment of legitimacy ranges from parenting skills to legal status. Italy is one of the most restrictive countries in legal terms since the adoption of children is allowed to married couples of different sexes⁴ only and permits assisted reproduction techniques (ART) (except for Other Gestation GPA which is prohibited) only to married couples or partners of the opposite sex whose infertility of one or both partners has been established⁵. These restrictions are said to be motivated by the need to protect potential children. As observed by Chiara

⁴ The law regulating adoption in Italy is Law 4 May 1983, n. 184 modified by Law 28 March 2001, n. 149 referred to as Amendments to Law 4 May 1983, n. 184, regarding *Discipline for the Adoption and Custody of Minors*, as well as *Title VIII of the First Book of the Civil Code*.

⁵ Law 40 of 19 February 2004 *Medically assisted procreation norms*.

Saraceno (2016: 121-122) however, awareness of potential problems additional to those that in any way involve parenthood should not be transformed into

a prior presumption of a less generative capacity, in the sense of the ability to know how to get by in the world. Nor should this ability coincide with adherence to a particular legal status. [...] It is not the status of a 'couple' that guarantees their readiness to become parents and this is not automatically derived from the ability to procreate.

The pluralization of the subjects who contribute to the procreation and give access to parenting is a maxim in the case of use of gestation for others (GPA) or surrogacy. Over the past decade the use of surrogates has grown considerably, even though it is illegal in many countries (such as Italy), in others it is subject to restrictions or is permitted only for altruistic motives and not for financial purposes such as in Canada. In other countries it is legal and regulated as it is in Russia, Ukraine, India, California and the United Kingdom and, albeit with a lack of regulations and norms, also in many states of Africa and parts of Latin America⁶, provoking important reflections on the psychological, social and historic-anthropological relationships that unite desire, the body, emotion and money.

The two most common types of GPA are as follows⁷: *genetic* which foresees the use of ova of the same woman who will give birth and will therefore also be genetic mother of the child and the *gestational* where the ova are implanted into the donor uterus of another woman (bearer) who will carry the child through pregnancy. There are two types of agreement: *altruistic* where no payment at all is made or perhaps only a refund of expenses incurred during pregnancy is offered, the other is *commercial* in which the mother receives a fee that exceeds the costs of pregnancy and childbirth.

Although it is mainly heterosexual couples who choose surrogacy it is a topic that meets strong objections in the trading of children and the exploitation of the female body on the basis of cases of 'Nigerian baby factories' or 'Indian surrogacy hostels' in which surrogate mothers give birth to children for sale on the black market to infertile couples. There is also a large amount of scientific literature which offers information regarding GPA not just as an economic route but also of sharing and affection between the couple of intentional parents, the children conceived and the child bearer(s) (Jadva, Imrie, 2014; Jadva, Blake, Casey, Golombok, 2015; Jadva, Imrie, Golombok, 2015).

⁶ See Di Nicola (2016).

⁷ There is a third type, although not very common, that is GPA *by choice* or *social* i.e. the choice of heterosexual or fertile couples who do not want to go through pregnancy to use GPA.

Unlike the donation of gametes in which the involvement of the sperm or egg donor is limited to the donated genetic component, in GPA the bearer immediately establishes a psycho-physiological bond with the fetus although there is no current scientific evidence (Söderström-Anttila, Wennerholm, Loft, Pinborg, Aittomäki, Romundstad, Bergh, 2016) to suggest that this could adversely affect the mental and physical wellbeing of the bearer and/or the unborn child. The issue of gestation for others is undoubtedly complex emotionally, legally and culturally, and implies a broad debate both on legal, ethical, philosophical and religious grounds. Pending further studies, most experts agree that the path to take, in order that the context of poverty does not lead to or encourage the exploitation of the female body, would be that of increased regulation.

The differences between countries highlight important variations in the understanding of the family, on who can become a parent, in the rules for establishing who children are and so on, in a profoundly changing context both at a cultural level and at the level of the possibilities afforded by medical technology. They also illustrate the dilemmas, moral and legal, opened by the pluralization of the subjects who may participate in the generation of a child and which cannot simply be ignored by denying its legitimacy. Indeed, the absence of regulation increases the probability of abuse and exploitation, as has happened in the past with international, and sometimes even national, adoption (Saraceno 2016: 134).

3.2. Origins are not chosen and do not change, but should be known: 'the birth other'

These forms of parenting also include important relational issues between the various parties involved and the children who come into the world: knowledge of their origins.

The desire to know one's origins appertains to many people but the point is that this need is no more real or urgent in children of lesbian mothers or gay fathers than it is for an orphan or an adopted child or for one with a single parent. Origins are not chosen and do not change, as Lingiardi and Carone write (2016a), but should be known and if necessary elaborated upon.

Some parents will offer an early account⁸ of the child's biological origins which, with advancing age will be explained in depth, others parents will not. Some studies have shown that the underlying reasons for the decision to maintain secrecy concerning a child's origins are linked mainly to the fear that

⁸ The revelation of the method of conception at a young age is associated with better adaptation and more positive feelings towards their origins (Jadva, Freeman, Kramer, Golombok, 2009).

the disclosure would compromise the parental relationship or that the child would feel less affection for the non-biological parent. There is also the worry about not having adequate answers to the questions that the child might ask and the desire to manage family relationships within the parental dyad without the interference of a 'third party' who may 'complicate the management of the relationship' (Jadva, Freeman, Kramer, Golombok, 2009).

Genealogical ties affect every family configuration and can become traumatic where origins, for intra or extra-family reasons, are disclaimed, removed or denied.

The question of origins can be difficult to approach for heterosexual couples. Preoccupied about finding the right time to tell the child, in the end they may decide to say nothing. Maintaining anonymity, according to Irene Théry (2010), would satisfy the desire to mimic natural procreation censoring the intervention of a third party, but in doing so they deny to themselves and to their children the story of their procreation, of their coming into the world and especially the distinction between procreation and parenting. In contrast, same-sex parents cannot avoid discussing the absence of a female or male figure with their children. Children of homosexual couples must somehow come to terms with the set of fantasies involving other figures who have contributed to their conception.

As testified by Melita Cavallo in the stories she tells of her experiences as a juvenile judge, the quality of care, nor the healthy and correct social and psycho-physic growth does not change if the child is taken care of by persons of the same sex, be they male or female, what matters it is the educative responsibility to tell the truth to their children about their origins immediately:

It is not the task of a good parent to impose on their child, to protect him in a hypothetical peaceful growth path, with socio-relational blindness within rigid patterns imposed by current mindsets, from homophobic society and from what 'nature' requires; Children have their own infallible 'head' and are able, at the earliest stages of development, to form their own mind patterns that [...] enable them to form logical explanations to their circumstances and even, to choose those most appropriate to their needs. Luca, Silvia and Ivan, like many other children that I have followed and entrusted, were three healthy children, serene, and happy to have been able to enjoy a 'common' growth path made up of many moments of joy and difficulty, as happen 'normally' (Cavallo, 2016: 78-79).

The presence of a third party, '*the birth other*'⁹ as defined by Diane Ehrensaft (2005; 2016) on the family scene, inevitably leads to a number of considerations. First, the *genetic asymmetry* (Lingiardi, Carone, 2016a) which homosexual parents have to deal with: the identity of the non-biological parent is structured from a negation and is constantly being tested by external recognition. As we have seen before, for Italian law, the non-biological parent is unrelated and the child is a semi-orphan:

To not recognize that there are two parents who have wanted that child and want to take on the responsibility (rights and duties) to raise it, legally creates a state of want that does not correspond to the reality and needs of that family. It is not just the other parent that is cancelled, but its entire genealogy. If something happened to the legal (genetic) parent and the (genetic) grandparents were not still alive, an adoptive scenario would open up, which might not even consider the principle of affective continuity between the child and the adult who raised them up to that moment in time. Or, if the couple were to divorce it would be only the legally recognized parent who could decide the fate of the relationship between the children and the non-genetic parent. The psychological and social consequences for their welfare are thereby predictable' (Lingiardi, Carone, 2016: 66a).

This story highlights the complexity of families and family relationships and warns us of the trap underlying regulatory expectations: we must not expect that 'families are normal: pretending to be normal or hiding the truth about our lives will only create problems for the true understanding of ourselves and of our families' (Russell, 2016: 166). At the basis of deeply rooted thought there is the belief that heterosexuality is the only result of healthy development, hence the conviction that the failure of sexual differentiation in childhood (due to having homosexual parents) could lead to a child becoming homosexual. A conclusion, however, which is denied by facts (Goldberg, 2016). In addition, many empirical researches have shown that parents are not solely responsible for the development of their children's genre (Goldberg, 2016; Baumgartner, 2016). The contexts that shape the development of the genre are many, and include among the most significant

⁹ The *birth other* is the person who offers their biological/genetic contribution (seed donor, egg donor or ovules and/or bearer) to a couple to have a baby. Diane Ehrensaft arrived at the concept of the *birth other* thanks to a typing error. She was taking notes for her book *Mommies, daddies, donors, surrogates* (Ehrensaft, 2005) when writing 'birth mother' she forgot the letter 'm'. At that point while looking at the mistake she chose '*birth other*' as a unique term to identify a person who is not a parent of the child but contributes to their conception (Ehrensaft, 2016).

brothers and sisters, peers, other family members, teachers, and other people with whom boys and girls interact on a daily basis.

4. The paradigm of *difference*

International scientific research (Amato, Fowler, 2002; Parke, 2003; American Psychological Association, 2005; Patterson, 2005; Pawelski, Perrin, Foy, Allen, Crawford, Del Monte, Kaufman, Klein, Smith, Springer, Tanner, Vickers, 2006; Goldberg, 2010; Patterson, Wainright, 2011; Amato, 2012; Lamb, 2012; Committee on Psychosocial aspects of child and family health, 2013; Perrin, Siegel, 2013; Golombok, 2015; Coloumbia Law School, 2016) and national (Ciriello, 2000; Bottino, Danna, 2005; Bastianoni, Taurino, 2007; Lelleri, Prati, Pietrantonio, 2008; Cavina, Danna, 2009; Lalli, 2009; Scaramozza, 2009; Ferrari, 2011; Gigli, 2011; Baiocco, Santamaria, Ioverno, Petracca, Biondi, Laghi, Mazzoni, 2013; Caristo, Nardelli, 2013; D'Amore, Simonelli, Miscioscia, 2013; Maggioni, Ronfani, Bellotti, Belloni, 2013; Bosisio, Ronfani, 2014; 2015; Bastianoni, Baiamonte, 2015; Bertone, 2015; Ferrari, 2015; Everri, 2016; Lingiard, Carone, 2016a; 2016b) have highlighted that what is important for the wellbeing of children is the quality of the family environment that parents provide for them, regardless of whether they are cohabiting, separated, remarried, single or of the same sex. This is also true for adoptive families consisting of gay or lesbian couples (Erich, Kanenberg, Case, Allen, Bogdanos, 2009; Farr, Forssell, Patterson, 2010; Lavner, Waterman, Peplau, 2012).

Research on homosexual parenting was born from the confrontation and comparison with heterosexual parenting, rather than by an independent hypothesis that homosexual parenting as such is a non-pathogenic environment for child development and has crossed two important points: the first that Lingiard and Carone (2016b) define as the comparative historical approach (homosexual parents and their children *vs.* heterosexual parents and their children) and the contemporaneous more oriented to the specificity of each family system. The tendency to research hypotheses that minimize the differences between heterosexual and homosexual parent families (hypothesis of non-difference) had two effects. The first was to not explore how same-sex couples can contribute to a redefinition of constructed parenthood and the second is the tendency to confirm the idea that homosexual parent families must prove to be at least as capable as those with heterosexual parents. This heteronormative error is attributable to the fact that the first homosexual parent families were formed following the separation of the homosexual partner from the other partner with whom he had had children in the previous

heterosexual relationship. If we remain anchored, as Diane Ehrensaft (2016) says, to the traditional model of mother, father, and child and we see everything that dissociates from this model as a deficit for the child, we will harm all those parents who, regardless of their gender and sexual orientation, are widening the boundaries of parenting, thanks also to medically assisted procreation techniques.

In Italy, research on these issues is still under discussion with the documentation of the *normality* of the homosexual parent family, or rather the need to demonstrate how homosexual parent families can function properly in an environment hostile to them. Homosexual parent families move in an environment where there is a unique family model, or rather the heterosexual family. Although scientific studies of homosexual parent families show from many points of view that they are psychologically and relationally appropriate contexts for the raising of children, in Italy homosexual parenting is systematically associated with dysfunctionality. Some scholars emphasize the need for a paradigm shift that is based on the notion of difference (Bertone, 2005, 2009; Fruggeri, 2005; Bastianoni, Baiamonte, 2015; Everri, 2016). A difference-oriented paradigm, says Marina Everri, implies the need to confront what is not known and the promotion of a culture of difference becomes a crucial challenge for the future. Rather than continue to wonder if gays and lesbians can be good parents, would it not be better to ask how we can protect the child's best interest and how can we create a culture that values the diversity of every child, parent, and family? (Russell, 2016). Filiation within homosexual parent families is now a matter of fact in their diversity and truth, says Anne Cadoret (2008). Homosexual couples claim the need to recognize the parent's position for each of its members. They do not just ask for recognition of their parental function but also that the right is declared to an individual and also the couple's parental identity regardless of the size of sexual complementarity in which the procreative and reproductive complementarity is reflected. They do not deny sexual differences, they do not deny the differentiated existence of female and male, but refuse to assume it as the sole foundation of desire, sexuality, family and therefore also of union and filiation. They lead us to rethink our common conception of filiation whilst at the same time specifying the role within the construction of social bonds.

5. A regulatory vacuum

The presence of a legislative vacuum around families with homosexual parents (Cafasso, 2014) in Italy involves a series of domino effects, the most striking consequence of which is the lack of protection of fundamental rights

of children living in families with parents of the same sex (Bastianoni, Baiamonte, 2015). The inadequate institutionalization of these families, if not the discrimination that can still jeopardize their behavior, could make the assumption of the role of a parent more uncertain and problematic and may also be a source of psychological and behavioral hardship for the children (Bosisio, Ronfani, 2014).

Homosexual parent families, as Bastianoni (2015) states, as for all other families, can be protective places and fonts of happiness for their children, just as they may also be mines of evolutionary risks, but what moves the center of gravity in Italy and in all countries where homosexual parent families have no legal recognition, it is the absence of law. An absence that increases exponentially the risk of homophobic bullying directed at the children by their peers at school and other social agencies and which, moreover, increases the discontinuity of the affective bond with loved ones, as a parent and as a child, where the conjugal relationship suffers a crisis and ends (because like all families, even homosexual couples separate and/or divorce) or because of the death of the biological parent. The separation of the biological parent and/or their death in a State that does not guarantee non-biological parenthood and non-biological affiliation is the most serious risk in which the social and non-biological parents and the children of homosexual parent families, because of the absence of law, have to end the strongest of human ties: that between a parent and a child.

This also clearly emerges from data from other research, in particular Bosisio and Ronfani (2014; 2015), which shows that the main concerns of homosexual parents are around the consequences resulting from the breakdown of the partner's relationship or from the death of the biological parent. In fact, mothers and fathers are aware that these are situations in which there is no guarantee that the responsibility that is exercised regularly and daily by the social parent can be recognized by the court, and there is therefore a high risk that the child may be deprived of the entitlement of support from their family relationships.

To ensure against the absence of protection rights and guarantees in law, many couples use other private methods to protect their family, such as the delegation by the biological parent to the social parent of certain parental functions¹⁰, the stipulation of life insurance policies in which partners mutually nominate beneficiaries, testamentary dispositions, or appointing the partner as

¹⁰ The biological parent with appropriate delegation authorizes the partner to take certain actions in the care of the child, in educational and socio-sanitary situations or in emergency situations (such as daily tasks such as picking them up from school, taking them to the doctor, holidays abroad or the necessity to make urgent medical decisions).

guardian. Some also prepare a so-called 'parenting project', a kind of diary that testifies to the family project of the couple, and which may contain important documents such as the marriage certificate (for weddings celebrated abroad), the child's birth certificate, photographs and anything else that may be needed to document the family history with the intention of proving, in the event of a breakdown in the relationship or death of the biological parent, the existence of the will and continuity in the assumption of responsibility by the social parent.

The well-being of children raised by gay and lesbian parents does not differ significantly from that of other children. Studies conducted in many other countries and with different approaches continue to show that the well-being of children does not depend on being raised by gay, lesbian or heterosexual parents. Rather, a significant fact that emerges is that the well-being of homosexuals is compromised by the prejudices and discrimination they face because of their sexual identity (Russell, 2016), the so-called '*minority stress*' (Meyer, 2003). Given the strength and pervasiveness of social prejudice towards homosexuals both as individuals and as parents, it may be surprising that minority stress has no negative repercussions on their children. This confirms that the way parents support and care for their children counts more than social prejudice: what matters is that children have loving and caring parents and not their sexual identity. Scientific evidence, says Russell (2016), is clear: the parent's sexual orientation is not predictive of children's well-being. What really endangers children's health is the legal vacuum they live in. The lack of approval of step-child adoption in Italy makes homosexual parent families in general and their children in particular profoundly vulnerable and constantly threatened on a wide range of rights, including education, health care, and succession benefits.

In his inauguration speech of the 2017 Judicial Year, the first president of the Court of Cassation broadly dealt with homosexual parenting issues and referred to civil unions. In particular, he stated that the reconstruction of the legal framework established by case law shows that the family institution is intended as a community of life and affection, focusing on concrete relationships between its members, within which the outstanding guiding criteria is that of the interest of the child. He stated that the Court cannot and does not intend to escape the duty of safeguarding the fundamental rights of the person, but that a legislator cannot place demands only on case law in order to provide solutions to issues involving ethical-social choices.

The 'preferred' way would be the expression of a clear and explicit legislative will that makes the hermeneutic path of judges less challenging:

With these judgments, the Court of Cassation, consistent with statements by the Court of Human Rights and the Constitutional Court, does not avoid the task of safeguarding fundamental rights, by identifying in the Order the principles upon which the new requests submitted to its examination should be based. On the other hand, it should be pointed out that addressing the case-law of issues that impose demanding ethical choices is not the optimal choice in terms of the right to equal treatment. In the face of the constraints of the former, a point that raises complex questions such as this, in the absence of a clear regulation, risks being decided on a territorial basis differently and dependent on sensitivity, to the detriment of both equal treatment and the rights of the minors involved (www.cortedicassazione.it).

6. There is no need for a license for parents...

Modern families (Golombok, 2015) force us to rethink all new family constellations with a different perspective and ask us to use tools that instead of establishing whether something is right or wrong, normal or 'de-generating' allow us to face up to the new critical events these families encounter: discrimination, delegitimization, absence of reference models, divided loyalties, isolation or invisibility. Homosexual parent families have to face many critical challenges and events from the outset: to establish the legitimacy of their parenting, to have the support of their respective families of origin, to respond to the implicit and/or explicit demands of the social context and they often have to do this without the help of reference models and legal or social recognition. If we only think about staying close to the child if they are in hospital, taking them to the pediatrician or for medical examinations, or simply going to pick them up from school, in Italy all these are situations are related to the availability of the individual but in fact without legal recognition they prevent recognition and social inclusion (Speranza, 2016).

Despite their institutional invisibility, homosexual parent families exist and, as Claudio Rossi Marcelli says, one must never think we know who can have children and who cannot.

There is no higher authority able to grant or deny the right to parenthood. We either give the licence to everyone or deny it to all. And instead of continuing to focus our minds on deciding who can have children and who cannot, perhaps we should focus our efforts on finding new ways to ensure the well-being of the children who are already here. Increase the offices and channels through which you can register the needs of a child, provide schools with more tools to identify difficult situations and help families with problems or difficulties. [...] These are concrete cases, not potential ones, those where it is legitimate to give our opinion and to create rules

that allow for external intervention in favor of a child. Instead of putting a spanner in the works of those decide to become parents we should try to help those who already are and who find it difficult to do the job well (Rossi Marcelli, 2015: 22).

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