The Rainbow Compass

An argumentation framework for modern LGBT rights

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1 Introduction

In the context of an increasingly globalized world and a palpable weakening of the social capital (Putnam 2000), the recent global economic crisis served as a powerful catalyst for the renewed search for collective identity. Fear and frustration arising from the failure of states to ensure freedom and security of their citizens have spurred normative countercurrents which have fuelled the almost unprecedented growth of far-right extremism across Europe. A trend of populist extremist movements, reviving and drawing legitimacy from national myths and religious fundamentalism, has recently been achieving breakthroughs in regional and national elections, blatantly taking advantage of the growing apathy of the rest of the electorate (Ward 2013). This trend exacerbates the need to bring more academic clarity to the study of political discourse regarding the issue of minority rights in general.

In terms of individual rights and freedoms, the world has undergone an impressive transformation since the middle of the 20th century. The concept of human rights has permeated academia as well as politics and has driven many positive changes for disenfranchised minorities, one of the newest in focus being sexual minorities – **l**esbians, **g**ays, **b**isexuals and **t**ransgender people, LGBT in short. In the period from 1989 to 2009, 29 European countries introduced various forms of same-sex union legislation into their legal systems, therefore contributing to the removal of discrimination of sexual minorities (Fernández and Lutter 2013).

In the recent decades, the topic of rights of LGBT people has arguably become a focal point for many liberal democracies. This trend has resulted in a rather paradoxical situation. While in some countries the demands for a legal recognition of same-sex unions have been understood as integral to the universality of human rights, and resulted in amending national legislation to accommodate these demands, in other countries in the world a person can still receive harsh prison sentences or even the death penalty for just being homosexual (Amnesty International 2014). Even in the context of European democracies the sharp disparity in approaches towards LGBT rights is visible. Although numerous countries have eliminated the discrimination of LGBT people by legally recognizing same-sex unions in a way which is analogous to marriage, other countries, particularly in Central and Eastern Europe, viewed the

spread of this norm as a threat to their national imagery, promptly mobilized the opposition and pre-emptively banned gay marriage in their national constitutions with significant mobilizing support of the Catholic Church (Ayoub 2014).

The overarching ambition of this master's thesis is therefore to explore the rationale behind each of these two political directions, and to identify the character and intellectual basis of the arguments used in the political discourse regarding legal recognition of same-sex unions, using the case of Slovakia as the object of analysis. The empirical dimension of the study will focus on the different perspectives and arguments that were present in the Slovak political discourse during the parliamentary discussion on the legislative proposal for registered partnership. Slovakia is in this context a particularly interesting case, because the government's approach towards the LGBT rights is arguably symptomatic of the trend represented by other cases in the Central and Eastern Europe which instead of legally recognizing same-sex unions entrenched a heteronormative definition of marriage in the constitution.

The issue of homosexual rights has gained some momentum in Slovakia in the course of the past several years; especially since the first official gay pride parade (named 'Rainbow PRIDE') took place in 2010. The march was violently intercepted with rocks and tear gas by approximately a hundred right-wing extremists, causing the march to end prematurely in a fear of further attacks (Kern 2010). The political approach to the LGBT rights in Slovakia stands in a sharp contrast to the position taken by the Czech Republic, with which Slovakia shares a significant part of history and culture. The Czech Republic under a social-democratic government enacted as early as in 2005 a law on registered partnerships for same-sex couples – even overriding the veto by then President Václav Klaus. A similar legislative proposal in Slovakia from 2012 resulted in an epic failure, when not even all the sponsors of the bill voted for the proposal in the first parliamentary reading. As revealed in the analysis in Chapter 6 of this thesis, the conservative elites in Slovakia mobilized in opposition to what they perceived as a forceful imposition of foreign values undermining the very concept of Slovak national identity and have embarked on a crusade for defense of traditional marriage. The ruling social-democratic party Smer-SD not only refused to support the legal recognition of same-sex unions in 2012, but in cooperation with the conservative Christian democratic movement KDH managed in June 2014 to reach three-fifths qualified majority in the parliament which

was required to pass a constitutional amendment, adding a clause which reads as follows: "Marriage is a unique union between a man and a woman" (Burčík 2014).

In order to better understand this phenomenon, this thesis presents a complex analysis performed on two dimensions – theoretical and practical. In the theoretical dimension, a general argumentation framework is identified, which is then applied on the analysis of the political discourse in Slovakia regarding legal recognition of same-sex unions. Fairclough and Fairclough (2012:2) claim that in conditions of value pluralism, the process of analyzing political choice and decision-making "demands systematic analysis of political discourse as fundamentally argumentative discourse." It is therefore the main objective of this thesis to provide insights into the character and intellectual basis of the arguments used in promotion of LGBT rights vis-à-vis conservative opposition based on heteronormative perceptions of collective identity and conservative interpretations of sexual morality.

2 Methodology

This thesis represents a multidisciplinary approach to a simple case study with the aim of analyzing the use of the arguments for and against the legal recognition of same-sex unions in the Slovak political discourse during the 2012 parliamentary debate on the proposal for registered partnerships law. As Gerring (2007:19) explains, „a case connotes a spatially delimited phenomenon (a unit) observed at a single point in time or over some period of time. It comprises the type of phenomenon that interference attempts to explain".

The research question of this thesis is twofold:
What is the character and the intellectual basis of the main arguments for and against legal recognition of same-sex unions?
How were these arguments used in the Slovak political discourse during the parliamentary discussion on the proposal for registered partnership law?

In order to understand the principles and rationale behind different approaches to the issue of LGBT rights[1], an argumentation framework will be explored in this thesis, with a particular focus on the character and intellectual basis of the arguments for as well as against the legal recognition of same-sex unions, because "an adequate treatment of political choice and decision-making in conditions of uncertainty and value pluralism demands systematic analysis of political discourse as fundamentally argumentative discourse" (Fairclough and Fairclough 2012:2).

The theoretical part of this thesis will answer the first research question through systematic analysis of primary and secondary sources. Firstly, an argumentation framework in favour of LGBT rights will be developed through analyzing secondary sources relevant to the fields of feminist, queer, citizenship, and human rights studies. Secondly, the various religious attitudes towards homosexuality and LGBT rights will be studied through relevant scholarly work. Thirdly, primary sources will be used in order to provide an analysis of the position of the Catholic Church, particularly the relevant official statements of the Congregation for the

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[1] Througout this thesis I use the terms 'sexual minorities', 'LGBT people', 'non-heterosexuals', and 'gays and lesbians' interchangeably, although I admit that such use may raise concerns about contextual clarity.

Doctrine of the Faith. There are two important reasons for considering the Catholic Church as a valid source of anti-LGBT argumentation. Firstly, the connection between religiosity and prejudice towards homosexuals has been scientifically identified in the past (e.g. Allport and Ross 1967; Altemeyer and Hunsberger 1992; Whitley 2009). Secondly, the Catholic Church has had a particularly influential role in mobilizing political opposition against the spread of LGBT rights in the context of Central and Eastern Europe (Ayoub 2014). The choice of source material for the study was made with a concern for potential biases, however, when dealing with such a contentious normative issue, certain level of bias may be unavoidable on both sides of the discourse.

A core concept utilized by this thesis is *heteronormativity*, which this thesis operationalizes as a belief that considers heterosexuality as the only natural and normal form of an individual's sexual expression and dismisses alternatives as unnatural or immoral (Warner 1993, Ingraham 2002, Schilt and Westbrook 2009). Chapter 3 provides a thorough critical discussion on heteronormativity, demonstrating how a social system based on heterosexual bias affects various elements of lives of the LGBT people. This chapter presents academic statements of experts in the fields of feminism and queer theories which claim that within a heteronormative social system, non-heterosexuals are discriminated against in terms of skewed media portrayals, political representation, and in terms of access to citizenship rights, making them effectively second-class citizens (Richardson 2000). Attention is then put on an analysis of the two main citizenship discourses – liberalism and civic republicanism – with the focus on how these perspectives can be utilized by political elites to either support or oppose the promotion of LGBT rights.

In the discussion of civic republicanism I suggest that the tendency of religious authorities and secular political actors in some modern democracies to prevent the development of LGBT rights is an expression of a particular form of populism – *heteronormative populism*. I define heteronormative populism as the employment of a political strategy which, using antagonizing rhetoric rallies in defense of traditional social norms and values against the perceived threat of danger to the society by the spreading of LGBT rights norms.

In exploring the character and intellectual bases for the arguments for and against legal recognition of same-sex unions, chapters 4 and 5 analyze the issue from both sides. Chapter 4 focuses on the human rights dimension of the issue of LGBT rights. This master's thesis will explore the six tests for the justification of human rights provided by Nickel (2007) in relation

to the LGBT marital rights. While acknowledging the importance of the philosophical debate on the definition and justification of human rights as well as on the determination of which rights belong to the category of human rights[2], a detailed theoretical review and analysis of this particular field of human rights research is out of the scope of this thesis. Nevertheless, Nickel's (2007) method is arguably an important elaboration on the already existing research and a useful tool for the research of this particular right.

The chapter then proceeds to analyze the human rights perspective on LGBT rights as presented by the international human rights documents. Even though not legally binding, still a particularly relevant source for this analysis are 'The Yogyakarta principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity', which is the result of a project by the International Commission of Jurists and the International Service for Human Rights, with the aim to develop a set of international legal principles regarding the interpretation and application of international law to human rights violations based on sexual orientation and gender identity (ICJ 2007).

Chapter 5 analyzes the sources of the conservative opposition against the legal recognition of same-sex unions. It provides an overview of the perspectives on homosexuality among different Christian denominations, and proceeds to analyze the position of the Catholic Church as both the most relevant actor in opposition to the spread of LGBT rights norm (Ayoub 2014), and as the dominant religious body in Slovakia. Through an intensive study of official Vatican documents, particularly those introduced by the Congregation for the Doctrine of the Faith, I identify four major arguments against the legal recognition of same-sex unions which serve as a crucial part of the theoretical framework.

Chapter 6 opens with a brief overview to the Slovak political culture and party politics as a way to elaborate the political context in which the object of analysis takes place. The main method for answering the second research question is content analysis, which Ole Holsti (1969) broadly defines as any technique for making inferences by objectively and systematically identifying specified characteristics of messages. This thesis systematically identifies the content of two main primary sources which can be considered as contextually representing the Slovak political discourse regarding modern LGBT rights. The content of the explanatory report of the proposal for registered partnerships law and the literal transcript of

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[2] Among other scholars, on this debate: Cranston 1973; Dershowitz 2004; Donnelly 2003; Griffin 2008; Shue 1996; Talbott 2005; Wellman 1999.

the parliamentary debate of the Slovak Parliament on the proposal are analysed within the established theoretical framework. The transcript of the parliamentary discussion is analysed within the timeframe of the relevant debate which took place between the 29th of October 2012 at 15:41 and the 30th of October 2012 at 18:20.

The debate contained 19 speeches delivered by 13 MPs and 88 factual comments by 35 MPs in between the speeches. I identified the normative character of each speech and factual comment and coded them according to whether they expressed support or opposition towards the proposal. It turned out that the MPs from the proposing party who articulated their support for the proposal echoed closely the arguments presented in the explanatory report, therefore their literal statements were not included in the presentation of results for the sake of avoiding redundancy. The analysis of the arguments in favor of the proposal therefore focuses primarily on the arguments presented in the explanatory report. The arguments of the opposition against the proposal are categorized into four main groups, reflecting the argumentation framework presented in the theoretical section on the positions of the Catholic Church, and are presented in their literal form.

3   Heteronormativity

This chapter introduces the concept of heteronormativity as a main systemic source of discrimination against the LGBT people. I will argue that the issue revolves mainly around the social perceptions of what is 'normal' in terms of sexuality and gender behavior and that the main fault line runs along the borders of what criteria the society sets for belonging versus rejection in the collective imagery. It will be discussed how the heterosexual bias affects the LGBT people in terms of media portrayals, political representation, and access to full citizenship rights, as well as to the national imagery. I will provide a thorough overview of how the perceptions of normalcy affect the criteria for inclusion within the two dominant citizenship discourses – liberalism and civic republicanism and how these perspectives can be used as arguments for and against LGBT rights.

To even begin a meaningful discussion about LGBT rights, we must first become aware of the all-permeating norm, of the background against which the object of study can be brought to focus. In the case of rights of LGBT people, the discussion starts with *heteronormativity*. The term heteronormativity was coined and popularized by Michael Warner (1993) in his anthology 'Fear of a Queer Planet' where he relates the notion to Wittig's (1992) idea of the social contract. Wittig (1992:40) equates the social contract with heterosexuality: "To live in a society is to live in heterosexuality, [... it] is always there within all mental categories." Second-wave feminist scholars have progressively taken on the notion of heteronormativity in the 1970s and they maintained that heterosexuality is in fact a "normalized power arrangement that limits options and privileges men over women and reinforces and naturalizes male dominance" (Ingraham 2002:74). Rich (1980) argued that *compulsory heterosexuality* is an institutionalized system perpetuating patriarchy and gender inequality in which women are compelled to childbearing. Heteronormativity is therefore the normative status of heterosexuality which produces a belief system that considers heterosexuality as superior and more 'natural' than other forms of sexual attraction, such as homosexuality. Ingraham (2002:75) underlines the critique of heteronormativity rather sharply, claiming that "like whiteness in a white supremacist society, heterosexuality is not only socially produced as dominant but is also taken-for-granted and universalizing."

Schilt and Westbrook (2009:443) explain that heteronormativity is created "by the automatic expectation that heterosexuality and gender identity follow from genitalia". People intuitively equate biological sex with gender identity and therefore assume that the appearance of a person reflects her sex. Similarly, the system of heteronormativity rests upon the intuitive idea that performance of gender, sexual identity as well as roles one plays in society is *naturally* determined by one's biological sex. The belief in duality of two impregnably discrete categories "maintains gender inequality, as 'opposites' - bodies, genders, sexes - cannot be expected to fulfill the same social roles and, so, cannot receive the same resources (Schilt and Westbrook 2009:459).

Moreover, this belief significantly limits the possibility for empathy and tolerance towards those with a mismatch between any of their gender/sex/sexuality characteristics and what society expects of them. Such people are then not perceived as 'different', but rather as 'abnormal' or 'ill'. It is therefore not too surprising that it took until 1973 for the American Psychiatric Association to recognize the results of substantial research on human sexuality and to remove homosexuality from the list of mental disorders. American Psychological Association followed suit and adopted a resolution, stressing out that "[h]omosexuality per se implies no impairment in judgment, stability, reliability, or general social or vocational capabilities; Further, the American Psychological Association urges all mental health professionals to take the lead in removing the stigma of mental illness that has long been associated with homosexual orientations" (Conger, 1975:633).

3.1 Discriminatory effects of heteronormativity

In the course of the past several decades, heteronormativity in science has been systematically withdrawing and several researchers across different disciplines argue that this approach in science is rather obsolete (Stacey and Biblarz 2001, Bagemihl 1999). However, the heterosexual bias flourishes in the everyday society, not only through reinforcing the exclusionary interpretations of 'normal' citizens through distorted portrayals of sexual minorities in media and national imagery, but as Jackson (2003) remarks, mainly through maintaining silence about heterosexuality itself. Jackson (2003:77) points out that

homosexuality or one of its pejorative synonyms is often used in everyday life, while at the same time 'heterosexuality' is often not even understood, "hence heterosexuals often do not know what they are; they do not need to know; they are simply 'normal'."

By not attempting to truly capture the representation of an average homosexual, the popular imagery became dominated by stereotypical representations of gays and lesbians which often come across as caricatures, with the effect of further de-humanizing the targeted individual. Arguably, a large part of the public opinion about issues related to sexuality and morality is strongly influenced by the cultural and religious environment of a given society. The regulation of sexual behavior has traditionally been the domain of conservative religions and of those only a handful of progressive denominations have so far transcended the heteronormative dogma.

Because of its power in the present society, the role of media should not be underestimated in the process of creating and maintaining a heterosexual bias. Richardson (2000:74) notes that the mass media as well as the agents of popular culture should be acknowledged in the process of constructing, shaping and interpreting of the concept of normality, because "social exclusion can be understood partly in terms of the denial or relative lack of cultural space accorded to certain groups in society". Roman Kuhar (2003) conducted an exhaustive analysis of the images of LGBT people in print media in Slovenia from 1970 to 2000, the outcome of which was the identification of five basic categories of faulty media representations of the LGBT persons: stereotyping, medicalisation, sexualization, secrecy and normalization.

– *Stereotyping* relies on rigid gender schemes presenting gay men as effeminate and lesbian women as masculine, "drawing on the analogy with their social roles which then appear as natural rather than socially constructed" (Kuhar 2003:7).
– *Medicalisation* refers to limiting homosexuality to the medical and psychiatric spheres and searching for its causes, continuing the psychiatric discourse from the end of 19th century. Kuhar (2003:57) considers this practice as "an exclusion policy that rules out the co-existence of both sexual practices and because of that disqualifies one in order to be able to accord to the other the supremacy of naturalness."
– *Sexualisation* in media means reducing homosexuality to a question of sex, stripping it from all the emotional aspects of interpersonal affection. This view is based on the premise that "homosexuals extract more pleasure from sex because their sex is nothing but pleasure, while heterosexual sex is burdened with the task of reproduction" (Kuhar 2003:72-73).

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– *Secrecy* as a way of representation of homosexuals makes homosexuality appear as concealed and related to shame and regret by means of "anonymity of interviewees, the changing of people's names, the media reproduction of the closet, the choice of titles, images and the like" (Kuhar 2003:81). Kuhar (2003:81) further notes that "a great deal of mystification of homosexuality is achieved through the silence of the media."

– *Normalization*, dominant since the late 1990s makes homosexuals appear as heterosexuals in order to make homosexuality less threatening through the process of victimization. Kuhar (2003:89) observes that "the media representation of normal homosexuality is in fact the representation of homosexuality in the image of heterosexuals, such as does not pose a threat to the heterosexual world." Although this way of representation might be perceived as a positive step from the previous images of homosexuals as criminals or psychiatric patients, the heteronormative approach is perpetuated in the underlying assumption that "homosexuality is acceptable only when depoliticized" (Kuhar 2003:7).

Regarding heteronormativity as a political obstacle for realization of LGBT rights, Palmer (1995:33) points out the inability of homosexuals to exercise full rights in many countries and describes it as a "sexual equivalent of apartheid". Granted, certain rights have been granted, but these rights are "extremely circumscribed, being attributed largely on the condition that the issue remains in the private sphere and the sexual minorities do not seek public recognition or membership in the political community" (Richardson 2000:77). The absence or denial of a recognized constituency for LGBT people leads to Phelan's (1995) suggestion that one of the primary objectives for the LGBT community should be to seek public recognition as members of the political community.

While the LGBT people are not directly excluded from basic political aspects of citizenship such as right to vote, their potential for active participation in the exercise of political power is severely limited, because according to Richardson (2000:75), "the knowledge that someone is lesbian or gay has long been seen as a positive disadvantage, if not a disqualifier, for political office." Richardson (2000:76) further notes that political parties are often reluctant to be associated with LGBT causes for fear of losing support of their electorate and that the "mention of advocacy for lesbians and gay men is perceived as an 'electoral liability'". This is a particularly important idea to point out, because it offers a plausible explanation for why is it so difficult in strongly heteronormative societies to acquire sufficient political will to promote LGBT rights, as well as for why the progress in this field has been achieved in many

countries only after decades of campaigning and organized action by LGBT activist groups. Arguably, without a sufficiently supportive and tolerant electorate, capable of overcoming the intuitive appeal of heteronormative exclusionism, the potential for political advancement of LGBT rights is severely limited.

While being pushed away from the public realm, LGBT people are at the same time simultaneously excluded from the private realm as well through the institutional obstacles to forming a family, which conservative movements consider threatening to the very *concept* of family and nation-state (Richardson 2000, see also Reinhold 1994). However, pushing same-sex relations into the private sphere poses a seemingly insurmountable obstacle in pursuing LGBT claims to rights associated with full enjoyment of citizenship through conventional frameworks that primarily require public participation, because, as Walby (1997:176) argues, "for political theorists […] the concept of citizenship depends upon the public sphere; the term has no significant meaning in the private." Because the focus of this thesis is put on the legal recognition of same-sex unions as a core element of modern LGBT rights, the issue of citizenship deserves a closer look.

3.2 Heteronormativity and citizenship

Throughout the millennia of existence of citizenship, women have been allowed a share of civil and political rights for less than a century. This gives rise to the feminist critique of citizenship that it is "a status invented by men and for men" (Heater 2004:204, cited in Abowitz and Harnish 2006:667). In the context of citizenship and rights tied to citizenship, the 'normal citizen' has been generally portrayed as male, and although less acknowledged by literature, heterosexual (Richardson 2000, see also Warner 1993). Mentions of sexual orientation as a factor in the development of citizenship have been limited to passing remarks, such as in the book *Citizenship and Social Theory,* published in 1993, where Bryan Turner (1993:13) noticed that in the context of citizenship, "interesting and radical developments appear to be centered around […] the struggle for homosexual rights". Generally, focus on the relationship between citizenship and gender or sexuality has been "largely absent from much

of the debate within the social sciences, and in the case of sexuality almost non-existent" (Richardson 2000:71).

For many years the post-war discussion of citizenship has been driven by the model developed by a British sociologist T. H. Marshall. Citizenship, according to Marshall (1950), can be understood as a progression of three generations of rights: civil rights, political rights and social rights. According to Marshall (1950), there is a specific order in the historical development of these rights, civil rights emerging first in the eighteenth century, political rights in the nineteenth century and social rights in the twentieth century. Institutionalized through law, civil rights regard such things as right to own property, liberty of the person, right to justice, freedom of speech, thought and faith. Political rights are institutionalized through the parliamentary political system and include the right to vote and right to participation in the exercise of political power without discrimination. Finally, social rights incorporate certain rights to a decent level of economic sufficiency and security as well as the right to "share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society" (Marshall, 1950:10). Shafir (1998:14) thinks that Marshall's biggest contribution in this sphere was defining social citizenship as distinct from 'welfare rights', because while welfare rights are utilitarian and singling out vulnerable individuals in need of protection, social citizenship "is universal and attained as a right by virtue of membership in the community." The concept of *membership* is therefore a crucial element in the access to citizenship rights and it is relevant to consider the criteria for inclusion into the imagined community when analyzing the different opinions and arguments within the relevant political discourse.

In the contemporary democracies, bases for rights and criteria for membership have progressively become tied not only to the fact of being a citizen of the state but also to the status of being a 'human', which has been enabled through the permeation of human rights philosophy into public law (Pakulski 1997). Pakulski (1997:80) distinguishes three new streams of claims to citizenship: "the right to symbolic presence and visibility (versus marginalization); the right to dignifying representation (versus stigmatization); and the right to propagation of identity and maintenance of lifestyles (versus assimilation)." While marginalization and stigmatization remains a crucial problem for contemporary LGBT persons, the struggle for legal recognition of same-sex couples implies – somewhat paradoxically – a certain level of assimilation to the culture of state-sanctioned monogamy.

Shafir (1998:13) interprets Marshall's idea of the evolution of citizenship rights through the process of incorporating new groups into society as a gradual empowerment of disenfranchised communities, claiming that "new rights make the possession and wielding of previous rights more effective, and the accession to such rights removes fences between groups previously separated by legal barriers or social custom". This empowering effect of social rights serves as a viable basis for argumentation for LGBT rights, because fulfillment of social rights of non-heterosexuals through legal recognition of same-sex couples would enable a historically disenfranchised minority to better access civil and political rights tied to citizenship. Within this notion of citizenship composed of set of civil, political and social rights, Richardson (2000:75) argues that "lesbians and gay men are only partial citizens, in so far as they are excluded from certain of these rights."

To examine how in particular the LGBT people are prevented from enjoying full citizenship rights, we need to look at the idea of *sexual citizenship,* which refers to the rights and duties and the judicial boundaries accorded to individuals on the basis of their sexual practices, although not exclusively restricted to the variation in sexual orientation (Richardson 2001). It is possible to operationalize the concept of sexual citizenship using Waaldijk's (2004) measure of 'levels of legal consequences' which is as a tool to analyze and compare various family laws applicable to heterosexual and homosexual couples. His study shows that the aspects of sexual citizenship vary significantly across European countries and that the legal consequences of both informal cohabitation and marriage are significantly more favorable for heterosexual couples, even in those countries that at the time of his study had legally recognized same-sex unions in some form, such as civil partnerships (Waaldijk 2004). Citizenship is therefore also heterosexualized in terms of social and welfare rights and it has been thoroughly recorded that LGBT people are systematically disadvantaged in issues ranging from pension and inheritance rights to education, parenting, employment and housing (see Rosenbloom 1995, Waaldijk 2004, Council of Europe 2011, ILGA-Europe 2013). Arguably, the goal of universal fulfillment of the LGBT rights does not lie in some abstract form of legal recognition of same-sex unions, but primarily in the access to medical records, inheritance rights, parental rights and other rights associated with family ties and official kinship recognition.

The heteronormativity of citizenship may therefore be closer associated with *parenthood* rather than heterosexuality itself, because as Turner (1999:32) notes, reproductive parenting

constitutes a foundation of modern citizenship and the traditional condemnation of homosexuality stems from the inability to 'naturally' fulfill the reproductive role of a nation-state citizen. Heteronormativity and the fixated focus on nuclear family as the only legitimate grounds for social framework has a marked influence on the distribution of human and economic resources. Ingraham (2002:81) sums up his criticism of institutionalized heteronormativity by pointing out that "when the expectation is that all are equal under the law […], rendering one form of socio-sexual relations as dominant by constructing it as 'natural' is both contradictory and violent".

3.3 Approaches to heteronormativity in the major citizenship discourses

The struggle for LGBT rights is arguably a struggle for full citizenship rights. However, it depends on the way citizenship is understood in the political culture of a particular country whether it would allow or reject the inclusion of LGBT minority in the full set of citizenship rights, such as the inclusion in the elementary structures of kinship recognition. Ayoub (2014:338) argues that the process of countermobilization against LGBT rights activism is fuelled by the heteronormative and religious interpretations of the popular ideas of nation and citizenship. According to Turner (1993), citizenship refers to a set of juridical, political, economic and cultural practices that define a person as a competent member of the society, and which consequentially influence the relationship between individuals and social groups as well as the flow of resources among them. Using the interpretation of citizenship as a set of practices that define an individual's membership in society with its duties and privileges, this section analyzes the criteria for membership in the main citizenship discourses.

Abowitz and Harnish (2006) highlight the idea that citizenship is an artificial, invented notion and subject to transformation with economic, political and social changes. Their analysis of the contemporary citizenship discourses reveals that the perceptions of citizenship are dominated by two positions – civic republicanism and liberalism, which are being challenged to a smaller degree by a handful of 'critical' discourses, namely feminist, reconstructionist, cultural, queer, and transnational (Abowitz and Harnish 2006). The focus of this section is

therefore placed on the two dominant discourses – civic republicanism and political liberalism. Shafir (1998) points out that separate academic disciplines frequently treat citizenship in relative isolation and the focus is usually placed within a single citizenship discourse. This approach, however, falls short of capturing the socio-political reality of most societies by ignoring the fact that numerous case studies "frequently demonstrate that in most societies alternative discourses of citizenship coexist with and constrain one another" (Shafir 1998:2). Understanding that within a political discourse regarding LGBT rights different actors may take different perspectives on the concept of citizenship as a membership in the community is a crucial element in understanding the sources of argumentation for and against the legal recognition of same-sex unions, which is a central topic of this thesis.

As discussed below, both main citizenship discourses can be used to accommodate the claims for LGBT marital rights, albeit in the case of civic republican viewpoint, the likelihood relies heavily on the way the community values and the criteria for inclusion into 'nationhood' are set up. In the case of a narrow definition of nationhood this task becomes significantly more difficult, especially if heterosexuality is considered integral to membership in the collective identity, national or religious.

Arguably, the basis for membership of a community is somewhat weakened in the increasingly post-national world. Ideas that have permeated policy formation have been shifting from conservative nation-oriented frameworks towards those of cross-national norms of liberal economy and human rights (see Soysal 1994). Citizenship of the European Union, introduced by the Maastricht Treaty in 1993, is an example of this trend. In relation to the trans-nationalism in the modern notions of citizenship, Richardson (2000:73) postulated that "[w]e may even consider citizenship as social membership in a more fundamental sense, in terms of belonging to the human race – or being part of 'humanity'."

David Sibley (1995) discusses in the book 'Geographies of Exclusion. Society and Difference in the West' that de-humanization occurs through a process of implying animal attributes to certain groups. Examples of this process are plentiful, such as aboriginal people in colonized regions or contemporary Roma communities living in extreme poverty, or even the inhuman portrayal of Jews under the Nazi regime, which desensitized the masses to the atrocities of the Holocaust. This process of dehumanization can be also identified in terms of gender and sexuality. For example, as Sibley (1995) remarks, women have been traditionally perceived as 'closer to nature' and therefore lower on the ranking in the 'hierarchy of being', legitimizing

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the sexist divide present even today. Richardson (2000:82) claims that the dehumanization of LGBT community occurs on two opposing sides – "by a complex construction of homosexuality as both unnatural and as too close to a state of nature, expressed by the stereotypic representation of homosexuals as only interested in sex". For a long time in the past, AIDS was considered as a problem exclusive to communities of homosexual men to a degree that in the 1990s it was difficult to convince people that HIV/AIDS was not a disease that affects only men (Richardson 2000:13). Even today the myths about disproportionally extreme promiscuity of homosexuals are flourishing among conservative circles.

The process of dehumanization has strong implications when it comes to access to citizenship rights – various authors have addressed the way how the human rights movement in its initial stages failed to address the human rights violations against women (see Rosenbloom 1995). The struggle for recognition of LGBT rights further illustrates the historical development of the concept of human rights as failing to recognize the problems and demands of certain social groups. Richardson (2000:82) stresses the communitarian aspect of human rights discourses by arguing that such discourses "serve not only to authorize which human rights claims are recognized as basic to humanity, but also to actively shape the social meaning and construction of what it means to be a human". In this light the struggle for LGBT rights can be viewed as a struggle for membership in humanity rather than just for the practical implications of achieving full citizenship rights.

The shift towards modern transnational citizenship has set off rather swiftly in the post-communist countries of Central and Eastern Europe and could potentially serve as an explanation to the resurgence of nationalist and euro-skeptical political movements, strengthened by the aftermath of the recent economic recession (Carpenter 1997, Stanley 2010). In response to the perceived threat of moral decay, the cries for return to traditional values to counter the 'westernization' of society come no longer only from the far-right margin of the political spectrum but have permeated most levels of society resulting in such initiatives as the recent Croatian constitutional referendum on limiting LGBT rights, which is a part of anti-minority moves symptomatic of a Europe-wide trend (Horvat 2013).

3.3.1 The civic republican perspective

While defining the boundaries of membership is necessary for all citizenship discourses, it is a particularly important feature of the civic republican discourse that it "draws the sharpest lines of inclusion and exclusion in its expressions of political membership" (Abowitz and Harnish 2006:659). The civic-republican discourse has a strong tradition in the Western political thought, tracing its origins to the ethical and political thought of Aristotle, later reinforced by thinkers as Machiavelli and Rousseau, and prominent in the contemporary American republican thought today. According to the civic republican discourse, modern democracy is being broken by growing cynicism, disregard for values that underscore civic responsibilities and disregard for collective responsibilities in favor of a rather selfish focus on individual rights. (Abowitz and Harnish 2006:661).

The civic republican tradition expands on the rights-based account of the relationship between individuals and society by putting more weight on the *duties* of individuals, associated with the individual's social self-identification as a member of a socioeconomic class, religion or nationality (Oldfield 1998:78). Oldfield (1998) argues that in contrast to liberal individualism, the civic-republican tradition attempts to address more directly the intertwined themes of citizenship and community. Citizenship in the civic republican perspective therefore "is about acknowledging the community's goals as one's own, choosing them, and committing oneself to them" (Oldfield 1998:81). This underscores the importance of the community in determining what aspects of identity and behavior are to be considered 'normal' and acceptable for an individual in order to give access to respected membership in the society at large. Oldfield (1998:81) further claims that in the civic republican perspective exists a clear distinction between citizenship as the bonds which tie citizens to each other and altruism. He argues that "citizenship is exclusive: it is not a person's humanity that one is responding to, it is the fact that he or she is a fellow citizen or a stranger."

However, sometimes the borders between 'citizen' and 'stranger' are rather blurry. Shane Phelan (2010) discusses in the book 'Sexual Strangers: Gays, Lesbians and Dilemmas of Citizenship' the confusing position that sexual minorities are facing in many countries today – not exactly the enemy, since they are not excluded from all rights of citizenship, but not quite members either. A nation can be viewed as 'imagined community', a way of cultural

representation of imagined experience of belonging to a group or community (Anderson 1991). Phelan (2010) looks at the LGBT claims to citizenship as including not only equal protection and equal rights to the institution of marriage, but as inclusion in the national imaginary in general, particularly in terms of political and cultural visibility.

Abowitz and Harnish (2006:658) identify the nationalistic meanings of citizenship, which are prominent in the civic republican discourse, as a "direct challenge to the more cosmopolitan and transnational perspectives" that are emerging in the Western culture. To the nation-state citizenship, the concept of membership and belonging is essential, implying that those perceived as not belonging to the nation state can be justifiably excluded from any of the citizenship rights. The assumptions about gender and sexuality implicated in national imagery of Anderson's (1991) 'imagined communities' have been largely unexplored, although various authors argue that one of the dominant aspects of nationhood is masculinity (Richardson 2000, see also Sharp 1996, McClintok 1995).

Gates (1993:234) claims that in the 1960s occurred in the United States a form of "sexualization of national identity", with the effect of engendering "a curious subterraneous connection between homophobia and nationalism". This suggests that the role of sexuality in the construction of the concept of nationality is strongly embedded in heteronormativity, since non-heterosexuals compose a handy 'out-group' to be defined against by the majority and increase the belief in the perceived internal cohesion of the community. Heterosexuality, portrayed as the standard of normality and 'naturalness', may serve and be used by political leaders for a crucial role in unifying various social groups and enhancing social cohesion and solidarity (Gates 1993).

This political strategy is then fuelled by the perceived threat that the 'traditional' nation, built around the concept of heterosexual nuclear family, is systematically being under attack by alternative family constellations. I suggest that such practices by political elites in modern democracies represent a distinct form of populism – *heteronormative populism*. I would define heteronormative populism as the employment of a political strategy which, using antagonizing rhetoric rallies in defense of traditional social norms and values against the perceived threat of danger to the society by the spreading of LGBT rights norms.

Indeed, a report of a socio-legal analysis of the situation of LGBT persons across member states carried out by the Office of the Council of Europe Commissioner for Human Rights

confirms this deliberate exclusion of LGBT minority from national imagery by pointing out that in some member states "being gay or lesbian is viewed as a 'betrayal' of national values and unity. Such arguments may be grounded in a specific understanding of the nation or the state which aims to preserve the homogeneity of the nation" (Council of Europe 2011:29). This exclusion denies access to a shared identity that nation-state citizenship provides and raises questions about the very meaning of 'nation' and connections between citizenship and nationhood in the increasingly globalized world. Turner (1993) argues that the changing socio-political contexts of Central and Eastern Europe as well as the effects of globalization challenged traditional boundaries of nation-states and in turn have brought into question the definitions of citizenship linked to national identity. Interestingly, according to the Council of Europe (2011) report, certain political groups in some other EU member states use the same 'national values' argument in the *promotion* of LGBT rights, albeit it emerged as a reactionary counter-trend in order to oppose some extremely conservative attitudes of immigrant, particularly Muslim communities. Inclusion of LGBT persons is then viewed as a marker of tolerance inherent in the national culture. The report concludes that the concept of nationhood can therefore "be used to embrace LGBT persons or be used to dissociate them from others, be it the national majority or immigrant populations" (Council of Europe 2011:29).

Of particular importance are therefore the criteria of belonging to the collective identity and the boundaries these criteria create against the individuals who fail to meet the requirements of membership. Shotter (1993) argues that the process of becoming part of collective identity is through everyday categorizing of individuals based on social interactions. This supports the idea that the boundaries of this categorization are essentially a socio-cultural construct and as such are subject to change based on the social consensus. As well as in defining the member of the nation, in case of membership of 'humanity' it is possible to shift the boundaries of what constitutes as 'human' and thereby end the discrimination of a particular minority, or further legitimize exclusionary practices. However, pointing out the importance of the division lines separating the in-group from the out-group, Adrian Oldfield (1998:81) considers it as a "thought which lies at the heart of the civic-republican tradition" that "to remain a citizen one cannot always treat everyone as a human being."

However, precisely because the civic republican perspective stresses the importance of cohesion and personal identification with a set of collective values, this perspective could be

utilized in support of LGBT rights as well. David Williams (1994:73) offers a convincing defense of civic republicanism by noting that it too, like liberalism, "worries about the risk of orthodoxy [insisting] that while a republic must have a character, that character must never be fixed; it must respond to an evolving public dialogue." In Williams' view, civic republicanism occupies an important middle ground on the spectrum marked by two extremes – ethno-nationalism on one side, and minimal liberalism on the other:

> "If your chief fear is revived ethnonationalism, if the specter that haunts you is violence by neo-Nazi skinheads, then the virtue of neorepublicanism is that it promises tolerance for difference. […] But if your chief fear is liberalism's disregard for the losers in our individualist society, if the specter that haunts you is the homeless on the streets of our cities, then the virtue of neorepublicanism is that it promises a social conscience" (Williams 1994:73).

To sum up, communal interest, important as it is for the civic republican perspective, is largely shaped by the way the community self-identifies in terms of what is permissible and expected social behavior. In the increasingly globalized world of today, focused on individual's freedom of self-identification and expression, the traditional social structures have become significantly corroded. This idea was elaborated by Robert D. Putnam (2000) in his famous work 'Bowling alone: the collapse and revival of American community'. However, the recent revival of ethno-nationalism as a response to the conceptual emptiness of collective identity in modern liberalized societies clearly serves as a polarizing rather than uniting force. This situation calls for the academics and political elites to set focus on identification and promotion of such collective identity whose criteria for belonging would allow the LGBT minority a shared sense of belonging to and acceptance by the community, while at the same time capable of maintaining a healthy diversity of opinions and lifestyles. These premises thus enable argumentation for legal recognition of same-sex unions form a civic republican perspective on citizenship.

3.3.2 The perspective of political liberalism

The other dominant discursive force that shapes contemporary meanings of citizenship is a discourse of individual liberty – liberalism. Rooted in the concept of individual rights and drawing inspiration from Rawls' (1971) ideas of justice, political liberalism puts focus on

equality, which refers to "the ability of all people – especially those in historically marginalized and oppressed groups – to fully exercise their freedoms in society" (Abowitz and Harnish 2006:661). In contrast to the civic republican tradition, political liberalism constructs the national identity around more inclusive conceptions of a political community, based on the belief that the social agreement on values and chosen identities is not a rigid construct. In this sense, it does not refer to the insignificance of the society committing to certain set of values, but rather to "their independence from substantial, particular frameworks of belief and value" (McLaughlin, 1992:240, cited in Abowitz and Harnish 2006:662).

In the tradition of liberalism, the political life of the citizens "is not dominated by a single comprehensive moral – whether religious, nationalist, or other – vision, in contrast to other areas, such as our private or communal lives, where monolithic views are permissible" (Shafir 1998:8). Political liberalism focuses therefore on the freedom from the tyranny of authority and ability to achieve consensus through reason, which refers to the ability to "identify and describe, explain and analyze, evaluate and take/defend a position" (Abowitz and Harnish 2006:663). The core assumption here is that there exists a normative position that is accessible through reason regardless of an individual's ideological set-up and therefore the aggregated sum of individual values results in a comprehensive 'minimal' set of collective values. Will Kymlicka (1999:81) focuses on three virtues that are distinctive to liberalism and the socio-political role citizens occupy within a liberal regime – (1) *public-spiritedness,* (2) *a sense of justice* and (3) *civility and tolerance.*

The virtue of *public-spiritedness* refers to the ability and willingness of citizens to question authority, critically evaluate their representatives and engage in public discourse based not on fear or threats but on argumentation and reasoning. According to Galston (1991:227), virtuous political discourse "includes the willingness to set forth one's own views intelligibly and candidly as the basis for a politics of persuasion rather than manipulation or coercion". Political demands should therefore be articulated in such was as to be capable of persuading reasonable people regardless of their religion or nationality. Kymlicka (1999:82) points out that invoking holy texts or tradition as a basis for argumentation is not sufficient, and that "it requires conscientious effort to distinguish those beliefs that are matter of private faith from those capable of public defense, [which is] a stringent requirement that many religious groups find difficult to accept." Political liberalism therefore embraces a certain degree of critical distance towards all authority, be it political, religious, or cultural. The ability to critically

consider beliefs imposed by the authorities broadens the scope for the interpretation of morality and properness in a diverse society, and enables a more responsive formation of attitudes in the society vis-à-vis uncritical acceptance of traditional beliefs embedded in the romanticized nationalism. The virtue of public-spiritedness therefore allows for overcoming heteronormativity as a dogmatic element in political decisions regarding LGBT minority in favor of reasoned discussion aimed at maximizing the common good.

The second virtue – *a sense of justice* – requires that "everyone should have the opportunity to become active citizens, if they so choose, which means eliminating any economic or social barriers to the participation of disadvantaged groups" (Kymlicka 1999:83). The sense of justice involves not only passive abstinence from discriminating or harming other people, but also actively seeking to reduce and prevent injustice embedded in the political system and to create and uphold just social institutions. Kymlicka (1999:83) further stresses the importance of this virtue, claiming that "if there are serious injustices in our society which can only be rectified by political action, then citizens should recognize an obligation to protest against that injustice." This ideal, however, turns out to be much easier upheld in theory than in practice.

Arguably, an individual's sense of social justice or fairness is centered on oneself and therefore strongly influenced by the perceptions of whether the object of evaluation is possible to personally relate to. This internal as well as public 'us versus them' divide shapes the perception of social justice in such way as to exaggerate the perceived injustice experienced by 'us' and to desensitize ourselves to the plight of the members of the out-group, as demonstrated by numerous psychological studies. Hatfield and Rapson (2005:172) provide a compelling review of the research on injustice, cruelty and violence, and discuss four chilling findings:

> 1. People tend to perceive "social justice", "fairness" and "kindness and compassion" from their own point of view
> 2. People tend to define "social justice", "fairness" and "kindness and compassion" in self-serving ways
> 3. Authority, power, and peer pressure have a powerful impact on people's definitions of "social justice", "fairness" and "kindness and compassion"
> 4. People's emotions – such as calm versus anger, love versus hate – determine their perceptions of "social justice", "fairness" and "kindness and compassion" and determine how they treat others.

It indeed requires a great deal of emotional and intellectual maturity to overcome these deeply entrenched psychological heuristics and to be able to respond to – or even acknowledge – the

injustices experienced by a marginalized group of people, especially if the amelioration of such injustices would directly contradict some of the profoundly held beliefs, as is often the case of the LGBT rights. Naturally, the sense of justice is a virtue more easily realized towards the kind of suffering one can immediately relate to on a human level, such as torture, abuse or violent exploitation. To most people, the mental picture of physical pain experienced by a fellow human being is more readily available to subconsciously produce a surge of compassion than for example the experience of a lesbian or a gay man unable to gain access to medical records of their partner of fifteen years, because they are not officially related in the eyes of the state. It is these cases when one's ability for compassion and the liberal ideal of a common 'sense of justice' stand up to a test – and often fail.

The third virtue that Kymlicka (1999:83) identifies as "one of the most basic requirements of liberal citizenship, albeit one that is often neglected in theoretical discussions" is the virtue of 'civility' or 'decency'. Civility differs from the related requirement of non-discrimination in that it is impossible to legally enforce, because it refers to "the way we treat non-intimates with whom we come into face-to-face contact", especially those for whom we might harbor prejudice (Kymlicka 1999:84). Civility requires treating all people non-ostentatiously as equal citizens without discrimination with the aim of breaking down the recognized social stigmas. Enforcing non-discrimination principles in hiring of new employees is legally feasible, although it cannot compel business owners to treat customers belonging to a stigmatized minority with decency if they are prejudiced. Kymlicka's (1999) view stresses that legal requirement of non-discrimination is therefore not sufficient if only applied to the actions of government; it must be accompanied with matching demands on other institutions within civil society, such as schools, shops or churches – and primarily individuals.

Some authors tend to trivialize the requirement for civility as "the imposition of a Protestant (and burgeois) sense of 'good taste' on other religious groups", forcing them to abandon their realizations of true faith, particularly the public expression of contempt towards other religious groups or non-conformists (Kymlicka 1999:85). In the book 'No offense: civil religion and protestant taste', professor John Murray Cuddihy (1978) makes a straightforward case for American society driving traditional religions out of the public forum by means of an informally institutionalized 'religion of civility' which is not about belief but rather about limiting people's expression of beliefs that are considered by the liberal society as bigoted

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thereby gradually shoving the absolutist claims to epistemological monopoly made by proselytizing adherents of particular religions into public insignificance.

Similar argument is possible to draw in the context of the potential realization of LGBT rights in countries with strong Catholic tradition, where conservative religious groups feel threatened by the perceived dictate of political correctness to forsake certain core tenets of their faith such as the conservative idea of the sanctity of heterosexual marriage. Modern democracies witness a growing polarization between liberal and conservative worldviews and the apparent ascension of the former to a level of institutionalized norm in modern democracies is palpably revealing the unwillingness of traditional organized religions to condone secular norms – at least not without a fight. However, if the efforts towards wholesome realization of human rights for LGBT people are not to be abandoned in spite of the political resistance, as was the case of women's voting rights or rights of African Americans, it is possible to envision in the future a gradual diminishing of institutionalized discrimination of sexual minorities.

To sum it up, heteronormativity is a belief that all people naturally fall into one of two opposite gender categories that are determined by their biological sex, and that the possession of a particular set of genitalia defines a person's sexual interests as well as her role in the family structure and society. This belief is a self-perpetuating remnant of patriarchy and remains a strong background influence in the contemporary world which still has a significant number of issues with gender inequality (Richardson 2000). Within a system based on heteronormative principles, the situation of sexual minorities is doubly complicated – on one hand they are restricted from access to a number of social rights tied to citizenship and on the other they lack a potent political representation necessary to ameliorate the situation. How much resistance the public opinion and political elites in a country exert against the demands for LGBT rights depends largely on the perceived degree of heteronormativity present in that society and on the strictness of criteria for inclusion in the national imagery.

4 LGBT rights in the human rights perspective

In this chapter, the arguments for legal recognition of same-sex unions in a sense analogous to marriage will be examined in two ways: by utilizing Nickel's (2007) method for theoretical justification of a human right and by referring to the international human rights documents relevant to the issues of marriage, family rights and discrimination based on sexual orientation.

There is a plethora of serious human rights violations to which millions of people across the world are subjected solely due to their sexual orientation or gender identity. Amnesty International (2014) provides an overview of examples of discrimination and of the various dangers that individuals with non-heterosexual orientation face each day:

- individuals prosecuted because their private and consensual relationship is deemed to be a social danger;
- women raped to "cure" their lesbianism, sometimes at the behest of their parents;
- loss of custody of their children;
- attacked, sometimes killed, on the street – victims of a "hate crime";
- regular subjection to verbal abuse;
- bullying at school;
- denial of employment, housing or health services;
- raped and otherwise tortured in detention;
- threatened for campaigning for their human rights;
- driven to suicide;
- executed by the state

In the light of some of these atrocities, the inability of homosexuals to marry or form a legally recognized union with the legal and economic benefits attributed to marriage could be trivialized by some as a mere inconvenience. Indeed, with homosexuality decriminalized and various anti-discrimination laws being enacted across the developed world, many consider the demands of LGBT community for legal recognition of same-sex unions as an outrageous

attempt of a spoiled minority to rock the boat. However, the purpose of this chapter is to show that accommodating these demands is an inseparable part of the human rights perspective, in accordance with the principles embedded in the International Bill of Human Rights and subsequent human rights documents.

One major problem in interpreting the human rights perspective with regards to marriage rights and protection of family is the lack of consensus on the definition of 'family', which is an important concept for the relevant articles of human rights documents. For the purposes of population censuses, the United Nations (2008:131, emphasis in original) recommends using the following definition as a guideline for operationalization of the concept of family:

> "A **family nucleus** is of one of the following types (each of which must consist of persons living in the same household):
> (a) A married couple without children
> (b) A married couple with one or more unmarried children
> (c) A father with one or more unmarried children
> (d) A mother with one or more unmarried children
> Couples living in consensual unions may, when appropriate, be regarded as constituting a family nucleus"

The cited paragraph is from the document 'Principles and Recommendations for Population and Housing Censuses Revision 2', however, the previous revision used different wording in the last sentence: "Couples living in consensual unions **should** be regarded as married couples" (United Nations 1997:67, emphasis added). It might be possible that this change reflects the contemporary rise of controversy around alternative family models.

Tillman and Nam (2008) point out that historically, the term 'family' was used interchangeably with the term 'household' in U.S. population censuses. It was not until the 1940 census that the U.S. Census Bureau adopted an official definition of family as "a group of two people or more related by birth, marriage, or adoption and residing together; all such people are considered as members of one family" (Tillman and Nam 2008:368). Although some countries follow the UN recommendations regarding the categorization of unmarried couples in cohabitating unions, many other consider heterosexual unmarried unions as 'married', but do not consider homosexual couples in the same way. Tillman and Nam (2008:369) note that there has been a change in these practices, particularly in the European Union and Canada, "as cohabitation and homosexual marriage are becoming more normative and accepted practices."

The Canadian model of defining family for census purposes is particularly interesting, because it uses two concepts – a *census family*, and an *economic family*. A census family is defined as "a married couple (with or without children), a common-law couple (with or without children) or a lone parent family" (Statistics Canada 2012a). An economic family captures a wider range of family constellations beyond the nuclear family by broadening the definition to "a group of two or more persons who live in the same dwelling and are related to each other by blood, marriage, common-law, adoption or a foster relationship" (Statistics Canada 2012b). Since 2006, when the Civil Marriage Act providing a gender-neutral definition of marriage entered into force in Canada, both these definitions of family entail a clause 'A couple may be of opposite sex or same sex'.

4.1 Theoretical justification of universal marital rights as human rights

In the time of drafting of the core documents of international human rights law, the socio-political changes leading to the feasibility of the LGBT rights had barely begun. However, in spite of the past several decades, when more attention has been paid to the situation of sexual minorities and human rights activism has resulted in widespread advances on the field of LGBT rights, the issue of marital rights for same-sex couples is still a controversial one, even in some of the more developed democracies.

Therefore, in order to justify the demand for marriage equality for non-heterosexual couples as a specifically 'human right', I will explore additional premises. Nickel (2007:90) introduces six 'tests' for justification of a human right: 1 - the norm responds to severe and widespread threats; 2 - it protects something of great importance; 3 - it can be formulated as a right of all people today; 4 - a specific political right, rather than some weaker norm, is necessary to provide adequate protection against the threat; 5 - the normative burdens imposed by the right are tolerable and can be equitably distributed; and 6 - the specific political right is feasible in an ample majority of countries. By subjecting the demand for legal recognition of same-sex unions in a sense analogous to marriage to these tests, it is possible to strengthen the argumentation basis for LGBT rights.

(1) The norm responds to severe and widespread threats. The impossibility to marry and form a family (potentially with the help of artificial insemination or adoption) can be interpreted as violating the second and fourth of Nickel's (2007:75) four secure claims: "to have a life, to lead one's life, against severely cruel and degrading treatment, and against severe unfairness", because forming a family is arguably an important life aspiration among people regardless of sexual orientation. A report by the United Nations High Commissioner for Human Rights from 2011 recognizes the state's obligation to protect same-sex couples from discrimination, noting that "[l]ack of official recognition of same-sex relationships and absence of legal prohibition on discrimination can also result in same-sex partners being discriminated against by private actors, including health-care providers and insurance companies" (UN Human Rights Council 2011:22). It can be argued that as long as marriage is a foundational social institution, it is a fundamental principle of equality to allow equal access to it for all couples who desire to uphold its ideals of lifelong monogamy and succession of generations. Dignifying these desires with official legal recognition would arguably contribute to the amelioration of the various challenges LGBT people are subjected to by lowering the impact of the social stigma.

(2) It protects something of great importance. In virtually all cultures, the responsibility for protection and development of a child lies primarily on the nuclear family. Regardless of the biological parenthood, human societies hold high respect for the symbolic bond between the people taking material and emotional care of infants. As is the case of heterosexual marriage forming the basis for a family, the society may benefit from a normative protection of LGBT families. As David Cameron pointed out during his speech at the Conservative party conference in 2011, "Conservatives believe in the ties that bind us; that society is stronger when we make vows to each other and support each other. So I don't support gay marriage despite being a Conservative. I support gay marriage because I'm a Conservative" (Cameron 2011).

(3) It can be formulated as a right of all people today. The universality of marriage rights is already supported by the Article 16 of UDHR and elaborated in the Yogyakarta principles which are discussed in the next section. Moreover, homosexuality is a universally standard variation of sexual preference found in virtually all animal species and the LGBT people can be found in every society regardless of the prevalent social and religious norms (Bagemihl 1999). Introducing provisionary solutions for same-sex couples seeking legal recognition,

such as civil unions or registered partnerships with limited rights and duties compared to a marriage, is an unsatisfactory solution, because it perpetuates the discriminatory divide between the value of opposite-sex and same-sex couples, however, it has been an important intermediary step in the process of removing all forms of discrimination in countries which eventually enacted gender-neutral marriage laws (Fernández and Lutter 2013).

(4) A norm as strong as a right is needed for the adequate protection. In contrast with racism, misogyny or other forms of discrimination that have been paid significant attention in the modern democracies, homophobia is still a rather acceptable form of intolerance (Ingraham 2004). It is the children now being raised in same-sex families who arguably suffer the most from the stigmatization of LGBT community, since they "contend with the burdens of vicarious social stigma" (Stacey and Biblarz 2001:177). Marital rights for LGBT persons, if officially affirmed as a human right norm, would undoubtedly serve as an important tool in reducing homophobia and stigmatization of this minority.

(5) The normative burdens imposed by the right are neither excessive nor severely unfair. Marriage is in developed countries firmly institutionalized with many legal protections and welfare benefits for the spouses and their children (Waaldijk 2004). Opening of the institute of marriage for non-heterosexual couples arguably does not invoke much additional burdens on the system and does not deprive other people of their fundamental freedoms. If the requirement of tolerance, imposed on other members of the society to accept and tolerate LGBT families, is to be viewed as an excessive burden, for example when it collides with certain religious beliefs or convictions, the latter is arguably of lesser priority and importance as is the case of other non-discriminatory principles derived from the human rights philosophy. The only people that would be directly influenced by the LGBT marriages are the children brought up in such families, however, with the exception of social stigma – for which the majority population is responsible, not the LGBT community – all the areas where one would intuitively expect possible negative impact on those children, such as emotional functioning, sexual preference, gender role behavior or gender identity, turn out to be consistent with the upbringing in a 'traditional' family model, as supported by extensive research (e.g. Anderssen et al. 2002, Patterson 1992, Patterson 2000, Golombok and Tasker 1996, Green 1978).

(6)The right is feasible in an ample majority of countries. This final test is the only real obstacle in the idea of legal recognition of same-sex couples being a human right. Because of

the family being one of the highest valued concepts in many different cultures, attempts at adjusting its traditional composition are difficult to achieve. The realities of the world of today, with traditional social norms and values overwhelmingly prevailing in certain cultures, it would be unrealistically bold to assume that same-sex marriages are feasible in every country at this point in time. When homosexuality is still criminally punishable by imprisonment or even death penalty in several countries in the world (cf. Ottosson, 2006), there are many steps to be made before the question of opening of marriage to same-sex couples can be even considered. Therefore the claim for gender-neutral marriage rights cannot fully pass this test. However, Nickel (2007:79) argues that "when this test is failed […] an unsuccessful candidate for the status of human right may nonetheless be a justifiable constitutional right in some countries". Moreover, taking a narrower approach to the universality of human rights and considering only the subset of liberal democracies – which are usually the only cases when the advanced LGBT rights are likely to be implemented in the near future – this test might as well be narrowly passed.

4.2 Human rights basis for LGBT rights

This section analyzes the internationally binding human rights documents in order to identify a formal basis for argumentation for the legal recognition of same-sex unions. The Universal Declaration of Human Rights did not at the time of its drafting specifically consider discrimination based on sexual orientation or gender identity, which is understandable given the fact that up until 1973, homosexuality had been officially listed among mental illnesses. However, some theoretical connection to the rights of LGBT people can be identified in the Declaration. Article 1 states that „All human beings are born free and equal in dignity and rights", which refers to the unacceptability of discrimination on all bases, implicitly covering sexual orientation as well. In relation to family and marriage, Article 16, even though not mentioning sexual orientation directly, covers this issue: "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".

While the Universal Declaration of Human Rights is a non-binding declaration of principles, the subsequent international human right treaties are legally binding for their signatories, particularly the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Article 23 of the ICCPR states that "[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State" and that "[t]he right of men and women of marriageable age to marry and to found a family shall be recognized" (UN General Assembly 1966a). The ICESCR covers this issue in Article 10, stating that "[t]he widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society", while addressing the issue of marriage only by demanding free consent of the intending spouses (UN General Assembly 1966b). In the context of the EU, the Charter of Fundamental Rights of the European Union in Article 21 states that "Any discrimination based on any ground such as sex, race, […] disability, age or sexual orientation shall be prohibited" (European Union 2012).

In the growing body of international human rights law, the issue of sexual orientation and gender identity is slowly becoming the field in focus, although it arguably remains largely underdeveloped. One of the most prominent attempts at articulating the human rights perspective regarding sexual minorities has so far been the Yogyakarta principles from 2006.

4.2.1 The Yogyakarta principles

The Yogyakarta principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity are the result of a project by the International Commission of Jurists and the International Service for Human Rights, with the aim to develop a set of international legal principles regarding the interpretation and application of international law to human rights issues based on sexual orientation and gender identity in order to "bring greater clarity and coherence to States' human rights obligations" (ICJ

2007:7). Drafted at an experts' meeting held at Gadjah Mada University in Yogyakarta, Indonesia from 6 to 9 November 2006, 29 distinguished experts from 25 countries with diverse backgrounds and expertise relevant to issues of human rights law unanimously adopted the document and the finalized Yogyakarta Principles were then launched as a global charter for LGBT rights on 26 March 2007 at the United Nations Human Rights Council in Geneva. The Yogyakarta Principles, although intended to serve as an interpretative guide to the human rights treaties, have not been adopted by the states in a treaty, and therefore are not by themselves a legally binding part of international human rights law.

In the introductory part, the experts have concluded that "sexual orientation and gender identity are integral to every person's dignity and humanity and must not be the basis for discrimination or abuse" (ICJ 2007:6). Article 24 of the Yogyakarta principles concerns the right to found a family: "Everyone has the right to found a family, regardless of sexual orientation or gender identity. Families exist in diverse forms. No family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members" (ICJ 2007: 27). Letter B of the Article 24 declares the obligation of the state to "Ensure that laws and policies recognize the diversity of family forms, including those not defined by descent or marriage, and take all necessary legislative, administrative and other measures to ensure that no family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members" (ICJ 2007: 27-28).

The Yogyakarta principles were not intended as a document setting some intangible ideals far from practical applicability, they are rather a statement of what implications the international human rights law has regarding the rights of LGBT people if the principles of non-discrimination and universality of human rights are to be taken seriously. No 'new' rights are introduced in the document; it only clarifies the application of established human rights principles to the situation of sexual minorities. The basic premise is that the equal access to human rights should be awarded also to minorities that have so far been often overlooked. As is the story of women's rights and rights of racial minorities, universal recognition of human rights comes rather slowly when there happens to exist a polarizing divide in the public attitudes towards the minority.

As one would expect, responses to the Yogyakarta principles varied from enthusiastic approval to categorical contempt. Below are elaborated four examples of both types of

responses, illustrating the divide that exists in the society regarding rights of sexual minorities.

Thomas Hammarberg (2008) while holding the office of the Commissioner for Human Rights of the Council of Europe welcomed and fully endorsed the Yogyakarta principles, stating: "I recommend all governments of the Council of Europe member states to study the document and build on its principles through concrete action". In an official Issue Paper on Human Rights and Gender Identity, Hammarberg states that "the Commissioner for Human Rights has endorsed the Yogyakarta Principles and considers them as an important tool for identifying the obligations of states to respect, protect and fulfill the human rights of all persons, regardless of their gender identity" (Council of Europe 2009:6). The Issue Paper concludes with recommendations to Council of Europe member states, calling for the implementation of international human rights standards without discrimination, in which "The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity should be used to provide guidance for national implementation" (Council of Europe 2009:18).

The office of UN High Commissioner for Refugees published in 2008 the UNHCR Handbook for the Protection of Women and Girls. In this extensive document, the legal standards and guidelines refer to the Yogyakarta principles as affirming the binding international standards on the issue of sexual orientation and gender identity as being derived from key fundamental human rights instruments (UNHCR 2008:72).

In 2009, a report by Martin Scheinin, the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, analyzed among other things "the gendered impact of counter-terrorism measures on men and persons of diverse sexual orientations and gender identities" (UN General Assembly 2009:2). The report mentioned the Yogyakarta principles "in the context of the examination of legally binding human rights instruments" related to the effect on "counter-terrorism measures that involve increased travel document security […] unduly penalizing transgender persons whose personal appearance and data are subject to change" (UN General Assembly 2010a:13, UN General Assembly 2009:19-20). While numerous delegates including the Holy See criticized the premises of the report related to the sexual identity in general, specifically this passing remark to Yogyakarta Principles in a 23 page document resulted in accusations of violating the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council,

which states that a rapporteur must refrain from inserting his personal opinion into the report. The accusations were raised by several delegates speaking on behalf of the Group of African States, Group of Arab States, Saint Lucia and Sudan (UN General Assembly 2010a).

In 2010, a report by Vernor Muñoz, the United Nations Special Rapporteur on the right to education, focused on the right to comprehensive sexual education, placing it into the context of patriarchy and human rights. The report identified sexual education as "a basic tool for ending discrimination against persons of diverse sexual orientations", with reference to the Yogyakarta principles as "a very important contribution to thinking in this area […] in relation to sexual orientation and gender identity" (UN General Assembly 2010b:7). In one of the first explicit endorsments of Yogyakarta Principles in a UN document, Muñoz stated that they "are a fundamental tool for inclusion of the diversity perspective in the public policies that have to be taken into account in education" (UN General Assembly 2010b:17). The report was met with an avalanche of criticism from the representatives of states, among others from the Group of African States, which considered intolerable the propagation of "controversial and unrecognized principles, including the so-called Yogakarta principles" (UN General Assembly 2010c:3).

In conclusion, the issue of legal recognition of same-sex unions is a justifiable element of human rights and is firmly embedded in the major human rights documents mainly through the non-discrimination principles and clauses referring to the support and protection of family as an essential building block of the society. The Universal Declaration of Human Rights as well as the two main Covenants attribute to individuals the right to marry and found a family. The world's leading human rights experts interpreted the existing human rights standards in the Yogyakarta principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, where they stressed out the necessity of considering legal recognition of same-sex unions as an indispensible part of universal human rights.

5 Conservative perspectives on LGBT rights

In order to identify the argumentation framework of opponents of LGBT rights, this chapter will focus on the sources of the opposition, which in most cases stem from the heteronormative beliefs about morality and sexuality. As the traditional keepers of conservative values, it is the religious authorities who raise the most vocal opposition against attempts at enacting laws which would promote the rights of non-heterosexuals to have their relationships legally recognized on par with traditional interpretations of marriage and family (Ayoub 2014). I will discuss the religious views on homosexuality in an attempt to introduce the complex viewpoints of religious-based perceptions of sexuality and to identify how religious beliefs give rise to arguments which negatively shape the public opinion towards the LGBT community. For the context of Europe, the main opposition force is the Catholic Church; therefore this chapter primarily analyzes the content of the official Vatican documents regarding the topic of homosexuality and legal recognition of same-sex unions. However, as this chapter points out, there is not a consensus among various Christian denominations in evaluating same-sex unions – it is also possible to use valid theological arguments in support of legal recognition of same-sex relationships.

According to the most recent population census, the Catholic Church has a dominant presence in Slovakia - over 75 percent of the population declared their religious affinity to various branches of Christian denomination, among which the proportion for Roman Catholic Church was over 80 percent (Statistical Office of Slovak Republic 2011). Therefore, in order to avoid sliding into irrelevance by including too wide spectrum of theological worldviews present in the contemporary world, this discussion will focus only on the Christian views of homosexuality, and more specifically, to the position of the Catholic Church (for an overview of homosexuality in other world religions, see Swidler 1993).

The following sections explore the foundations of various Christian attitudes towards LGBT people and the same-sex unions, in order to provide contextual basis for understanding the ideological sources of arguments against the promotion of LGBT rights. Starting from a discussion on normality and ways of interpreting the Holy Scriptures among different

branches of Christianity, the attention is then centred on the official positions of the Roman Catholic Church and its influence over political decisions in countries in which the discussion of legalizing same-sex unions takes place.

5.1 Interpretational differences of the Holy Scriptures

Dawne Moon (2002) discusses religious views on homosexuality and concludes that from a sociological perspective, religions do not hold inherently pro-gay or anti-gay stances although individuals can utilize the same approaches to arrive at very different conclusions. The arguments arising from the definition of nature and morality have arguably a significant influence on contemporary Western debates about the LGBT rights. Moon (2002) claims that two competing definitions of nature are employed when assessing the 'naturalness' of homosexuality – scientific and moral. The scientific approach considers as natural that which can be observed in the natural world, while the moral definition of naturalness stems from ancient Greece and was used by Apostle Paul, claiming that natural is interchangeable with 'moral' (Moon 2002).

Within the scientific definition of naturalness, homosexuality is 'normal', since variations in sexual preferences are observed to be consistently occurring in many animal species as well as across human cultures (Bagemihl 1999, Birke 2002, Murray 2002). However, from the natural-equals-moral standpoint, the delicacy of the concept of morality produces very different interpretations of the naturalness of homosexuality. -

> "Arguments about nature shape contemporary Western debates about homosexuality, as anti-gay religious thinkers assume that homosexuality is unnatural and their pro-gay counterparts must challenge that assumption. Many religious thinkers assume that homosexuality is a sign of humanity's fall, that human beings were created heterosexual and that homosexuality is a part of society's degeneration. Others argue that God did not necessarily create human beings to be heterosexual in the first place. These thinkers refer to secular gay and lesbian scholarship which has shown, for example, that sexuality differs across different cultures, establishing that humanity is not inherently, or by nature, 'heterosexual'" (Moon 2002:314).

Among the most popular anti-gay religious arguments is the one of creation – the infamous 'God created Adam and Eve, not Adam and Steve' argument. Anti-gay preachers use the religious myth that God created the first humans as male and female and commanded them to be fruitful and multiply as evidence that heterosexual intercourse with the intention of procreating is the only moral and therefore the only natural kind of sexual activity. As with many arguments drawing legitimacy from the Holy Scriptures, ambiguous implications can be made when looking at different verses, such as those referring to creation of humankind 'in the image of God'. Some scholars point out that if all human beings were created in God's image, it necessarily includes gay people and therefore renders this argument invalid (Nelson 1979). This argument is obviously an extension of heteronormative bias, as discussed earlier, since it presumes that the biological complementarity defines the only acceptable form of sexual behaviour.

Among the scholars who use the morality-based definition of normality is John Finnis (1995), a Roman Catholic who argues that heterosexuality is intrinsically good and therefore natural in its potential for childbearing, and who denounces homosexuality, as well as all sexual activity outside of reproductive marriage, as not good and therefore unnatural. In his view that is shared by many firm anti-gay advocates, Finnis (1995:27, cited in Moon 2002:317) claims that "parenthood and children and family are the intrinsic fulfilment of a communion […], because it is not merely instrumental". However, other religious thinkers, such as Eugene Rogers (1998) challenge the assumption that the main purpose of intimate relationship is procreation, but instead, its purpose is to help human beings to experience the love and desire God has intended for them. He claims that the traditional marriage and reproduction are means of sanctification rather than of satisfaction, therefore too, "monogamous, committed gay and lesbian relationships are also gifts of grace, means of sanctification, upbuilding of the community of the people of God" (Rogers 1998:138-41, cited in Moon 2002:317).

The creation story is but one of many examples where competing opinions on how to read and interpret the Holy Scriptures shape the religious discourse on same-sex marriages. Moon (2002) distinguishes two ways of interpreting the scriptures; *literalism* – used by those who take scriptures as literal truth word-by-word, and *contextualism*, allowing for adjustments for historical context in an attempt to extract the spiritual message. She shows that literalist interpretations are more likely to condemn homosexuality while contextual views of the same passages can be used to support pro-LGBT stances. Finnis (1995) and other traditionalists

consider the story of Adam and Eve as a metaphor for why only a man and a woman should have their union legally recognized due to the inherent virtue of reproductive heterosexuality. On the other side, for religious modernists such as Rogers (1998), the story represents a mandate to love, regardless of gender or sexual orientation of the partners, rather than the obligation to reproduce. Monogamy, instead of heterosexuality is therefore the concept to be promoted as intrinsically moral 'good'.

Similarly, those who believe that homosexuality is sinful and against God's will can always support their position by literal interpretation of a handful of seemingly condemning passages from the Scriptures, while the people holding a pro-LGBT stance tend to view the same verses within their historical context. The point is that there seem to be profound inconsistencies when people choose to interpret individual passages literally or contextually and therefore it erodes the scriptural proof of morality that is often used for empowering anti-gay positions. To understand how exactly people draw the lines between which passages to be interpreted literally and which warrant adjustment for their historical context is a task for other scholars in psychology and sociology but for the purposes of this thesis it is important to notice that the theological anti-gay arguments based on the Holy Scriptures lack firm ground due to their ambiguity.

5.2 Differences among Christian perspectives on the issue of LGBT rights

In spite of the fact that the most vocal critics of the 'homosexual agenda' in the West are religious authorities, the positions of various Christian denominations are far from united. They range from vulgar hatred - as demonstrated by the infamous Westboro Baptist Church in the United States or by the evangelical Christians in Uganda - to benevolent support, such as in several reformed Churches in Europe. The degree of acceptance or denouncement varies from country to country as well as among communities, and the division lines do not follow simply geographical dimensions, although arguably the Orthodox and Catholic denominations, dominant in the Central and Eastern Europe, hold a firmer standpoint in comparison to the Lutheran Protestant churches, which are stronger in the Western Europe

and Scandinavia. To illustrate, before a debate in the Parliamentary Assembly of the Council of Europe on a report on LGBT human rights in 2010, Georgian Orthodox communities raised sharp protest against "abnormalities, such as homosexuality, bisexuality and other sexual perversions, that are considered not only by Christianity but also by all other traditional religions as the greatest sin, causing degeneration and physical and mental illnesses" (Council of Europe 2011:30).

The metaphysical debate in the mainstream Christianity on whether the very attraction to a person of the same sex should be considered sinful or not has been leaning in the past decades towards tolerance, however, the demands of LGBT rights groups for legal recognition of same-sex couples brought into focus the 'sanctity of marriage' argument, which has become the pivotal division point between denominations holding pro-gay and anti-gay stances.

Arguments about legal recognition of same-sex unions relate to a tension between tradition and social change that has been present in many religions throughout the history. Moon (2002) observes that opponents of religious same-sex marriage generally deem blessing same-sex unions as disgracing the very institution of marriage because legitimating homosexuality would mean official approval of ways of living that are considered contrary to tradition and nature. The argument follows that if the Church condoned the opening of the institution of marriage to same-sex couples, that act will dramatically erode not only tradition, but the very framework of social stability because it would pave the way towards social acceptance and practice of sexual deviations such as paedophilia or bestiality – this is commonly known as the 'slippery slope' argument, which is a logical fallacy.

On the other hand, giving in to the assumption that the family built around a stable married couple is an essential building block of an orderly society, rather than seeing this as proof that homosexuality is immoral or unnatural; some religious scholars see this assumption as proving that same-sex marriage should be both legal and religiously sanctioned. John Shelby Spong (1988), an American bishop of Episcopal Church argued in favour of church recognition and blessing of same-sex marriages as follows:

> "A willingness on the part of the church and society to accept, bless, affirm, and encourage long-term faithful relationships among gay and lesbian people would be just and proper. But above all it would indicate to the homosexual minority that there is a recognized alternative to the loneliness of celibacy on the one hand and the irresponsibility of sexual promiscuity on the other" (Spong 1988:202, cited in Moon 2002:322).

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This view has been translated even in some European Christian churches into extending marriage services to same-sex couples. The Quakers in Britain decided at their yearly meeting in 2009 to recognise opposite-sex and same-sex marriages equally and to perform marriage ceremonies also for same-sex couples, making them the first mainstream Christian religious body in Britain to do so, despite the fact that at that time Britain had not yet legally recognized same-sex marriages (BBC 2009). Later that year, the Church of Sweden, of which 74 percent of Swedish citizens are members, announced that it would conduct wedding ceremonies for same-sex couples. The governing board of the Synod of the Lutheran Church of Sweden in Uppsala passed the gay wedding proposal by a wide margin of 176 votes in favour to 73 votes against, provoking disapproving responses by the representatives of Catholic and Orthodox churches in Sweden, which resulted in cooling of the relationship between the Church of England and the Church of Sweden (UPI 2009). Immediately following the decision to bless same-sex marriages, the Synod of Russian Orthodox Church suspended all communication and ecumenical cooperation with the Church of Sweden, reasoning that "approving the shameful practice of same-sex marriages is a serious blow to the entire system of European spiritual and moral values influenced by Christianity. Such novelties undermine the moral foundations of European civilization and cause irreparable damage to its spiritual influence on a worldwide scale" (Pravda.ru 2005).

In the case of the Church of England, its position on the debate seems to occupy a middle ground between denial of any legal recognition and expanding the institution of marriage to include same-sex unions. While the Civil Partnerships act of 2004 was "supported by the majority of [the Church's] bishops who voted on the legislation when it was before the House of Lords", the position on same-sex marriage is one of categorical disapproval based on the assumption that "the legal inequalities between heterosexual married couples and same-sex partners have already been addressed through the introduction of civil partnerships". The Church of England also believes that redefining marriage to include same-sex relationships would entail a "dilution in the meaning of marriage for everyone by excluding the fundamental complementarity of men and women from the social and legal definition of marriage" (Church of England 2012:4).

5.3 The position and argumentation of the Catholic Church

Among the defining aspects of the Catholic Church is the assumption of the infallibility of the Pope and the relatively stricter adherence to tradition and authority compared to most of the other Christian denominations. The centralization of interpretational legitimacy of the Holy Scriptures at the top of Catholic Church is essential for the effective coordination of approximately 413 thousand priests and 1 214 million Catholics worldwide (Vatican Information Service 2013).

As the oldest of the Roman Curia's nine congregations, founded in 1542 by Pope Paul III, the Congregation for the Doctrine of the Faith was originally called the *Sacred Congregation of the Universal Inquisition* and its duty was to defend the Church from heresy. Nowadays its purpose is to "promote and safeguard the doctrine on the faith and morals throughout the Catholic world" (Vatican 2012). The Congregation for the Doctrine of the Faith (hereinafter "Congregation") was presided over by Cardinal Joseph Aloisius Ratzinger from 1981 until his election as the Pope Benedict XVI in 2005. Since the Congregation has the dominant authority within the Church to make official statements regarding Church's positions on various topics of social relevance, the statements in its documents may serve as the main source for identifying the Church's attitudes towards homosexuality and legal recognition of same-sex unions.

The Catholic Church has in the past decades developed a policy to advocate tolerance towards individuals with homosexual orientation while further condemning homosexual practices as unacceptable and sinful even to a degree when potential legalization of same-sex unions is explicitly identified as evil: "Those who would move from tolerance to the legitimization of specific rights for cohabiting homosexual persons need to be reminded that the approval or legalization of evil is something far different from the toleration of evil" (Ratzinger 2003:5).

The Church clarifies its position as follows: "Although the particular inclination of the homosexual person is not a sin, it is a more or less strong tendency ordered toward an intrinsic moral evil; and thus the inclination itself must be seen as an objective disorder" (Ratzinger 1986:3). This view is also reflected in the Church's internal guidelines regarding admission of

homosexuals to the seminary and to priesthood. The Congregation for Catholic Education led by Cardinal Zenon Grocholewski issued an official instruction which states that if a candidate "presents deep-seated homosexual tendencies, his spiritual director as well as his confessor have the duty to dissuade him in conscience from proceeding towards ordination" (Grocholewski 2005:3).

To many people, Pope Francis as the current Pontiff comes across as a rather rejuvenating force in the Church with his public acts of humbleness as well as his recent statement on gay priests: "If someone is gay and he searches for the Lord and has good will, who am I to judge?" (Donadio 2013). However, in spite of the well-earned popularity the current Holy Father enjoys in liberal circles in comparison to his predecessor, his views on same-sex unions are completely in line with the Catholic doctrine, as demonstrated in a letter to the Carmelite Nuns of Buenos Aires, which Francis wrote under his former name Cardinal Jorge Mario Bergoglio. The letter was written on the occasion of Argentine parliament debating the proposal for legalisation of same-sex marriage including full adoption rights on 22.6.2010. Bergoglio (2010, emphasis in original) identified the proposal as "not a simple political struggle; it is the destructive attempt toward God's plan" and as "a movement of the *father of lies* that seeks to confuse and deceive the children of God."

The official Catholic view on the LGBT movement is generally one of vocal resentment arising from their assumption that practiced homosexuality is inherently morally wrong and dangerous to the society at large. Long before the political debate revolved around same-sex unions and the legislative efforts in many countries were focused solely on non-discrimination policies, The Congregation for the Doctrine of the Faith viewed such proposals as an "effort in some countries to manipulate the Church […] to conform to these pressure groups' concept that homosexuality is at least a completely harmless, if not an entirely good, thing, [e]ven when the practice of homosexuality may seriously threaten the lives and well-being of a large number of people" (Ratzinger 1986:9). The Congregation's main argument against enactment of legal principles of non-discrimination based on sexual orientation was that "there is a danger that legislation which would make homosexuality a basis for entitlements could actually encourage a person with a homosexual orientation to declare his homosexuality or even to seek a partner in order to exploit the provisions of the law" (Ratzinger 1992:14).

When it comes to the Church's position on same-sex unions in particular, attention needs to be given to the Congregation's document from 2003 called *Considerations regarding*

proposals to give legal recognition to unions between homosexual persons, approved by then Pope John Paul II, where is concluded that:

> "The Church teaches that respect for homosexual persons cannot lead in any way to approval of homosexual behaviour or to legal recognition of homosexual unions. The common good requires that laws recognize, promote and protect marriage as the basis of the family, the primary unit of society. Legal recognition of homosexual unions or placing them on the same level as marriage would mean not only the approval of deviant behaviour, with the consequence of making it a model in present-day society, but would also obscure basic values which belong to the common inheritance of humanity" (Ratzinger 2003:11)

For the purposes of this thesis, it is important to note that the *Considerations* articulate the position of the Church towards LGBT rights in four arguments. These arguments can serve as a basis of the argumentation framework against legal recognition of same-sex unions.

- *Argument from the order of right reason*

This argument builds on the Encyclical Letter by late Pope John Paul II *Evangelium Vitae* (1995:71)*,* where he stated that for the future of society and the development of a sound democracy it is "urgently necessary to rediscover those essential and innate human and moral values […] which no individual, no majority and no State can ever create, modify or destroy, but must only acknowledge, respect and promote". In spite of no literal mention of homosexuality in the encyclical, it claims that civil laws can negatively influence the morality of society by playing "a very important and sometimes decisive role in influencing patterns of thought and behaviour" (John Paul II 1995:90). This argument is therefore build on the assumption tha legal recognition of same-sex unions would "obscure certain basic moral values and cause a devaluation of the institution of marriage" (Ratzinger 2003:6).

- *From the biological and anthropological order*

The core assumption of this argument is that the homosexual unions "are not able to contribute in a proper way to the procreation and survival of the human race" (Ratzinger 2003:7). The anthropological survivalist position is still held dearly by the Catholic Church, although Moon (2002:323) points out that "the times have changed and peopling the world is not as important now as it was five thousand years ago". As an integral part of this argument is also the consideration for the supposed 'proper' development of children placed in the care of same-sex parents. Allowing same-sex couples to adopt children is here perceived as "doing violence to these children, in the sense that their condition of dependency would be used to

place them in an environment that is not conducive to their full human development" (Ratzinger 2003:7). This argument, however, does not withstand empirical scrutiny, since numerous long-term studies found no evidence that the children raised in same-sex families fare differently than children raised in traditional families in terms of sexual orientation, gender identity, or general well-being (Anderssen et al. 2002, Patterson 1992, Patterson 2000, Golombok and Tasker 1996, Green 1978).

- *From the social order*

The Church believes that society's continued survival is owed to the family founded on heterosexual marriage. Same-sex unions, through their inability to procreate do not "even in a remote analogous sense […] fulfil the purpose for which marriage and family deserve specific categorical recognition" (Ratzinger 2003:8). As an inevitable consequence of legal recognition of same-sex unions, the Church warns against "the redefinition of marriage, which would become, in its legal status, an institution devoid of essential reference to factors linked to heterosexuality; for example, procreation and raising children" (Ratzinger 2003:8). However, this line of thought resembles a variation on the biological argument, assuming that humankind would cease to procreate if alternative models of family were endorsed, or even tolerated. The long-term negative effects on society are to be feared, apparently, due to the possible 'conversion' of increasing portion of the population to homosexuality, or even abandoning the reproductive instinct altogether. The social order would be therefore endangered in the future, because, as the Church believes, "there are good reasons for holding that such unions are harmful to the proper development of human society, especially if their impact on society were to increase" (Ratzinger 2003:8). Which reasons they are is not specified in the document.

- *From the legal order*

Dismissing the claim that cohabiting homosexual couples are in need for any legal recognition of their rights as persons and citizens whatsoever, the Church argues that "in reality, they can always make use of the provisions of law – like all citizens from the standpoint of their private autonomy – to protect their rights in matters of common interest" (Ratzinger 2003:9). Because the heterosexual married couples ensure the succession of generations, they are granted institutional recognition in the civil law. Same-sex unions, on

the other hand, "do not exercise this function for the common good" and therefore "do not need specific attention from the legal standpoint" (Ratzinger 2003:9).

The *Considerations* include a clause on how Catholic politicians are supposed to categorically deny legal proposals for same-sex unions, be it civil unions or marriages, on the basis that such law would be 'harmful to the common good' and 'gravely immoral'. "When legislation in favour of the recognition of homosexual unions is proposed for the first time in a legislative assembly, the Catholic law-maker has a moral duty to express his opposition clearly and publicly and to vote against it" (Ratzinger 2003:10). However, if legislation in favour of the recognition of same-sex unions is already in force, the Catholic politicians are strongly advised to "oppose it in the ways that are possible for him and make his opposition known [in a] legitimate and dutiful attempt to obtain at least the partial repeal of an unjust law" (Ratzinger 2003:10). It is therefore to be expected that the main line of opposition in parliamentary debates regarding the legal recognition of same-sex unions would in most cases comprise of Catholic politicians, which is at least in the European context supported by empirical research (Ayoub 2014).

The Church also dismisses the argument that legal introduction of registered partnerships or 'civil' marriage rights does not necessarily impose obligations on the religious bodies to perform wedding ceremonies for same-sex couples, claiming that

> "it is inappropriate for Church authorities to endorse or remain neutral toward adverse legislation even if it grants exceptions to Church organizations and institutions. The Church has the responsibility to promote family life and the public morality of the entire civil society on the basis of fundamental moral values, not simply to protect herself from the application of harmful laws" (Ratzinger, 1992:16).

This information is of special importance, because it reveals that the Catholic Church with its vast network of influence holds as an official policy to thwart the development and spread of LGBT right norms through influencing political representatives to actively oppose legislation aimed at promoting LGBT rights. This might explain why there has been a widely different political outcome of demands for legal recognition of same-sex couples in countries that are historically similar, but differ in the degree of influence of the Catholic Church. As Ayoub (2014:338) concludes, "LGBT rights norms provoke a lesser resistance in states where the Church has lost its moral authority as a constitutive part of national identity." Therefore it is justified to consider the arguments presented by the Church as representative of the side of discourse which opposes any form of legal recognition of same-sex unions.

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6 The Case of Slovakia

The previous chapters focused on constructing a general argumentation framework for assessing the demands for modern LGBT rights, in particular the right to have legal recognition for couples of the same sex with rights analogous to those of marriage. It has been shown that the promotion of LGBT marital rights is a necessary component of eliminating all forms of discrimination and is an indispensable component of achieving universal human rights standards. The argumentation framework of the Catholic Church has been presented, showing that the main sources of opposition against LGBT rights are the literalist interpretation of the Holy Scriptures and the insistence on heteronormative approach to family and morality.

This chapter begins with a brief overview of the Slovak political culture, pointing out the strong historical presence of nationalist populism. As discussed in Chapter 3 of this thesis, heteronormativity is in many cases an essential component of nationalism, and this presents a political environment not conductive to promotion of the rights of LGBT minority. According to Ayoub (2014), the severity of resistance against the LGBT rights has its roots in fear, because a potential incorporation of LGBT rights norm in the society would threaten the perceived image of nation. In this sense, Ayoub (2014:338) defines *threat* as "the anticipation of danger to a set of values that characterizes a group" and notes that threat is ultimately a socially constructed concept which is reinforced through discourse among political and religious elites.

The main focus of this chapter is thus on the analysis of political discourse regarding legal recognition of same-sex unions in Slovakia. The scope of the political discourse analysis is limited to the only occasion in the recent past when a proposal for enactment of registered partnerships was discussed in the Slovak Parliament. According to Fairclough and Fairclough (2012), political discourse analysis views political discourse primarily as a form of practical argumentation that can either result in a decision or non-action. They advocate the focus on arguments in political discourse because "in deciding what to do, agents consider both reasons that favour a particular tentative line of action and reasons against it" (Fairclough and Fairclough 2012:1).

By method of analyzing the explanatory report of the proposal as well as the transcript of relevant parliamentary debate, I will identify what kind of arguments for and against the legal recognition of same-sex unions were utilized in the discourse and categorize them based on the theoretical framework developed in this thesis.

6.1 Overview of the Slovak political culture and party politics

Michael Carpenter (1997) studied the emergence of two distinct political orders in Central Europe after the collapse of communism in 1989 – nationalist populism and social democracy, noting that the Slovak Republic set off on the path of nationalist populism while the Czech Republic developed into social democracy. He argued that this was the result of historical evolution of two different types of political cultures – 'traditional' and 'civic'. In the case of Slovakia, Carpenter (1997:205) argues that the traditional political culture is the "legacy of political subjugation and backward socio-economic conditions" and that "by suppressing democratic norms and perpetuating a vast network of patronage, Slovakia's traditional legacy has facilitated the rise of a nationalist-populist regime". Slovak political culture during the infamous Mečiar's regime in the 1990s was traditional, non-participatory, and authoritarian while the political institutions were hierarchical and patronage-based (Carpenter 1997).

After the era of 1990s, the Slovak Republic underwent a rather impressive transformation, particularly in the economic sphere, and achieved formal democratization which was underscored by the entry in the European Union in 2004. However, the legacy of traditional political culture has not been erased in just a few years. Ben Stanley (2010:257) analyzed the "putative upsurge of national populism" among Slovak political parties in the period of 2006-2010 when the ruling coalition was led by the centre-left Smer-Social Democracy, supported by Mečiar's Movement for a Democratic Slovakia (HZDS) and the ethno-nationalist Slovak National Party (SNS). Stanley (2010:258) notes that while in the first half of the decade the

political focus was put on the broad ideology of reform, it was then replaced by the "mainstreaming of anti-liberal and populist currents that had previously existed in noisy but marginal political niches".

Oľga Gyarfášová (2011) commented on the 'broadened' agenda of Slovak social democracy by pointing out that the Smer-SD party, in spite of its self-declared leftist orientation, utilized heavily the nationalist agenda. The reasons for this broadening of social-democratic agenda were pragmatic – Robert Fico, the leader of Smer-SD, was aware that a relevant section of Slovak public responds well to nationalist sentiment and can be mobilized based on it, while at the same time he did not want SNS to dominate the nationalist agenda (Gyarfášová 2011). Nationalist populism was prominent during the adoption of key anti-Hungarian laws, such as the controversial language law from 2009 or the 2010 amendment of the citizenship law prohibiting the acquisition of dual citizenship. In the symbolic dimension, Smer-SD's adherence to nationalist sentiments was visible through the propagation of historical myths about 'ancient Slovaks' and escalated before the 2010 elections by ceremonial uncovering of the statue of the 'Slovak king' Svätopluk on the Bratislava castle courtyard. Ironically, although completely in line with Smer-SD's usurpation of nationalist agenda from its coalition partners, the pompous ceremony which was broadcasted by the state TV, was solely a matter of Smer-SD – no representatives of their coalition partners from HZDS or SNS were invited (Gyarfášová 2011).

This tactic might be one of the reasons of the electoral strengthening of Smer-SD in the 2010 elections, when the party received 208 926 more votes than in the 2006 elections. The detailed analysis of electoral volatility revealed that the strengthening of support for Smer-SD was largely fuelled by the migration of former electorate of SNS and HZDS (Krivý 2011). With the decline of support for HZDS below the parliamentary election threshold of 5%, and SNS with 5,1% just barely getting nine seats in the 2010 parliament, Smer-SD was found in a somewhat ironic position resembling the situation of HZDS after both 1998 and 2002 elections, when in spite of winning the elections, the victor was unable to find coalition partners to gain a majority in the parliament.

Eventually, a government was formed in July 2010 by a fragile coalition consisting of centre-right SDKÚ-DS, Christian conservative KDH, neo-liberal SaS (carrying a rebellious fraction of conservative 'Ordinary People' which soon splintered from the club) and the Hungarian-oriented party Most-Híd, under the Prime Minister Iveta Radičová from SDKÚ-DS. This

ideologically split coalition, to which Robert Fico mockingly referred whenever he had the opportunity as a 'conglomerate' (in a geological sense), together held a minimal majority of 79 seats out of 150 and was riddled with instability from the very beginning (Gyarfášová 2013). The ideological disagreements and tensions among the coalition parties escalated during the voting on the expansion of the European Financial Stability Facility (EFSF) in October 2011. In an attempt to compel the SaS party, whose position was firmly in opposition to the expansion of EFSF, into voting in favor, the Prime Minister Iveta Radičová decided to tie the vote on EFSF to a vote of confidence in the government. SaS had two options – to back down and support the EFSF or to let Radičová's cabinet fall (Spáč 2013). SaS chose the latter, abstained from the vote and on 11.10.2011 the government fell after only fifteen months in office. According to Spáč (2013:344), this "only accelerated an ongoing downward trend in the centre right's popularity".

After the fall of the government, the civic movement Ordinary People (OĽ), which originally entered into parliament in 2010 on the ballot of SaS, transformed into an unconventional political party 'Ordinary People and Independent Personalities' (OĽaNO), which served as a platform for important personalities without requiring them even to be members of the party. This new party "did not define its position in ideological terms, and the same applied to its program, which contained a mix of conservative, liberal, social and populist messages" (Spáč 2013:334). It is therefore impossible to analyze the political actions and positions of OĽaNO as a cohesive unit, rather than as a loose alliance of MPs with widely different worldviews. This lack of cohesion also explains the different stances the MPs from OĽaNO took towards the proposed law on registered partnerships, as analyzed in the following sections of this thesis.

The early elections were held on 10.3.2012 and resulted in an unprecedented victory of Smer-SD with a comfortable majority of 83 seats in the parliament, forming for the first time since the independence of Slovakia a government comprising of just one party. Virtually unburdened by the scandals of the previous centre-right coalitions, OĽaNO seized 16 seats in the parliament, the same as KDH, which could rely on their disciplined electorate of conservative Christians (Krivý 2011). The party Most-Híd with 13 seats remained the only parliamentary party directly representing the Hungarian minority, as the once-powerful Hungarian Coalition Party (SMK) failed to reach the electoral threshold for entry into the parliament. The result for SDKÚ-DS – 11 seats – was "a real disaster, as the previously

dominant force on the centre right was forced to accept the role of a small party" (Spáč 2013:345). Liberals from SaS suffered a bitter defeat as well, barely crossing the 5% threshold for entry in the parliament, securing the minimum of 11 seats.

While the more radical aspect of Smer-SD's nationalistic rhetoric prominent in 2010 seemed to have faded, when it comes to the issue of legal recognition of same-sex unions, the ruling party did not utilize the opportunity to promote LGBT rights, which is arguably a vanguard of modern social-democratic agenda in the Western and Scandinavian democracies (Fernández and Lutter 2013). Instead, the liberal SaS took the initiative, now unburdened by the limitations of co-governing with the conservative Christian democrats, and put forth a proposal for a law establishing registered partnerships for same-sex couples.

6.2 Analysis of the parliamentary debate on the Registered Partnership Law

On the 29th and 30th of October 2012, the Slovak Parliament discussed a proposal for the registered partnership law put forth by three members of the opposition liberal party Freedom and Solidarity (SaS): Lucia Nicholsonová, Juraj Droba and Martin Poliačik. According to the explanatory report of the proposal (NRSR 2012a), registered partnership would enjoy a recognized status in official communication. The partners would have mutual maintenance obligation, which would persist in a limited degree even after the dissolution of the partnership. A registered partner would be eligible for inheritance in the first category, similar as a husband, and would have the right to social security and tax deductions in the case of a death of the other partner, similar as in the case of a death of a married partner. Registered partners would have the right to see the health documentation of the other partner. The explanatory report also specifies the differences between a registered partnership and a marriage. As opposed to marriage, it would not be possible to enter registered partnership before 18 years of age. The law would not create joint ownership between the partners, as it is in the case of a married couple. Moreover, the proposal does not include legal provision allowing common adoption of a child by the registered partners, it would only allow for

maintaining the parental rights of the other partner in cases such as when one of the couple has children from a previous relationship.

The proposal was put to vote a week later on 6.11.2012 and was not forwarded for the second reading by a vote of 14 in favor of the proposal and 94 against the proposal, while 21 abstained and the number did not attend the voting (NRSR 2012b). The outcome of the vote is summarized in table 6.2.1.

	In favor	Against	Abstained	Absent	Total
Smer-SD	0	71	8	4	83
OĽaNO	4	7	2	2	15
KDH	0	12	1	1	14
Most-Híd	1	0	7	5	13
SaS	6	0	0	5	11
SDKÚ-DS	3	2	3	3	11
Non-attached	0	2	0	1	3
Total	14	94	21	21	150

Table 6.2.1 Voting results on the proposal for registered partnership law by party.

As presented in the table, KDH and Smer-SD voted almost unanimously against the proposal, while the MPs from OĽaNO and SDKÚ-DS were more divided on the issue. Most of the MPs from Most-Híd abstained from the voting. The low turnout from the SaS MPs suggests that they did not believe the proposal would have any chance to pass the first reading anyway. Even Juraj Droba, one of the sponsors of the proposal along with two other MPs from SaS who spoke during the debate in favor of the proposal did not attend the voting. A closer look at the parliamentary debate offers interesting insight into the Slovak political discourse regarding LGBT rights in general by revealing the character of the arguments used by the proponents and opponents of the proposal.

The proposal for registered partnership law was discussed between 29.10.2012 15:41:34 and 30.10.2012 18:20:39. During the two days of the parliamentary debate there were 19 speeches made by 13 MPs mostly from SaS, KDH and OĽaNO and 88 factual comments in between the speeches, also predominantly from these three parties (NRSR 2012c). I analyzed the debate in its whole duration and divided the speeches and comments based on whether they included normative statements towards the proposal or towards homosexuality in general.

Table 6.2.2 contains an overview of the normative distribution of the speeches and factual comments based on the content of the statements made by the individual MPs. The number consists of the total number of speeches or factual comments in that category followed by a number in brackets representing the number of MPs who made those statements. When a particular factual comment did not include a normative statement towards the issue of homosexual partnerships, such as when an MP made a procedural remark or a neutral comment towards the speaker, I coded it as 'irrelevant'.

	Speeches		Factual comments			Total
	In favor	Against	In favor	Against	Irrelevant	
OĽaNO	4 (3)	6 (4)	5 (4)	30 (7)	4 (3)	49
SaS	5 (2)	-	27 (7)	-	-	32
KDH	-	3 (3)	-	14 (7)	-	17
Smer-SD	-	-	-	2 (2)	2 (2)	4
Non-attached	-	1 (1)	-	2 (1)	1 (1)	4
Most-Híd	-	-	-	1 (1)	-	1
SDKÚ-DS	-	-	-	-	-	-
Total	9 (5)	10 (8)	32 (11)	49 (18)	7 (6)	107

Table 6.2.2: Overview of the debate on the proposal for registered partnership law.

From Table 2 can be drawn the observation that the topic of LGBT rights lacks saliency in the context of Slovak political discourse. The majority of MPs were not interested in participating in the discussion – with the exception of representatives of OĽaNO, SaS, and KDH, most MPs abstained from the discussion altogether. However, a clear rift between conservatives and liberals can be identified. SaS and the liberal group from OĽaNO argued in support of the proposal, while the Christian-democratic KDH in unison with the conservative majority of OĽaNO opposed the proposal. The relative absence of speeches or factual comments from the representatives of the ruling Smer-SD party may be explained by its adherence to the position declared by premier Robert Fico back in 2010, when he stated "If I were to make a list of topics sorted by priority and that list would have 74 000 points, this topic [of registered partnerships] will not make it into the list" (Slovak Information and Press Agency 2010). Such position is rather unconventional for a modern European social-democratic party, however, it may relate to the elements of nationalist populism used in the politics of the Smer-SD party, as discussed in the previous section. The relative silence of the ruling party on this

subject may also be explained by the structure of its electorate, since in the 2012 elections, Smer-SD was "more successful among the elderly people, people with lower education and people living in small towns and villages, while the urban and more educated population voted more often centre-right parties" (Gyárfášová 2013:14). It would then make sense for Smer-SD not to support legal recognition of same-sex unions in fear of estranging a conservatie part of their electorate. At the same time, disregarding the claims of marginalized groups is in Kymlicka's (1999) view an effective way for establishing popular support. He notes that "[i]ndeed, if a significant portion of the population is prejudiced, then ignoring or attacking such groups may be the best route to political success" (Kymlicka 1999:86).

6.3 Arguments for the proposal

For the analysis of arguments used in favor of the legal recognition of same-sex unions, the focus will be predominantly of the explanatory report of the proposed law, since it conveys most articulately the relevant arguments in favor of the proposal. In Slovakia, the legislative procedure requires an explanatory report to be attached as a formal written part of the proposal and all the MPs participating in the parliamentary debate were acquainted with its contents. Therefore I use the arguments raised by the report as the primary source of argumentation in favor of legal recognition of same-sex unions in the context of Slovakia.

According to my analysis, the speeches and factual statements delivered during the parliamentary debate by the members of SaS closely mirror the arguments presented in the explanatory report, therefore the inclusion of literal transcripts of the verbal statements made by SaS MPs would be redundant in the analysis. However, since four members of the OĽaNO party made positive statements towards the proposal during the debate, examples of their argumentation is included in literal form at the end.

The explanatory report of the proposal identified as the purpose of the law "to arrange a possibility for same-sex couples to declare among themselves and in front of the society their permanent union" (NRSR 2012a). The report lists as one of the basic reasons for this proposal the "abolishment of discrimination of couples based on 'other status' [which is] in contrary to

the article 12 par. 2 of the Constitution of the Slovak Republic, who want to form permanent partnerships of two people of the same gender, because their factual partnerships […] do not enjoy legal protection which they deserve and which is attributed to the different-sex couples" (NRSR 2012a). The mentioned article of the Constitution states that

> (1) People are free and equal in dignity and in rights. Basic rights and freedoms are inviolable, inalienable, imprescriptible, and indefeasible.
> (2) Basic rights and freedoms on the territory of the Slovak Republic are guaranteed to everyone regardless of sex, race, color of skin, language, faith and religion, political, or other thoughts, national or social origin, affiliation to a nation, or ethnic group, property, descent, or any other status. No one may be harmed, preferred, or discriminated against on these grounds.

It is possible to identify in the proposal a strong influence of political liberalism and human rights perspective because of its focus on individual's freedom and direct referrals to the human rights documents. The sponsors of the proposal "consider the decision of people of the same sex to live in a registered partnership as a manifestation of personal freedom and equality in accordance with article 12 par. 1 of the Constitution of the Slovak Republic, article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms and article 21 of the Charter of Fundamental Rights of the European Union, [according to which] all people are free and equal in dignity and rights" (NRSR 2102a). The Charter of Fundamental Rights of the European Union states in the mentioned article that "any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited" (European Union 2012). The article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms refers to the right to an effective remedy stating that "[e]veryone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority" (Council of Europe 1950).

Liberalist perspective is therefore prominent in the proposal. However, within the framework of the major citizenship discourses, as outlined in section 3.3 of this thesis, it is possible to argue that the proponents of the registered partnership law argued from a significant civic-republican dimension as well. In spite of living in a common household and forming an ordered union, persons of the same sex are regarded by the Slovak legal system as mutually unrelated. Perhaps in the anticipation of the conservative opposition, the explanatory report concludes that the proposed law "cannot endanger the cohabitation of different-sex couples or

their willingness to enter into marriage" (NRSR 2012a). An appeal to the sense of community and shared values, central to the civic-republican discourse, is conveyed in the following paragraph of the explanatory report:

> "Adopting the registered partnership law will strengthen the mutual responsibility of the partners as well as the family ties between the relatives of the partners, thus creating for them a stable living environment in the society in a similar way as in the case of different-sex couples. Conferring certain rights as well as certain obligations to the registered partners of the same sex will strengthen not only their citizenship and human rights as individuals, but above all, it will strengthen their motivation to remain in a long-term partnership based on mutual love, respect, care and support, which are the values that we should support in the society" (NRSR 2012a).

In accordance with the civic-republican perspective, the proposal for registered partnership law claims to have in mind the communal interest as well. While strategically avoiding the issue of the right to artificial insemination or adoption of a child, the institution of registered partnership would allow same-sex couples to have their relationship recognized by the state with rights and duties broadly analogous to the institution of marriage, thereby strengthening the sense of belonging to the society with better access to the citizenship rights.

Below are examples of the arguments used by the four MPs from the party Ordinary People and Independent Personalities (OĽaNO) who supported the proposal. Although none invoked human rights specifically, they argued for defending the rights of minorities and for removal of discrimination.

OĽaNO Mikuláš Huba declared in his only factual statement that he would vote in favor of the proposal, because "*I promised, among other things, that I will defend the appropriate rights of minorities. Of course, I can imagine a minority which is dangerous to the society or poses a real threat to the majority. I am convinced, though, that in this case, no such risk or danger exists*" (NRSR 2012c. Oct 29, 18:08 - 18:08).

OĽaNO Ján Mičovský expressed his support for the proposal because he believed it would help remove discrimination in the society. He tried to illustrate the heteronormativity in the society by pointing out the hardships of homosexuals: "*if my son came out to me as gay, therefore I know why I have to come to terms with his orientation. Because I know that compared to his luckier, or simply heterosexual, classmates, he will have a far harder life, much more misunderstanding, maybe even much more hatred*" (NRSR 2012c. Oct 30, 15:09 - 15:36). Mičovský also compared legal recognition of same-sex unions to three major

historical steps in removing discrimination: 1) 1781 Toleration patent by Emperor Joseph II. allowing certain rights for non-Catholics 2) 1848 abolition of serfdom, and 3) 1919 voting rights for women, by saying: "*Discrimination of the fellow citizens with homosexual feeling will once belong to history, such as there belongs limitation of rights of protestants, as there belongs abolition of serfdom or discrimination of women in terms of voting rights*" (NRSR 2012c. Oct 30, 15:09 - 15:36).

OĽaNO Peter Pollák argued from the perspective of fairness, stating "*If today this country, society, and legislature allows any [heterosexual] couple to enter a formal union, even minors, without us investigating their responsibility towards family, towards children, towards the society and state, it is in my opinion at the very least unfair [...] if we should pose obstacles in life for two adult, healthy, and sane people*" (NRSR 2012c. Oct 30, 11:37 - 11:41). At another point in the debate, Pollák stressed out the anti-discrimination argument: "*no minority in a modern society can be put aside or discriminated against. If any minority has problems, it is our responsibility to solve their problems*" (NRSR 2012c. Oct 30, 18:20 - 18:24).

OĽaNO Jozef Viskupič called for legal recognition of same-sex unions and appealed to his colleagues in the parliament to "*open the ideological borders and closed minds to the fact that in our society exists a certain percentage of people who demand from the majority the fulfillment of their ideas about life*" and to "*enact a legal status which respects that also in Slovakia we have people of other sexual orientation than heterosexual*" (NRSR 2012c. Oct 30, 14:02 - 14:30). However, Viskupič openly admitted he did not believe this law had a chance to pass, and blamed the MPs from the ruling party: "*The bad news is that this law will not pass, because the members of Smer-SD party expressed themselves very clearly, [...]. They said that in Slovakia we have much more important problems and that the contemporary Slovak society does not need the solutions to this problem*" (NRSR 2012c. Oct 30, 14:02 - 14:30).

In accordance with the theoretical framework of this thesis, the main arguments used to convince other MPs to vote in favor of the proposal revolved around the principles of freedom, tolerance and non-disrimination in the access to citizenship rights. Another main point of argumentation was the necessity of Slovakia's adherence to the binding international human rights treaties, such as the Charter of Fundamental Rights of the European Union and the Convention for the Protection of Human Rights and Fundamental Freedoms. Both the

perspectives of liberalism as well as of civic republicanism were assumed in the discourse. Arguing from the civic republican perspective, the proponents of the law abstained from using a heteronormative filter on the communal values of the society and promoted instead the shared belief in dignity, love, and respect.

6.4 Arguments against the proposal

The analysis of the parliamentary debate revealed a vocal group of conservative MPs who strongly opposed the idea of any legal recognition of same-sex unions. 90% of all the speeches and factual comments which were coded as negative came from the MPs for the Christian-democratic KDH and from the conservative group of MPs from OĽaNO. The relative silence by the members of other parties, particularly the ruling Smer-SD, suggests that the topic of LGBT rights was at this point not a particularly salient one in the Slovak political discourse.

Heteronormativity, religious values and the civic-republican perspective on citizenship were the major points of departure for the argumentation against the proposal – the arguments revolved around the perception that the heteronormative definition of family and the Christian moral values are essential and unchangeable components of the Slovak value system, invoking sharp heteronormative criteria for inclusion which the members of the LGBT minority cannot pass. A strong influence of heteronormative dimension of nationalism permeated the arguments against the proposal, pointing out the perceived inconsistency between Slovak national values and the demands for strengthening of LGBT rights.

The analysis showed that the arguments utilized by the opponents of the proposal fit squarely into the four categories reflecting the argumentation framework introduced by the *Considerations regarding proposals to give legal recognition to unions between homosexual persons* which was presented in Chapter 5 of this thesis.

6.4.1 Arguments from the order of right reason

This category of arguments includes statements that explicitly condemn the proposal for registered partnership law or homosexuality in general based on it being inherently 'immoral', 'unnatural', 'against God', or statements in support of heteronormative interpretation of marriage based on religious or national values. In this category it was possible to identify statements by 6 MPs from OĽaNO, 5 MPs from KHD, and 1 MP from Smer-SD and Most-Híd. In order to not repeat the whole discussion, I present one or two examples of the argumentation from each MP in its literal form, even though some MPs made numerous statements that pertain to this category. An exception is made in the case of Marián Kvasnička from KDH whose lengthy critical speech contained several interesting points.

The leader of OĽaNO, Igor Matovič, expressed his belief in the 'wickedness' of the proposal as follows: "*You can pretend for one day to be fighting for the LGBT rights [...] but luckily, the majority in this room has reason and will not support your wicked proposal*" (NRSR 2012c Oct 30, 11:01 - 11:28).

OĽaNO Richard Vašečka echoed the heteronormative argument: "*It is not about people who feel homosexual, but about the behavior. It is unnatural and immoral, why should the state approve of it by setting some rules? It is as if we set rules on other unnatural and immoral things. They should not happen. They should not happen*" (NRSR 2012c Oct 30, 18:08 - 18:10).

OĽaNO Martin Fecko argued, among other things, by legalizing same-sex unions being unnatural and contrary to the Slovak national values: "*And I will not support this law with clean conscience, because it is against my ancestors. And I want to look them normally in the eyes when I will meet them up there somewhere*" (NRSR 2012c Oct 29, 16:12 - 16:13).

OĽaNO Branislav Škripek argued explicitely from a Catholic perspective: "*It needs to be said first and foremost that the model of marriage we have today, is indeed a biblical one, because God created a man and a woman*" (NRSR 2012c Oct 29, 16:21 - 17:01). Škripek also spoke about the necessity to follow natural moral law: "*We know we must not murder or that when murder happens, it is illegal. We know that we must not lie, deceive, that we must not steal.*

And we know as well, that a man and a woman belong to each other as a husband and wife" (NRSR 2012c Oct 30, 17:01 - 17:14).

OĽaNO Štefan Kuffa made some of the most controversial statements regarding the immorality of homosexual practices: "*I think we will never understand each other, because the crucial difference is in that we do not basically understand such fundamental concept, what love is, and what has been presented is a perversity, it is not love […] We cannot reduce love only to absurd sexual practices*" (NRSR 2012c Oct 30, 10:50 - 10:52). Kuffa also made explicit mention of the Vatican's standpoint towards homosexuality, quoting: "*'Sexual orientation' does not constitute a quality comparable to race, ethnic background, etc. in respect to non-discrimination. Unlike these, the homosexual orientation is an objective disorder and evokes moral concern*" (NRSR 2012c Oct 30, 15:48 - 16:29).

OĽaNO Erika Jurinová joined the discussion in support of heteronormativity: "*I have a feeling that within the modernization of the sexual thought and action, we will do things that are contrary to the natural events in the world*" (NRSR 2012c Oct 30, 17:19 - 17:21).

The leader of the parliamentary club KDH Pavol Hrušovský considered the proposal 'stupid' and summed up the position of his party as follows: "*For the Christian democratic movement, this whole law is unacceptable not only from the legal perspective, but above all from the perspective of healthy reason and conviction that a family is based only on the marriage between a man and a woman*" (NRSR 2012c Oct 29, 15:56 - 16:08).

KDH Alojz Přidal added: "*I shall support, respect, protect and honor marriage only as a union of a man and a woman, because only that way it is in accordance with naturalness, reason and God's law*" (NRSR 2012c Oct 29, 16:13 - 16:15). At a later point, Přidal said: "*We are here the majority in this society and also in this room who thinks that it is against naturalness, against healthy reason and against God. We simply think so, we are the majority here, we will vote so and so it will be in this, in this country, in our Slovakia*" (NRSR 2012c Oct 30, 17:17 - 17:19).

KDH Pavol Zajac claimed he felt relief knowing that the proposal had no chance of being passed: "*I think that through not passing this law, that this is good news for Slovakia. Luckily, healthy reason in Slovakia, luckily in this chamber as well, is in majority*" (NRSR 2012c Oct 30, 14:35 - 14:37).

KDH Martin Fronc made an analogy comparing the inability of homosexuals to form a family to bad eyesight preventing a person from being a professional driver: "*I will certainly not support the law because I think that the family has its meaning and [...] that the discrimination in the society always is and always will be. If someone has 15 diopters, then he will be discriminated against and nobody will make a train driver out of him*" (NRSR 2012c Oct 30, 15:43 - 15:44).

KDH Marián Kvasnička was with one 66 minute speech and five factual comments by far the most active MP from KDH in the debate, and his statements were among the sharpest. In his opinion, "*consumed homosexuality has the same moral qualification as infidelity [...] and this is the so far unspoken reason why many adulterers have no problem with the legal regulation of registered partnership*" (NRSR 2012c Oct 29, 18:41 - 18:58). In his speech he recalled in detail four different stories from his childhood and youth, when he was a recipient of unwanted sexual advances from homosexuals. Kvasnička also spoke at length about homosexuality in the visual arts, mentioning some very graphic examples of violent sexual acts as part of an exposition in Cincinnati in 1990. He used it as an example that shows "*the depth of decadence, in which as in a trough rolls the contemporary civilization with a deified agenda of human rights*" (NRSR 2012c Oct 30, 09:04 - 09:53). In his opinion "*it is completely obvious that homosexuals cannot live without problems with the knowledge of what they are committing*" (NRSR 2012c Oct 30, 09:04 - 09:53). Kvasnička was also the only person who explicitly referred to and cited Ratzinger's (2003) *Considerations*, reciting almost the whole document. He concluded his interpretation of the Catholic perspective as follows: "*Tradition based in the Scripture, which introduced homosexual relations as a very serious perversion, has always claimed that homosexual acts are in its internal nature disordered, they are against the natural law, [...] they do not origin from a real emotional and sexual complementarity. It is in no case possible to approve of them*" (NRSR 2012c Oct 30, 09:04 - 09:53).

In a factual comment to the speech by KDH Marián Kvasnička, Eva Hufková from Smer-SD concurred: "*You are right, Mr. Kvasnička, the protection of marriage is a sacrament, and marriage is holy, and nothing can be compared to it, particularly not the legalizing trends of homosexual couples*" (NRSR 2012c Oct 30, 09:57 - 09:58).

The only factual comment by Most-Híd was made by its leader, Béla Bugár. In response to SaS Martin Poliačik, who claimed that Jesus Christ, had he been present in the debate, would

vote in favor of the proposal, Bugár said: "*You even quoted the Bible, you have in fact right away disproved this statement of yours, because you said that in the Bible, and I quote you: 'Homosexuality is understood as a vicious behavior.' And you think that the Lord Jesus Christ would support a vicious behavior?*" (NRSR 2012c Oct 30, 10:40 - 10:42).

6.4.2 Arguments from the biological and anthropological order

This category of arguments contains statements that revolve around the biological inability of people of the same sex to procreate, as well as claims that there would be harm done to children if a same-sex couple would be allowed to take care of them. Less MPs argued along this line, however, interestingly, both MPs from Smer-SD that made relevant factual comments during the debate voiced their concerns in this direction. In total, 5 MPs from OĽaNO, 3 MPs from KDH and 2 MPs from Smer-SD made negative statements pertaining to this category.

The leader of OĽaNO, Igor Matovič, voiced an iteration of this type of argument on four different occasions during the debate: "*The LGBT community […] presents as an undisputable truth that two men or two women can raise their child equally well as a normal or heterosexual couple. I have been talking here about it, I may not mention it repeatedly, but really, let us not believe them this lie. It is not the truth*" (NRSR 2012c Oct 30, 11:01 - 11:28). He later clarified his views on parenthood as follows: "*No one in Slovakia, who does not have the capability to create a healthy environment for the development of a child, can pretend to be a candidate to enter the union of marriage. […] Therefore, dear homo-, bi-, trans- and xy-sexuals, do not try to pretend to be something you will never be*" (NRSR 2012c Oct 30, 16:56 - 16:58).

OĽaNO Richard Vašečka argued similarly: "*The aim of marriage […] and of family is the lifelong complementary union of a man and a woman, and bearing and upbringing of children. Same-sex partners do not fulfill anything from that*" (NRSR 2012c Oct 30, 18:08 - 18:10).

OĽaNO Branislav Škripek expressed a concern that homosexuality might 'infect' children if same-sex couples would be given legal recognition and social acceptance: "*What is spreading in the [social] environment, if we will give it some concrete space [that will be] ever growing, then many people, children, will let themselves be pushed in this way*" (NRSR 2012c Oct 30, 17:01 - 17:14). This statement was followed by an example, when Škripek's acquaintances called him three days before the debate and told him that in their school two fourteen years old boys were found performing anal intercourse in the bathroom. "*And the result was such that they said that we wanted to try it, because now it is being talked about a lot. […] Friends, therefore this is the influence of us propagating this method of experimenting with sexuality*" (NRSR 2012c Oct 30, 17:01 - 17:14).

OĽaNO Štefan Kuffa also voiced his concerns for the well-being of the children: "*We have been talking about this topic, and I really cannot imagine that such child or any child would be raised in a homosexual family. I say this, will repeat myself: Where are the rights of the children?*" (NRSR 2012c Oct 30, 15:48 - 16:29).

OĽaNO Helena Mezenská expressed her views on the topic by defending heteronormativity as follows: "*Only a man and a woman can give birth to children and this is also a guide to returning to the naturalness of cultivating a noble and gracious emotion between a man and a woman. […] Where the womanhood is in decline, is also the man in decline, is the country and together with it the whole society in decline*" (NRSR 2012c Oct 30, 16:50 - 16:54).

Pavol Hrušovský from KDH asked: "*Why does the family as a union between a man and a woman have extraordinary protection of a constitutional law? It is definitely not because it is a relationship between a man and a woman, but because it fulfills an irreplaceable role in society. And that is procreation and upbringing of children*" (NRSR 2012c Oct 29, 15:56 - 16:08).

KDH Jozef Mikloško expressed his worries for the proper developement of a child as well: "*Adoptions, it is not being talked about now, but it will be at some point, according to the Family Law they should be for the good of the child, life with two fathers or two mothers is certainly something that marks the child for whole life*" (NRSR 2012c Oct 30, 11:41 - 11:55). He also suggested that the homosexuality is something that should disqualify a person from becoming a teacher: "*I cannot imagine them as teachers […] I would disapprove of them being there, of them teaching perhaps my children or grandsons, if they would propagate this*

lifestyle of theirs, displaying it to the children and youth" (NRSR 2012c Oct 30, 11:41 - 11:55).

KDH Július Brocka saw a threat in the promotion of LGBT rights as follows: "*If 100 percent of the population would behave according to the proposal, then we will not survive one generation. [...] It fills me with satisfaction that I consider the family as the future of civilization*" (NRSR 2012c Oct 30, 09:53 - 09:55).

Both relevant factual comments from Smer-SD MPs argued from the biological and anthropological order. Eva Hufková said: "*In the case of marriage, the original purpose is considered to be founding of a family. Without a new generation, which is born and raised in families, the continuation of society is impossible. Nothing is better for the children as a father and a mother permanently. The government of the Slovak Republic affirmed this protection of the family and marriage by its programme declaration*" (NRSR 2012c Oct 30, 09:57 - 09:58).

Smer-SD Viliam Jasaň pointed out that according to the proposal, a registered partner would retain the parental rights after the death of the other partner, even if the surviving partner is not the biological parent of the underage child. "*And I do not like it, I do not like it. And I also do not like the second point of the same paragraph, where two men or two women would take care of a child, when one of them is the biological (parent), that I do not like as well. I am sorry, but one of those reasons why I will not support this proposal is this*" (NRSR 2012c Oct 30, 16:54 - 16:56).

6.4.3 Arguments from the social order

Within this category fall such arguments, which invoke the danger to society as a whole if legal recognition would be given to same-sex couples. This involves arguments warning of destabilization or even destruction of the social order, as well as the 'slippery-slope' arguments, which claim that redefinition of the heteronormative principle of marriage would lead to the criminalization of people who disapprove of homosexuality or to the legalization

of bizarre marriage compositions, such as between people and animals. 5 MPs from OĽaNO and 2 MPs from KDH argued against the proposal along those lines.

The leader of OĽaNO, Igor Matovič, explicitely made use of the slippery-slope argument by accusing the sponsors of the proposal of utilizing 'salami tactics'. He claimed that they want to do the same thing as in those countries, where at first the registered partnership was enacted and subsequently the adoptions of children by homosexuals were legalized as well: "*Nicely, gradually, you want to cut one salami slice at a time and gradually cook the society as that frog, which you put in a pot with cold water and turn on the heat, and eventually the frog is cooked without noticing that someone cooked it*" (NRSR 2012c Oct 30, 11:01 - 11:28). He then proceeded to voice his concerns that "*after this, it will continue with further decadence and we will say that a relationship between any numbers of people of any gender is actually normal. Why only two, why not three, four, five, ten, and why not various mix of men and women? And I am worried that in the very end, relationship of whoever not anymore with whomever, but with whatever, will be normal*" (NRSR 2012c Oct 30, 11:01 - 11:28). Matovič concluded that "*therefore I consider your proposal as a first step on the road towards total destruction of the family, a first step on the road towards devaluation of the concept of family, towards devaluation of the concept of marriage*" (NRSR 2012c Oct 30, 11:01 - 11:28).

OĽaNO Richard Vašečka argued that he could not support the proposal, because he feared further increase in demands for LGBT rights which he considered unacceptable "*it is for us, unfortunately, not realistic to remain only with some legal solution for some entitlements of these people as a solution their paired cohabitation, [...] the experience from the Western Europe and other parts of the world says that by default, within some two years from the legalization of registered partnerships, adoptions of children will come on agenda, which is what many of us reject*" (NRSR 2012c Oct 30, 14:30 - 14:32).

OĽaNO Branislav Škripek implied the danger of potential criminalization of homophobic remarks by saying: "*This group, and only this small obstreperous part of the homosexual lobby, which is making itself awfully visible in the public, [...] is evoking something, with which it tries to criminalize the society*" (NRSR 2012c Oct 29, 16:21 - 17:01).

OĽaNO Štefan Kuffa warned against the dying out of society by saying: "*Because if we would enact registered partnerships and really that biological and reproductive side of a*

family, if it would be absent, then the society would simply become extinct" (NRSR 2012c Oct 29, 16:10 - 16:12). He also voiced his concerns by warning against the potential 'legal protection of homosexuality', which resembles the fear of the 'religion of civility' mentioned in the Chapter 1: "*The concept of discrimination is being always more broadened, and so the prohibition of discrimination can gradually grow into limitations on the freedom of opinion and religious freedom. Very soon it will not be possible to say, as the Catholic Church teaches, that the homosexual orientation is an objective disorder in the structure of human existence*" (NRSR 2012c Oct 30, 15:48 - 16:29). Later in the same speech, Kuffa escalated the urgency of his arguments by saying: "*It is a cultural war. We are heading through these proposals not only towards the demographic destruction, but also towards the economic one. [...] It is an aggressive war through the culture of death*" (NRSR 2012c Oct 30, 15:48 - 16:29).

OĽaNO Igor Hraško used the slippery-slope argumentation in a more threatening way: "*Today they are homosexuals, gays, lesbians, transvestites and so on. In the future they can be pedophiles, necrophiles, zoophiles and other similar groups with certain deviations that are absolutely unacceptable in the society today, but maybe in ten years they will not be*" (NRSR 2012c Oct 30, 17:44 - 17:46).

Pavol Hrušovský from KDH argued that the proposal undermines the concept of family and marriage as follows: "*There is no doubt that the existing legal standing of family as a union of a man and a woman is being fundamentally revised by this law, and it becomes only one of the forms of familial cohabitation. Such principal interference with the legal standing of the traditional family cannot be acceptable for us*" (NRSR 2012c Oct 29, 15:56 - 16:08).

KDH Marián Kvasnička was slightly more dramatic in his statement: "*I increasingly believe that what we are experiencing is a real war – war cultural, spiritual, of values, moral*" (NRSR 2012c Oct 30, 9:04 - 9:53). Kvasnička later concluded his warnings against the fall of the Western civiliation if it continues promoting rights of homosexuals, as follows: "*The Anglo-American civilization truly is, I feel it as a seismic shaking, it is before its crash, it is on the border of decadence and these are the accompanying phenomena*" (NRSR 2012c Oct 30, 17:39 - 17:41).

6.4.4 Arguments from the legal order

This category of arguments includes such statements, which express contention with the legal status quo, reasoning that it provides non-heterosexuals with all the necessary rights and legal options for managing all the necessary aspects of their lives. In this category can be also listed arguments that refer to the unwillingness of same-sex couples to support the demands for legal recognition of their relationship, and also the arguments that such laws would destabilize the legal order. Only a few MPs made explicit statements pertaining to this category, 2 from OĽaNO, 2 from KDH and 1 from Most-Híd.

Igor Matovič from OĽaNO dismissed the claims that there is a necessity for additional legal attention to the needs of homosexuals as follows: "*Because today also these people, you also know very well that it is enough to write an authorization letter, visit a notary, and I can already without problems get informed about the health condition of my whoever. No matter if it is a partner, non-partner, or simply a doggie I keep at home. Therefore, essentially, all these problems [...] can be solved in the legal state or legal order of today usually with a power of attorney*" (NRSR 2012c Oct 30, 11:01 - 11:28).

OĽaNO Igor Hraško stated in his third and final factual comment: "*The anti-discrimination law has been in force since the year 2004 also with its amendments [...] so why somehow ask for more? As far as I know, this whole problem has been revolving around two things regarding the legal status in Slovakia, the possibility to take a look at the health documentation and one more problem. But our legal system allows them to do these things. Therefore the legal status is such that these issues are solved*" (NRSR 2012c Oct 30, 18:12 - 18:14).

Pavol Hrušovský identified the proposal as "*an insane legislative attempt at hacking the whole legal order*", accusing the sponsors of the proposal of "*attempting to change the face of his country, to adjust it to some kind of your liberal worldview*" (NRSR 2012c Oct 29, 15:56 - 16:08).

KDH Jozef Mikloško recalled his recent meeting with "*a veteran human rights defender Ján Čarnogurský* [former chairman of KDH]. *He asked me what was new in the parliament and when I told him that this law is awaiting us, he said 'What do homosexuals want? After all,*

they have all they need''' (NRSR 2012c Oct 29, 11:41 - 11:55). Mikloško proceeded to specify that "*I believe that the legal relationships of homosexuals is possible to treat with a notary contract. A patient can remove doctor's confidentiality in informing about the health state of the other partner*" (NRSR 2012c Oct 29, 11:41 - 11:55).

In his only factual comment, Béla Bugár said that he is acquainted to a homosexual couple of twenty years, "*but they are such people who do not need to ostentatiously express that to everyone. And they say at the same time that they do not need such law. If they, for example, need for the other to be able to inherit, so of course they go to a notary public and write a testament, if they need the other to act in his name, so they go to a notary public and of course write a power of attorney*" (NRSR 2012c Oct 30, 10:40 - 10:42).

7 Conclusion

The aim of this thesis was to thoroughly map the character and intellectual basis of the arguments used for and against the legal recognition of same-sex unions, and to analyze the use of these arguments in the Slovak political discourse during the 2012 parliamentary debate on the proposal for registered partnerships law. The first part of the research question was "*What is the character and the intellectual basis of the main arguments for and against legal recognition of same-sex unions?*" The answer to this question was elaborated in chapters 3-5 and the main findings are as follows.

The point of departure was a complex discussion of heteronormativity as the persisting notion that the only natural and legitimate form of sexual expression is heterosexuality. Chapter 3 illustrated how heteronormativity affects various elements of lives of non-heterosexual people. It showed that within a heteronormative social system, the members of the LGBT community are severely discriminated against in terms of media portrayal, political representation, and in terms of access to citizenship rights, making them effectively second-class citizens. Chapter 3 concluded with an analysis of the two main citizenship discourses – liberalism and civic republicanism – with the attention being focused on how these discourses can be used to support or oppose LGBT rights. The outcome is that while the liberal perspective readily supports the removal of discrimination against the LGBT minority, the civic republican perspective can be utilized in arguing both for and against LGBT rights, the crucial difference being in the set-up of the criteria for inclusion in the collective identity. If the main social values to be focused on are love, family ties and tolerance, the civic republican discourse offers a strong basis for argumentation for LGBT rights. Conversely, if the values that define the in-group of the social imagery are deeply entrenched in heteronormative perceptions of nationalism or religiosity, civic republican perspective can be invoked to oppose the spread of LGBT rights norm.

In Chapter 4, the human rights perspective was analyzed, showing considerable support for arguments for LGBT rights. In the theoretical sphere the justification for the demands for legal recognition of same-sex unions ties strongly to the human rights standards of non-discrimination. The international human rights documents support the LGBT rights as well, a

position which was specifically articulated in the Yogyakarta principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity from 2007.

Chapter 5 examined the various religious perspectives as a main organized source of opposition against the development of LGBT rights. It notes that the attitudes towards homosexuality and same-sex unions vary among different Christian denominations – this suggests that the opposition against LGBT rights is not necessarily linked to religiosity itself, but rather to the particular denominations and their influences on society in a given country. As the main opponent of LGBT rights in the Central and Eastern Europe, the position of the Catholic Church was at the center of analysis. By analyzing the official opinions of the Church's Congregation for the Doctrine of the Faith, specifically those expressed in the document *Considerations regarding proposals to give legal recognition to unions between homosexual persons*, four main arguments against same-sex unions were identified.

The argument 'from the order of right reason' embraces the heteronormative assumption that homosexual behaviour is unnatural and against God's will, and therefore the discrimination against LGBT people is justified. The argument 'from the biological and anthropological order' brings into focus the inability of same-sex couples to procreate naturally and therefore there is no justification for giving legal benefits to cohabiting partners of the same sex. It also warns against the potential danger to minors who, if exposed to the normalcy of homosexual behaviour, would be somehow damaged in their development. The third main argument presented by the Catholic Church is 'from the social order', warning against the harmful effect on the whole society if legal recognition would be attributed to the same-sex unions. The major fear is that if opposite-sex marriage would lose its heteronormative exclusivity as the sole state-sanctioned form of cohabitation, it would somehow lose its value in society, potentially leading to collapse. The fourth argument is 'from the legal order', which dismisses the need for legal recognition of same-sex unions, because they are already well equipped by law to protect their interests in matters of everyday necessity.

The argumentation framework developed in the theoretical chapters of this thesis was then utilized in Chapter 6 in order to answer the second part of the research question "*How were these arguments used in the Slovak political discourse during the parliamentary discussion on the proposal for registered partnership law?*" The framework was juxtaposed with the actual arguments used in the political discourse in Slovakia during the 2012 parliamentary debate on

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the proposal for registered partnership law. The two main analytical sources of the content analysis were the explanatory report of the proposed law and the transcript of parliamentary debate which took place on 29th and 30th October 2012. By analyzing the normative statements present in the explanatory report and in the debate it was possible to conclude that the arguments used in the discourse fit well into the theoretical framework developed in this thesis. The supporters of the proposal argued from the perspective of human rights, non-discrimination, and access to citizenship rights, utilizing both the liberal and civic republican approach to citizenship. The opponents of the proposal utilized heavily the civic republican perspective with strong elements of religiosity, nationalism and heteronormative interpretation of what they perceived as important values in the Slovak society. The arguments used by the opponents of the proposal closely corresponded in form and content to the arguments presented by the Catholic Church in its official positions towards homosexuality and legal recognition of same-sex unions, as discussed in Chapter 5.

In conclusion, it is clear that the path towards achievement of full citizenship rights of people with other than heterosexual orientation is a difficult one, even in context of a developed modern democracy, such as the Slovak Republic. Since the majority of uninvolved people lack a personal empathic understanding of the experiences of the LGBT people due to the lack of cultural visibility of sexual minorities, the heterosexual majority often fails to be sufficiently mobilized in support of LGBT rights. In a cultural environment riddled with heteronormativity, attempts at promoting LGBT marital rights are met with a fierce resistance by supporters of nationalist and religious ideologies. The perceived threat to national or religious values represented by the spread of LGBT rights norms seems to be used by the conservative elites to fuel a certain form of *heteronormative populism*, amassing a powerful political resistance against the promotion of LGBT rights as well as against other reforms challenging the cultural hegemony of heteronormativity.

For further research on this topic I would suggest conducting similar studies of political discourse regarding LGBT rights in other countries with the potential for finding more detailed patterns of attitudes and the use of arguments used in the discourses. The case of Slovakia could also be studied in greater detail, focusing on the interplay of actors of civil society, such as human rights organizations and conservative NGOs, and their influence on shaping public opinion, which then can feed into the potential for political action or inaction.

Bibliography

Abowitz, Kathleen K. and Harnish, Jason (2006). "Contemporary Discourses of Citizenship", *Review of Educational Research* 76(4):653-690

Allport, Gordon W. and Michael J. Ross (1967). "Personal religious orientation and prejudice", *Journal of Personality and Social Psychology* 5(4):432–443

Altemeyer, Bob and Bruce Hunsberger (1992). "Authoritarianism, religious fundamentalism, and prejudice", *The International Journal for the Psychology of Religion*, 2(2):113–133

Amnesty International (2014). *Sexual Orientation and Gender Identity* [online], accessible at: [http://www.amnesty.org/en/sexual-orientation-and-gender-identity]

Anderson, Benedict (1991). *Imagined Communities: reflections on the origin and spread of nationalism.* London: Verso

Anderssen, Norman, Amlie, Christine and Ytterøy, Erling A. (2002). "Outcomes for children with lesbian or gay parents. A review of studies from 1978 to 2000", *Scandinavian Journal of Psychology* 43(4):335-351

Ayoub, Phillip M. (2014). "With Arms Wide Shut: Threat Perception, Norm Reception, and Mobilized Resistance to LGBT Rights", *Journal of Human Rights,* 13:337-362

Bagemihl, Bruce (1999). *Biological exuberance: animal homosexuality and natural diversity.* New York: St. Martin's Press.

BBC (2009). "Quakers 'to allow gay marriages'", *BBC News Channel* 30.7.2009 [online], accessible at: [http://news.bbc.co.uk/1/hi/uk/8177536.stm]

Bergoglio, Jorge M. (2010). *Same-sex Marriage: The Letter from Cardinal Jorge Mario Bergoglio, S.J. to the Carmelite Nuns of Buenos Aires* 22.6.2010 [online], accessible at: [http://www.catholichawaii.org/media/224245/bergoglio_to_carmelite_sisters.pdf]

Birke, Lynda (2002). "Unusual Fingers: Scientific Studis of Sexual Orientation" in Diane Richardson and Steven Seidman (eds.) *Handbook of Lesbian and Gay Studies*, London: Sage

Burčík, Matúš (2014). "Chránia manželstvo, menia justíciu. Pozrite si, kto hlasoval za zmenu Ústavy, *SME daily* 4.6.2014 [online], accessible at: [http://www.sme.sk/c/7226301/chrania-manzelstvo-menia-justiciu-pozrite-si-kto-hlasoval-za-zmenu-ustavy.html]

Cameron, David (2011). Conference speech to the Conservative party [online], accessible at: [http://www.theguardian.com/politics/2011/oct/05/david-cameron-conservative-party-speech]

Carpenter, Michael (1997). "Slovakia and the Triumph of Nationalist Populism", *Communist and Post-Communist Studies* 30(2): 205-220

Church of England (2012). *A Response to the Government Equalities Office Consultation – "Equal Civil Marriage"- from the Church of England*, [online], accessible at: [http://www.churchofengland.org/media/1475149/s-s%20marriage.pdf]

Cranston, Maurice (1967). "Human Rights, Real and Supposed", in Raphael, D. D. (ed.): *Political Theory and the Rights of Man*. London: Macmillan

Conger, John Janeway (1975). "Proceedings of the American Psychological Association, Incorporated, for the year 1974: Minutes of the Annual meeting of the Council of Representatives", *American Psychologist* 30(6):620-651

Council of Europe: Commissioner for Human Rights (2009). *Human Rights and Gender Identity*, 29 July 2009, CommDH/IssuePaper(2009)2, accessible at: [http://www.refworld.org/docid/4a7bff742.html]

Council of Europe (2011). *Discrimination on grounds of sexual orientation and gender identity in Europe*, Strasbourg: Council of Europe Publishing [online], accessible at: [http://www.coe.int/t/Commissioner/Source/LGBT/LGBTStudy2011_en.pdf]

Cuddihy, John M. (1978). *No offense: civil religion and Protestant taste*. New York: Seabury

Dershowitz, Alan (2004). *Rights from Wrongs: A Secular Theory of the Origins of Rights.* New York: Basic Books

Donadio, Rachel (2013). "On Gay Priests, Pope Francis Asks, 'Who Am I to Judge?'", *The New York Times* 29.7.2013, [online], accessible at: [http://www.nytimes.com/2013/07/30/world/europe/pope-francis-gay-priests.html?_r=0],

Donnelly, Jack (2013). *Universal Human Rights in Theory and Practice*. New York: Cornell University Press

European Union (2012). *Charter of Fundamental Rights of the European Union*, 26 October 2012, 2012/C 326/02, accessible at: [http://www.refworld.org/docid/3ae6b3b70.html]

Fairclough, Isabela and Norman Fairclough (2012). *Political Discourse Analysis: A method for advanced students*. London and New York: Routledge

Fernández, Juan J. and Lutter, Mark (2013). "Supranational cultural norms, domestic value orientations and the diffusion of same-sex union rights in Europe, 1988-2009", *International Sociology* 28(1):102-120

Galston, William Arthur (1991). *Liberal purposes: goods, virtues, and diversity in the liberal state*. Cambridge: Cambridge University Press

Gates, Henry L. (1993). "The black man's burden", in Michael Warner (ed.) *Fear of a Queer Planet: Queer Politics and Social Theory*. Minneapolis: University of Minnesota Press

Gerring, John (2007). *Case Study Research: Principles and Practices*. Cambridge: Cambridge University Press.

Green, Richard (1978). "Sexual Identity of 37 Children Raised by Homosexual or Transsexual Parents" *American Journal of Psychiatry* 135(6):692-697

Griffin, James (2008). *On Human Rights*. Oxford: Oxford University Press

Grocholewski, Zenon (2005). *Instruction Concerning the Criteria for the Discernment of Vocations with regard to Persons with Homosexual Tendencies in view of their Admission to the Seminary and to Holy Orders*, Congregation for Catholic Education document [online], accessible at:
[http://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_20051104_istruzione_en.html]

Golombok, Susan and Tasker, Fiona (1996). "Do parents influence the sexual orientation of their children? Findings from a longitudinal study of lesbian families" *Developmental Psychology* 32(1):3-11

Gyárfášová, Oľga (2011). "Slovenské parlamentné voľby 2010: nacionálna agenda na ústupe?", *Central European Political Studies Review* 13(1) [online journal entry], accessible at: [http://www.cepsr.com/clanek.php?ID=432]

Gyárfášová, Oľga (2013). *Odkiaľ prichádzame, kto sme, kde sa nachádzame.*[online], accessible at: [http://tvorime-slovensko.sk/wp-content/uploads/Olga_Gyarfasova_Odkial_prichadzame.pdf]

Hammarberg, Thomas (2008). "COMMENT: Governments must take all measures necessary to protect LGBT citizens" *PinkNews* 15.5.2008 [online], accessible at: [http://www.pinknews.co.uk/2008/05/15/comment-governments-must-take-all-measures-necessary-to-protect-lgbt-citizens/]

Hatfield, Elaine and Rapson, Richard L. (2005). "Social Justice and the Clash of Cultures", *Psychological Inquiry* 16(4):172-175

Heater, Derek B. (2004). *A history of education for citizenship*, London: Routledge Falmer

Holsti, Ole R. (1969). *Content Analysis for the Social Sciences and Humanities,* Reading, MA: Addison-Wesley

Horvat, Srecko (2013). "Croatia's vote forbidding gay marriage: a sign of the rotten heart of Europe", *The Guardian* 4.12.2013 [online], accessible at [http://www.theguardian.com/commentisfree/2013/dec/04/croatia-gay-marriage-vote-europe-rotten-heart]

ILGA-Europe (2013). *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe*, [online], accessible at: [https://dl.dropboxusercontent.com/u/15245131/2013.pdf]

Ingraham, Chrys (2002). "Heterosexuality: It's Just Not Natural!" in Diane Richardson and Steven Seidman (eds.) *Handbook of Lesbian and Gay Studies*, London: Sage, 2002. ISBN: 0-7619-6511-4

International Commission of Jurists (ICJ) (2007). *Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity*, [online], accessible at [http://www.yogyakartaprinciples.org/principles_en.pdf]

Jackson, Stevi (1999). "Heterosexuality, Heteronormativity and Gender Hierarchy: Some Reflections on Recent Debates" in Janet Holland, Jeffrey Weeks and Matthew Waites (eds.) *Sexualities and Society: A Reader*, 2003, Cambridge: Polity

John Paul II. (1979). *Scripturarium Thesaurus,* Apostolic Constitution [online], accessible at: [http://www.vatican.va/holy_father/john_paul_ii/apost_constitutions/documents/hf_jp-ii_apc_19790425_scripturarum-thesaurus_en.html]

John Paul II. (1995). *Evangelium Vitae,* Encyclical Letter [online], accessible at: [http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae_en.html#-2I]

Kern, Miroslav (2010). "Dúhový pochod stopli extrémisti", *SME daily,* [online], accessible at: [http://www.sme.sk/c/5387434/duhovy-pochod-stopli-extremisti.html]

Krivý, Vladimír (2011). "Voliči v parlamentných voľbách 2010 – analýza volebných výsledkov", in Zora Bútorová et al. (eds.) *Slovenské voľby '10*: *Šanca na zmenu*, Bratislava, Inštitút pre verejné otázky

Kuhar, Roman (2003). *Media Representations of Homosexuality: An Analysis of the Print Media in Slovenia, 1970-2000*. Ljubljana: Mirovni Inštitut

Kymlicka, Will (1999). "Education for citizenship", in J. Mark Halstead and Terence H. McLaughlin (eds.), *Education in morality,* New York: Routledge

Marshall, Thomas H. (1950). *Citizenship and Social Class and Other Essays.* Cambridge: Cambridge University Press

McClintok, Anne (1995). *Imperial Leather: Race, Gender and Seuxality in the Colonal Contest.* London: Routledge

McLaughlin, T. H. (1992). "Citizenship, diversity and education: A philosophical perspective", *Journal of Moral Education*, 21(3): 235-250

Moon, Dawne (2002). "Religious Views on Homosexuality" in Diane Richardson and Steven Seidman (eds.) *Handbook of Lesbian and Gay Studies*, London: Sage

Murray, Stephen O. (2002). "The Comparative Sociology of Homosexualities" in Diane Richardson and Steven Seidman (eds.) *Handbook of Lesbian and Gay Studies*, London: Sage

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Nelson, James B. (1979). *Embodiment: An Approach to Sexuality and Christian Theology.* London: S.P.C.K

Nickel, James W. (2007). *Making Sense of Human Rights*. Malden: Blackwell Publishing

NRSR (Národná rada Slovenskej republiky) (2012a). *Dôvodová správa* [online], accessible at: [https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=4155]

NRSR (Národná rada Slovenskej republiky) (2012b). *Voting record on the registered partnerships law.*[online], accessible at: [http://www.nrsr.sk/web/Default.aspx?sid=schodze/hlasovanie/hlasklub&ID=31058]

NRSR (Národná rada Slovenskej republiky) (2012c). *Prepis rozpravy z rokovania 8. schôdze Národnej Rady Slovenskej Republiky* 19.10.2012 – 20.10.2012

Oldfield, Adrian (1998). "Citizenship and Community: Civic Republicanism and the Modern World" in Gershon Shafir (ed.) *The Citizenship Debates: A Reader*, 1998 Minneapolis: University of Minnesota Press

Otttoson, Daniel (2006). *LGBT world legal wrap up survey* [online], accessible at: [https://www.stonewall.org.uk/documents/world_legal_wrap_up_survey__november2006_1.pdf]

Pakulski, Jan (1997). "Cultural Citizenship", *Citizenship studies*, 1(1):73-86

Palmer, Anya (1995). "Lesbian and gay rights campaigning: a report from the coalface", in Angelia R. Wilson (ed.) *A Simple Matter of Justice? Theorizing Lesbian and Gay Politics.* London: Cassell

Patterson, Charlotte J. (1992). "Children of Lesbian and Gay Parents", *Child Development* 63(5):1025-1042

Patterson, Charlotte J. (2000). "Family Relationships of Lesbian and Gay Men", *Journal of Marriage and Family* 62(4):1052-1069

Phelan, Shane (1995). "The space of justice: lesbians and democratic politics", in Angelia R. Wilson (ed.) *A Simple Matter of Justice? Theorizing Lesbian and Gay Politics.* London: Cassell

Phelan, Shane (2010). *Sexual Strangers: Gays, Lesbians, and Dilemmas of Citizenship.* Philadelphia: Temple University Press

Pravda.ru (2005). "Russian Orthodox Church condemns Lutheran gay weddings", *Pravda.ru,* 30.12.2005 [online], accessible at [http://english.pravda.ru/society/family/30-12-2005/9460-gay-0/]

Putnam, Robert D (2000). "Bowling alone : the collapse and revival of American community", New York : Simon & Schuster

Ratzinger, Joseph A. (1986). *Letter to the Bishops of the Catholic Church on the Pastoral Care of Homosexual Persons* [online], Congregation for the Doctrine of the Faith document, accessible at:
[http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_198 61001_homosexual-persons_en.html]

Ratzinger, Joseph A. (1992). *Some Considerations Concerning the Response to Legislative Proposals on the Non-Discrimination of Homosexual Persons* [online], Congregation for the Doctrine of the Faith document, accessible at:
[http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_199 20724_homosexual-persons_en.html#top]

Ratzinger, Joseph A. (2003). *Considerations regarding proposals to give legal recognition to unions between homosexual persons* [online], Congregation for the Doctrine of the Faith document, accessible at:
[http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_200 30731_homosexual-unions_en.html]

Rawls, John (1971). *A Theory of Justice*. Cambridge: Belknam Press of Harvard University

Reinhold, Susan (1994). "Through the parliamentary looking glass: "real" and "pretend" families in contemporary British politics", *Feminist Review* 48:61-79

Rich, Adrienne (1980). "Compulsory heterosexuality and lesbian existence", *Signs:Journal of Women in Culture and Society*, 5(4): 631-60

Richardson, Diane (2000). *Rethinking Sexuality*. London: Sage

Richardson, Diane (2001). "Extending citizenship: cultural citizenship and sexuality", in Nick Stevenson (ed.) *Culture and Citizenship*, 153-166. London: Sage

Rogers, Eugene F. (1998). "Santification, homosexuality, and God's triune life', in Saul M. Olyan and Martha C. Nussbaum (eds.) *Sexual Orientation and Human Rights in American Religious Discourse.* New York: Oxford University Press

Rosenbloom, Rachel (ed.) (1995). *Unspoken rules: sexual orientation and women's human rights.* San Francisco: International Gay and Lesbian Human Rights Commission

Schilt, Kristen and Westbrook, Laurel (2009). "Doing Gender, Doing Heteronormativity" *Gender and Society*, 23(4), August 2009 440-464

Shafir, Gershon (1998). "Introduction: The Evolving Tradition of Citizenship", in Gershon Shafir (ed.) *The Citizenship Debates: A Reader,* 1998, Minneapolis: University of Minnesota Press

Sharp, Joanne P. (1996). "Gendering nationhood: a feminist engagement with national identity", in Nancy Duncan (ed.), *Bodyspace: Destabilizing Geographies of Gender and Sexuality.* London: Routledge

Shotter, John (1993). "Psychology and citizenship: identity and belonging", in Bryan S. Turner (ed.) *Citizenship and Social Theory.* London: Sage

Shue, Henry (1996). *Basic Rights*. Princeton: Princeton University Press

Sibley, David (1995). *Geographies of exclusion: society and difference in the West.* London: Routledge

Slovak Information and Press Agency (2010). "Registrované partnerstvá Fica nezaujímajú" *SME daily* 8.3.2010, accessible at [http://www.sme.sk/c/5275443/registrovane-partnerstva-fica-nezaujimaju.html]

Soysal, Yasemin N. (1994). *Limits of Citizenship: Migrants and Postnational Citizenship in Europe*. Chicago: University of Chicago Press

Spáč, Peter (2013). "The 2012 parliamentary elections in Slovakia", *Electoral Studies* 33:343-356

Stacey, Judith and Biblarz, Timothy J. (2001). "(How) Does the Sexual Orientation of Parents Matter?" *American Sociological Review*, 66(2): 159-183

Stanley, Ben (2008). "The thin ideology of populism" *Journal of Political Ideologies* 13(1): 95-110

Statistical Office of the Slovak Republic (2011). *Obyvateľstvo SR podľa náboženského vyznania - sčítanie 2011, 2001, 1991*

Statistics Canada (2012a). *Census family*, [online], accessible at: [http://www12.statcan.gc.ca/census-recensement/2011/ref/dict/fam004-eng.cfm]

Statistics Canada (2012a). *Economic family*, [online], accessible at: [http://www12.statcan.gc.ca/census-recensement/2011/ref/dict/fam011-eng.cfm]

Swidler Arlene (ed.) (1993). *Homosexuality and World Religions.* Harrisburg, Pa: Trinity Press International

Talbott, William (2005). *Which Rights Should be Universal?* Oxford: Oxford University Press

Tillman, Kathryn Harker and Charles B. Nam (2008). "Family Structure Outcomes of Alternative Family Definitions", *Population Research and Policy Review* 27(3):367-384

Turner, Bryan S. (1993). *Citizenship and Social Theory*. London: Sage

UN General Assembly (1948). *Universal Declaration of Human Rights*, 217 A (III) (10 December 1948), accessible at: [http://www.refworld.org/docid/3ae6b3712c.html]

UN General Assembly (1966a). *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, accessible at: [http://www.refworld.org/docid/3ae6b3aa0.html]

UN General Assembly (1966b). *International Covenant on Economic, Social and Cultural Rights,* 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, accessible at: [http://www.refworld.org/docid/3ae6b36c0.html]

UN General Assembly (2009). *Protection of human rights and fundamental freedoms while countering terrorism*: *note / by the Secretary-General*, A/64/211 (3 August 2009), accessible at: [http://www.refworld.org/docid/4aae4eea0.html]

UN General Assembly (2010a). *Summary record of the 28th meeting Held at Headquarters, New York, on Monday, 26 October 2009, at 10 a.m*., A/C.3/64/SR.28 (2 February 2010)

UN General Assembly (2010b). *Report of the United Nations Special Rapporteur on the right to education: note / by the Secretary-General,* A/65/162 (23 July 2010)

UN General Assembly (2010c). *Summary record of the 29th meeting Held at Headquarters, New York, on Monday, 25 October 2010, at 3 p.m.,* A/C.3/65/SR.29 (13 December 2010)

United Nations (1997). "Principles and recommendations for population and housing censuses" Statistical Papers, Series M, no. 67/Rev.1, accessible at: [http://unstats.un.org/unsd/publication/SeriesM/SeriesM_67rev1E.pdf]

United Nations (2008). "Principles and recommendations for population and housing censuses" Statistical Papers, Series M, no. 67/Rev.2, accessible at: [http://unstats.un.org/unsd/demographic/standmeth/principles/Series_M67Rev2en.pdf]

UNHCR - UN High Commissioner for Refugees (2008). *UNHCR Handbook for the Protection of Women and Girls*, [online], accessible at: [http://www.refworld.org/docid/47cfc2962.html]

UPI - United Press International (2009). "Church of Sweden to conduct gay marriages", 22.10.2009 [online], accessible at: [http://www.upi.com/Top_News/International/2009/10/22/Church-of-Sweden-to-conduct-gay-weddings/UPI-59671256256299/]

Vatican (2012). Congregation for the Doctrine of the Faith, [online], accessible at: [http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_pro_1407 1997_en.html]

Vatican Information Service (2013). "Presentation of Pontifical Yearbook 2013", *Holy See Press Office* 13.5.2013 [online], accessible at: [http://visnews-en.blogspot.no/2013/05/presentation-of-pontifical-yearbook-2013.html]

Waaldijk, Kees (2004). *More or less together: Levels of legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners*, Paris: Institut National d'Etudes Démographiques [online], accessible at:

[https://openaccess.leidenuniv.nl/bitstream/handle/1887/12585/More-or-less-together00-Complete%20report.pdf?sequence=2]

Walby, Sylvia (1997). *Gender Transformations.* London: Routledge

Ward, Benjamin (2013). *Divided we fall: Intolerance in Europe Puts Rights at Risk*, Human Rights Watch document [online], accessible at:
[http://www.hrw.org/sites/default/files/related_material/2013_EU_Intolerance%20in%20Europe.pdf]

Warner, Michael (1993). *Fear of a Queer Planet: Queer Politics and Social Theory.* Minneapolis: University of Minnesota Press

Wellman, Carl (1995). *Real Rights*. New York: Oxford University Press

Whitley, Bernard E. Jr. (2009). "Religiosity and Attitudes Toward Lesbians and Gay Men: A Meta-Analysis", *The International Journal for the Psychology of Religion* 19(1):21-38

Williams, David C. (1994). "European and U.S. Perspectives on Civic Republicanism," *Indiana Journal of Global Legal Studies* (2)1: 71-77

Wittig, Monique (1992). *The straight mind and other essays*. Boston: Beacon Press