

# 'We Do'? International perspectives on equality, legality and same-sex relationships

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*This paper provides an analysis of respondent's perceptions about the legal recognition of same-sex relationships (N=1538). An online survey was developed to assess views regarding same-sex marriage and civil partnership, using statements rated on a forced-choice Likert-type scale with space for qualitative comments and collection of demographic information. Strategic opportunistic sampling and snowball sampling were used to achieve a large sample, derived from 27 different countries. Most respondents identified as lesbian or gay (69.4 per cent) and were currently in a same-sex relationship (67.2 per cent). Analysis indicates that the legal recognition of same-sex relationships is perceived as an important equality issue for lesbians, gay men and bisexual (LGB) people, and more support is evident for marriage than for civil partnership (particularly from those residing in North America). Heterosexuals are more likely to support civil partnership than LGB people, and lesbians are as positive about legal relationship recognition as gay men. Liberal formal equality arguments are better understood and more accepted than substantive equality or radical arguments. Our findings highlight that whilst LGB people strongly support the legal recognition of same-sex relationships they are especially in favour of same-sex marriage, and believe that all individuals (regardless of sexuality) should have access to the same relationship choices/statuses.*

**Keywords:** civil partnership, equality, gay men, legal recognition, lesbians, marriage, relationships.

SINCE THE EARLY 1990S THE LEGAL recognition of same-sex relationships has emerged as a key site in the struggle for lesbian and gay legal equality (Wintemute, 2001). It has been claimed that same-sex marriage is the ultimate equal rights goal of many lesbian, gay, bisexual and transgender (LGBT) people (Eskridge, 2002, p.2). Calhoun (2000, p.106) argues that it is imperative that the legal recognition of same-sex relationships be placed at the centre of struggles for lesbian and gay equality, as the heterosexism inherent in the traditional family serves to displace lesbians and gay men from both the public and private spheres. The centring of the struggle for legal recognition of same-sex relationships has given rise to a wealth of academic and media debate. There are commentators who support same-sex marriage (e.g. Eskridge, 2002; Kitinger & Wilkinson, 2004a, 2004b; Sullivan, 1997), and those who do not (e.g. Clarke, 2003; Jeffreys, 2004).

There are also those who see same-sex marriage as an inevitability, whilst being opposed to the patriarchal nature of marriage (Auchmuty, 2004).

In this paper, we begin by outlining the frames of the debate surrounding the legal recognition of same-sex marriage, and the current literature about same-sex marriage, civil partnership and the emergence of the legal regulation of same-sex relationships as an 'equality issue'. Second, we report the empirical findings of – to our knowledge – the first survey assessing lesbians', gay men's', bisexuals' and heterosexuals' views towards the legal recognition of same-sex relationships. This research embraces the perceptions of a large number of individuals (N=1538) from a wide range of geographical locations (27 different countries), with Australia, Canada, the US and the UK being the most well represented. Finally, we discuss these data in relation to the possibilities and limitations for equality provided by the

different methods of legal recognition of same-sex relationships.

### **Legal recognition of same-sex relationships: The current situation**

The 'right to marry' has long been denied to those in same-sex relationships. During the early days of the international gay rights movement there were attempts to bring the issue of same-sex marriage into the courts, although these were unsuccessful.<sup>1</sup> The main basis for this has been the common law definition that 'marriage is a voluntary union for life of one man and one woman to the exclusion of all others'.<sup>2</sup> In 1989, Denmark was the first country to allow people in same-sex relationships to have formal legal recognition of their relationships. This was achieved not by allowing same-sex couples to marry, but by introducing a Registered Partnership scheme. This scheme allowed same-sex couples to access most of the rights and responsibilities of marriage, without actually extending the 'right to marry' to same-sex couples.

It was not until 2001 that the Netherlands became the first country in the world to allow same-sex marriage.<sup>3</sup> At the present time, same-sex couples can marry in a small number of countries/jurisdictions: the Netherlands, Belgium, Spain, Canada and the US state of Massachusetts. Some form of legal recognition of same-sex relationships has been introduced in a number of different countries around the world, including nine of the 25 current European Union (EU) member states, and at least 10 other countries worldwide (Women and Equality Unit, 2003, pp.15–16). In November 2004, the UK government passed the Civil Partnership Act 2004, which introduced civil partnership for same-sex couples

in the UK.<sup>4</sup> The provisions of the Act came into force on 5 December 2005, allowing the first civil partnerships to take place on 21 December 2005 (Smith, 2005; see Peel & Jowett, 2006, for an analysis of civil partnership media representations). Central to modes of legally recognising same-sex relationships are the notions of formal equality and substantive equality: with formal equality ('like for like') underpinning same-sex marriage and substantive equality ('different but equal') being embodied in civil partnership (see also Peel & Harding, 2004a, 2004b; Clarke, Burgoyne & Burns, in prep., 2006).

### **Legal recognition of same-sex relationships: Themes in academic debates**

We have discussed elsewhere the themes of 'romance', 'rights' and 'radicalism' which underpin scholarly discussion of same-sex marriage (see Peel & Harding, 2004a). Many of the arguments in favour of extending marriage to same-sex couples rely upon the dominant theoretical framework of liberal equality, and the 'right' to marry (Feldblum, 2001). By expounding the sameness of lesbian and gay relationships to heterosexual relationships, same-sex marriage advocates put forward their case for the extension of the legal rights, benefits and responsibilities of marriage to same-sex couples (e.g. Sullivan, 1989). Others base their pro marriage arguments firmly in the social sphere, concentrating on love and commitment, but they still argue that same-sex relationships are 'like' different sex relationships (e.g. Bourassa, 2004). Yet other pro same-sex marriage arguments rely on the status of the 'right to marry' as a 'human right' as the backbone of their arguments (e.g. Kitinger & Wilkinson 2004b). The

<sup>1</sup> See, for example, the US cases of *Baker v Nelson* 191 NW 2d185 (Minnesota Supreme Court, 1971), *Jones v Hallahan* 501 SW2d 588 (Kentucky Court of Appeals, 1973) and *Singer v Hara*, 522 P.2d 1187. An interesting discussion of early efforts to extend marriage rights to same-sex couples can be found in Sullivan (1997).

<sup>2</sup> *Hyde v Hyde and Woodmansee* [1866] LR 1 PD 130 at p.133.

<sup>3</sup> Act on the Opening Up of Marriage 2001.

<sup>4</sup> The Civil Partnership Act includes provision for Scotland and Northern Ireland as well as the originally proposed legislation for England and Wales.

most common pro same-sex marriage argument is founded directly on human rights principles: equality and the 'right to marry' (e.g. Eskridge, 2002; Kitzinger & Wilkinson, 2004b; Mayo & Gunderson, 2000; Wedgwood, 1999).

In the UK, the introduction of the Human Rights Act 1998 (HRA) has brought about a major change in the jurisprudence of domestic courts (McGoldrick, 2001). Internationally, the ascendancy of human rights norms has led to great improvements in the legal position of lesbians and gay men. The introduction of the Canadian Charter of Rights and Freedoms in 1982 eventually paved the way for the legal recognition of same-sex marriage in Canada (Bourassa & Varnell, 2002). Massachusetts recently became the first state in the US to recognise same-sex marriage, following a decision by the state Supreme Court in November 2003<sup>5</sup> based on equality guarantees in the state constitution. Although there is no federal provision across Australia for the legal recognition of same-sex relationships, Tasmania has (following the United Nations Human Rights Committee decision in 1994<sup>6</sup> that Tasmania's sodomy ban was a violation of the right to privacy) recently introduced the Relationships Act 2003, which created a form of civil partnership that was also available to those in non-sexual caring relationships. We have argued elsewhere that heavy reliance on international human rights norms in arguing for positive legal change for lesbians and gay men can, however, be somewhat problematic due to the disparities between the force and ubiquity of human rights rhetoric as compared to the substantive application of human rights law (Harding, 2005). Simply put, the law is not always as effective as the rhetoric presupposes.

Not all academic commentators are so supportive of either the liberal basis for same-sex marriage or its possible effects on

lesbians and gay men. The majority of (non-religious or 'morally' opposed) critical commentators derive from radical feminist politics (e.g. Clarke, 2003; Jeffreys, 2004; Robson, 1998). These critiques tend not to engage with the equality, human rights or 'love' arguments for the legal recognition of same-sex relationships, but rather focus on the problems associated with the legal regulation of relationships more generally. The main 'anti' same-sex marriage arguments are: that it is an assimilationist move (e.g. Ettlbrick, 1997 [1989]); that it is an inherently conservative reform and reflects a predominantly male desire to marry (Auchmuty, 2004); and that marriage is a patriarchal institution in need of abolition (Jeffreys, 2004).

When same-sex marriage is discussed in terms of being an assimilationist or normalising move, this looks to the possibility that same-sex marriage could lead to the further oppression of those who do not choose to marry, wish to remain single, or who organise their lives in different ways (e.g. in polyamorous relationships) by giving more recognition to those who do marry (Halley, 2001). Thus a new hierarchy within same-sex relationships would be enacted. This point is hard to refute – even commentators who argue strongly in favour of same-sex marriage admit that the existence of same-sex marriage *may* further marginalise those on the sidelines but counter this with arguments based on the lack of evidence for this outcome (Eskridge, 2002) or by expounding the transformative potential of same-sex marriage (Calhoun, 2000). There is also the view that as social disapproval of unmarried relationships has declined, that same-sex marriage would not necessarily provoke the kind of backlash against those who choose not to live in this way (Auchmuty, 2004).

The second major anti same-sex marriage argument coheres around a gendered divi-

<sup>5</sup> *Goodridge v Department of Public Health* 798 NE 2d 941 Mass., 2003. Note that same-sex marriage in Massachusetts does not include federal legal consequences of marriage, but is full marriage under that state's law.

<sup>6</sup> Australia – Communication No. (CCPR/C/50/D/488/1992) [1994] UNHRC 9 (4 April 1994).

sion in writing about the legal recognition of same-sex relationships, and an assumption that this reflects a more general schism between women's and men's attitudes towards marriage (Auchmuty, 2004). Although women have written in favour of same-sex marriage (Calhoun, 2000; Cox, 1997; Hunter, 1995; Lewin, 1998; Sherman, 1992) most of these accounts emphasise either the personal benefits of committed relationships (Lewin, 1998; Sherman, 1992) or the transformative potential of marriage (Cox, 1997; Hunter 1995). Of the same-sex marriage advocates, those who argue that marriage *per se* is a desirable goal tend to be men (Eskridge, 2002; Mohr, 1997; Rauch, 2004; Strasser, 1997; Sullivan 1997). This gendered division in the literature has led to the assumption that it is only men who are really in favour of same-sex marriage (Auchmuty, 2004), however, the empirical evidence we provide in this paper (see, in particular, Table 6) suggests that this gendered-divide is an artefact of academic debate rather than a reflection of how women and men view their same-sex relationships.

In sum, whilst there are positions on all sides of the academic debate surrounding same-sex marriage, those who argue in favour seem to currently be in the ascendancy. Academic debate surrounding same-sex marriage abounds yet, to date, there has only been a limited amount of empirical research on this topic (e.g. Solomon, Rothblum & Balsam, 2004, 2005). The data presented in this paper goes some way to address this lack of empirical investigation. The aims of the present study were: to assess LGB people's views about the legal recognition of same-sex relationships; to test wider opinion on the broad themes present in the academic literature on same-sex marriage; and to explore whether views about same-sex

marriage differed in relation to demographic criteria such as gender, age, sexual orientation and geographical location.

## Method

### *Online survey development*

An online questionnaire was developed to assess respondents' views about the legal recognition of same-sex relationships. We have reproduced the questionnaire in Appendix 1. RH developed the survey using dynamic<sup>7</sup> web authoring packages Dreamweaver MX and ColdFusion 5<sup>8</sup> and responses were automatically entered into a Microsoft Access database, securely stored on a web server. No attempt was made to collect or record identifying information (including IP addresses) through the website or web application. The instrument was designed to comprehensively address the topic but be sufficiently brief so as not to discourage completion online. There were 12 substantive statements which captured a range of (pro and anti) opinions about legal aspects of same-sex partnership recognition. The statements were developed to represent broad themes within the academic literature on same-sex relationship recognition, as discussed above. Respondents were asked to indicate their view on a forced-choice Likert-type rating scale from strongly agree (1) to strongly disagree (6). After each statement there was unlimited space for respondents' to explain/justify their choice. The survey also included demographic options about gender, sexuality, age, location, and occupation.<sup>9</sup> The demographic aspects of the questionnaire were designed to be as inclusive as possible (through, for example, allowing respondents to specify their own self-identified sexuality) whilst not being intrusive. Respondents were also asked a number of questions about their relationship status.<sup>10</sup>

<sup>7</sup> Dynamic website design means that a database on a server is used to store the website content.

<sup>8</sup> Macromedia software – see [www.macromedia.com](http://www.macromedia.com)

<sup>9</sup> Information about 'race'/ethnicity and (dis)ability status was not collected.

<sup>10</sup> See Appendix 1 for the exact wording of all the questions, and the options available to respondents for the demographic and relationship questions.

### **Recruitment and sampling**

In order to recruit participants and to encourage wide distribution of the survey's web address an e-mail was composed inviting individuals to participate in the study. Respondents were able to e-mail Rosie Harding for further information about the study. Once respondents accessed the survey website there was a statement emphasising confidentiality and anonymity, and definitions of different forms of relationship recognition (see Appendix 1). After respondents submitted their completed survey a web page thanking them for their participation was displayed.

Two methods of sampling were used: strategic opportunistic sampling; and snowball sampling. Strategic opportunistic sampling consisted of sending the recruitment email to 24 lesbian and gay organisations or listservs with a clear or potential interest in the research topic (e.g. the Canadian same-sex Marriage listserv and the Lesbian and Gay Psychology Section listserv respectively). The majority of these organisations/listservs were based in the UK, for instance *Diva* magazine, Stonewall, Outrage! Snowball sampling began with 20 e-mails to colleagues. No reminders were sent to organisations/listservs after posting the initial recruitment e-mail. The questionnaire was available online for six weeks (from April – June 2004). The response rate to the survey was very rapid for the first week with 100 submitted surveys on average per day; the rate of submissions slowed considerably over the last two weeks of data collection. Further details of the process of conducting this research can be found in Harding and Peel (in prep.).

### **Results**

#### ***Demographic and relationship data***

The survey was completed by 1538 respondents, most of whom identified as female (60.16 per cent, 939), 36.7 per cent (558) identified as male and 1.7 per cent (26) identified as trans. The majority of respondents reported their sexuality to be lesbian

(38 per cent, 575) or gay (31.4 per cent, 475), the remainder identified as bisexual (11.7 per cent, 177), heterosexual (15.3 per cent, 231) or other (3.8 per cent, 56). The age range of the sample was wide, from under 18 years of age (2.1 per cent, 32) to over 65 (1.2 per cent, 18). Most were aged between 25 and 44 years old (57.4 per cent, 876). The most prevalent occupational categories were professional (55.9 per cent, 848) and student (22.1 per cent, 335), which together accounted for 78 per cent (1183) of the sample. Respondents' country of residence was very diverse, 27 different countries in total. There were responses from 11 different European countries (21.2 per cent, 317), two North American countries (47.9 per cent, 716), Australasia (29.3 per cent, 437), and 12 other countries (Thailand, Qatar, Uruguay, Puerto Rico, South Africa, Israel, Japan, Singapore, Hong Kong, Brazil, Malaysia, Vietnam, 1.6 per cent, 24). Respondents from Scotland, Wales, Northern Ireland and England were represented within the UK category. Table 1 (below) indicates country of residence for countries from which there was more than one respondent.

**Table 1: Country of residence (N=1494).**

Country	Number	Per cent
Australia	428	28.6
Canada	422	28.2
USA	294	19.7
UK	220	14.7
Finland	80	5.4
Singapore	9	0.6
New Zealand	9	0.6
Estonia	5	0.3
Thailand	3	0.2
South Africa	3	0.2
The Netherlands	3	0.2
Ireland	2	0.1
Spain	2	0.1

As Table 2 (below) indicates, the majority of respondents were in a same-sex relationship (67.2 per cent, 1014).

Interestingly, 8.3 per cent (19) of the respondents who described their sexuality as heterosexual also reported that they were currently in a same-sex relationship. This anomaly could either represent self-defined heterosexual people who are in a same-sex relationship or inaccurate data stemming from a mis-reading of the question. Lesbian respondents were most likely to be in a same-sex relationship (89.5 per cent, 513), followed by gay men (77.4 per cent, 367). The sample had a wide range of relationship lengths from less than one year to more than 15 years, although the majority (56.1 per cent, 593) had been in their current relationship for between one and seven years. Most respondents (84 per cent, 1062) selected 'monogamous' as the category which best described their relationship. Lesbian respondents were the most likely to describe their relationship as monogamous (93.3 per cent, 476) whilst bisexual respondents were most likely to describe their relationship as 'open' (26.4 per cent, 38). Over

two-thirds of respondents (68.6 per cent, 932) lived with their current partner, with those who described their sexuality as lesbian (73.8 per cent) or gay (67.5 per cent) more likely to live with their partner than those defining as heterosexual, bisexual or other.

As can be seen from Table 3 (below), only a minority of respondents had already had a commitment ceremony. Heterosexual respondents (unsurprisingly) were most likely (43.8 per cent, 91) and gay men least likely (15.8 per cent, 65) to have had a ceremony. Respondents who had experienced a commitment ceremony were asked to describe their ceremony. Of the 318 qualitative descriptions provided 212 (66.7 per cent) referred to their commitment ceremony as a 'wedding' or 'marriage'.

Table 4 (alongside) shows that heterosexual respondents were most likely to have their relationship legally recognised (53.5 per cent, 107).

A larger proportion of gay men were in relationships that are legally recognised (23.3 per cent, 94) than had experienced any form of commitment ceremony (15.8

**Table 2: Same-sex relationship (N=1509).**

In same-sex relationship	Sexuality: % (N)					
	Lesbian	Gay	Bisexual	Heterosexual	Other	All Sexualities
Yes	89.5 (513)	77.4 (367)	46.0 (81)	8.3 (19)	60.7 (34)	67.2 (1014)
No	10.5 (60)	22.6 (107)	54.0 (95)	91.7 (211)	39.3 (22)	32.8 (495)

**Table 3: Commitment ceremonies (N=1351).**

Had ceremony	Sexuality: % (N)					
	Lesbian	Gay	Bisexual	Heterosexual	Other	All Sexualities
Yes	22.7 (121)	15.8 (65)	25.3 (38)	43.8 (91)	28.6 (14)	24.4 (329)
No	77.3 (412)	84.2 (346)	74.7 (112)	56.2 (117)	71.4 (35)	75.6 (1022)

per cent, 65). This seeming anomaly is explained by Canadian law. In Canada there is a 'common law' married status which recognises all cohabiting relationships (same or different-sex) where the parties have been cohabiting for over one year. Table 5 (below) shows the legal status of the relationships of those respondents who *had* experienced a commitment ceremony. We can see that lesbians were most likely to have had a commitment ceremony which is not legally recognised (57.3 per cent, 65)

As can be seen from Table 6 (below) of all respondents, just over two-thirds indicated that they would marry their partner if they could/can (67.9 per cent, 876). Nearly

three-quarters of lesbians would marry (73.6 per cent, 382) as opposed to under two-thirds of gay men (63.3 per cent, 257). This suggests that, contrary to previous assumptions about same-sex marriage, lesbians are more likely to want to marry their partner than any other sexuality.

***Views about the legal recognition of same-sex relationships***

Section 2 (Q8–Q19) was concerned with attitudes towards the legal recognition of relationships. These survey questions were analysed through independent samples *t*-tests on the variables: geographic location (North America/Rest of World); sexuality

**Table 4: Legally recognised relationship (N=1336).**

Legally recognised	Sexuality: % (N)					
	Lesbian	Gay	Bisexual	Heterosexual	Other	All Sexualities
Yes	19.2 (102)	23.3 (94)	22.0 (33)	52.5 (107)	26.1 (12)	26.0 (348)
No	80.8 (430)	76.7 (310)	78.0 (117)	47.5 (97)	73.8 (34)	74.0 (988)

**Table 5: Legal status of relationships after ceremony (N=326).**

Legally recognised	Sexuality: % (N)					
	Lesbian	Gay	Bisexual	Heterosexual	Other	All Sexualities
Yes	46.3 (56)	65.1 (41)	73.7 (28)	95.6 (87)	69.2 (9)	67.8 (221)
No	57.3 (65)	34.9 (22)	26.3 (10)	4.4 (4)	30.8 (4)	32.2 (105)

**Table 6: Would you marry? (N=1290).**

Marry?	Sexuality: % (N)					
	Lesbian	Gay	Bisexual	Heterosexual	Other	All Sexualities
Yes	73.6 (382)	63.3 (257)	60.5 (89)	68.2 (118)	66.7 (30)	67.9 (876)
No	26.4 (137)	36.7 (149)	39.5 (58)	31.8 (55)	33.3 (15)	32.1 (414)

(LGBO/Heterosexual); age (under 35/over 35 years);<sup>11</sup> gender (female/male) and relationship status (in a same-sex relationship/not in a same-sex relationship).

There were two themes within Section 2 Questions 10, 12, 14, 15, 18 and 19 were broadly concerned with the ability of same-sex couples to marry and the nature of the state’s relationship with ‘the family’. Questions 8, 9, 11, 13, 16 and 17 asked about the legal recognition of same-sex relationships as an equality issue, and what ‘equality’ is understood to mean. We examine the results of Section two in four parts: First, we provide the answers to questions 12 and 15, which examine the relative status of marriage and civil partnership. Second, we report questions 10,14, 18 and 19 which are concerned with the involvement of the state in relationships and the types of relationships which should have legal rights and responsibilities attached to them. Third, we turn to the legal recognition of same-sex relationships as an equality issue in questions 16 and 17. Finally, we examine the responses to questions 8, 9, 11, and 13 which examine perceptions of equality.

*(1) Marriage and civil partnership*

Questions 12 and 15 asked about marriage and civil partnership. Question 12 stated ‘lesbian and gay couples should be able to marry just like heterosexual couples’ and question 15 that ‘civil unions are inferior to marriage’. As can be seen from Table 7

(below), the vast majority (94.5 per cent, 1430) agreed that same-sex couples should be able to marry ‘just like’ different sex couples.

In contrast, responses to question 15 did not show any real degree of consensus (see Table 7 below). Although in cumulative percentage terms more respondents agreed than disagreed that civil unions are inferior to marriage (59.3 per cent, 872), responses were split across all possible response categories. Thus the notion that ‘civil unions are inferior to marriage’ was explored in more depth, with results indicating that the mean score ( $M=2.71$ ,  $SD=1.67$ ) for respondents based in North America was significantly lower ( $t(df1434)=11.21$ ,  $p<0.001$ ) than for respondents from the rest of the world ( $M=3.67$ ,  $SD=1.58$ ). Therefore, respondents from the US and Canada were significantly more likely to agree that civil unions are inferior to marriage. Moreover, the mean score for heterosexual respondents ( $M=3.68$ ,  $SD=1.47$ ) was significantly higher ( $t(df321.2)=-4.88$ ,  $p<0.001$ ) than for non-heterosexual respondents ( $M=3.12$ ,  $SD=1.72$ ), indicating that heterosexuals were less likely to agree that civil unions are inferior to marriage. Women disagreed more ( $M=3.29$ ,  $SD=1.65$ ) than men ( $M=3.09$ ,  $SD=1.58$ ) that civil unions are inferior to marriage, but heterosexual women more so than non-heterosexual women ( $t(df277.71)=-3.95$ ,  $p<0.001$ ).

**Table 7: Responses to Questions 12 and 15.**

Question	Response: % (N)					
	Strongly Agree	Agree	Agree a little	Disagree a little	Disagree	Strongly Disagree
Q12 (N=1514)	74.6 (1130)	14.1 (213)	5.7 (87)	2.0 (30)	1.7 (25)	1.9 (29)
Q15 (N=1470)	20.5 (301)	21.1 (310)	17.8 (261)	10.8 (159)	18.1 (266)	11.8 (173)

<sup>11</sup> Thirty-five years of age was chosen to divide the sample because it was the median age of respondents.

The comments explaining responses to 'civil unions are inferior to marriage' ( $N=686$ ) offered a range of explanations for both why civil partnership is seen as inferior and why civil partnership could be better than marriage. Two-hundred-and-twenty (32 per cent) comments focused on the problem of civil partnership's lack of international recognition, difficulties associated with variability in the rights and responsibilities granted through civil partnership (e.g. Vermont, US civil union extends to only state not federal law), or the fact that the rights offered by civil partnership are often less than those attached to marriage (e.g. in Finland adoption rights and access to infertility services are excluded). Even those commenting that civil unions were not inferior to marriage (40.5 per cent, 85) were concerned that civil unions would only be as 'good' or 'desirable' as marriage if the legal rights and responsibilities were the same.

Other common explanations for views that civil partnership is inferior to marriage focused on: the different social status and significance afforded to civil partnership (21.6 per cent, 148); that the creation of a 'new' form of relationship recognition for same-sex relationships is discriminatory, creates a 'second class' institution, or 'separate but equal' laws are inherently unequal (14.9 per cent, 102); and the perspective that *everyone* should have the choice whether to marry or enter into a civil partnership (12 per cent, 81). Religion was another important theme within the qualitative responses concerning civil partnership. Some respondents ( $N=53$ ) reported that the lack of religious linkage with civil partnership was salient: some suggested that it was 'unfair' that civil partnership should prevent same-sex couples from having their relationships formalised within a religious setting. Others welcomed the secular nature of civil partnership as an alternative to marriage for non-religious people. A small number ( $N=18$ ) of respondents suggested that all state recognition or regulation of relationships should be called civil partnership or civil union, and

that marriage should become an exclusively religious phenomena.

## (2) Relationships and the State

Questions 10, 14, 18 and 19 aimed to capture respondents attitudes toward who 'deserves' legal rights and responsibilities, and garner views about the nature of marriage as an institution. These questions stated 'couples should only get legal rights and responsibilities if they live together' (Q10), 'the name 'marriage' is unimportant to me' (Q14), 'the name marriage is important for heterosexuals to accept lesbian and gay relationships' (Q18) and 'no relationship should have legal rights and responsibilities attached to it' (Q19). Just over half of the respondents (55.4 per cent, 669) disagreed that couples should only get legal rights and responsibilities if they live together (Q10). About half the sample agreed (50.3 per cent, 759) that the name 'marriage' was unimportant to them (Q14), but about half (49.7 per cent, 650) disagreed to some extent. Respondents living in North America were far more likely to disagree ( $t(df1437)=-7.5$ ,  $p<0.001$ ) that the name 'marriage' was unimportant to them ( $M=3.9$ ,  $SD=1.84$ ) than respondents living elsewhere in the world ( $M=3.2$ ,  $SD=1.72$ ). Heterosexuals ( $M=3.84$ ,  $SD=1.67$ ) were more likely to disagree with the statement that the name 'marriage' was unimportant to them than non-heterosexuals ( $M=3.48$ ,  $SD=1.84$ ) ( $t(df328.3)=-2.93$ ,  $p=0.004$ ). But there were no significant differences based on either age or gender.

Sixty-eight per cent ( $N=993$ ) agreed that the name 'marriage' was important for heterosexuals to accept same-sex relationships (Q18), with respondents from North America ( $M=2.51$ ,  $SD=1.53$ ) significantly more likely to agree ( $t(df1413)=8.02$ ,  $p<0.001$ ) than those based elsewhere in the world ( $M=3.17$ ,  $SD=1.55$ ). Heterosexuals ( $M=3.18$ ,  $SD=1.67$ ) were significantly less likely to agree than non-heterosexuals ( $M=2.82$ ,  $SD=1.56$ ) ( $t(df1445)=-3.1$ ,  $p=0.002$ ). The vast majority of respondents (88.1 per cent, 1319) disagreed that no rela-

**Table 8: Responses to Questions 10, 14, 18 and 19.**

Question	Response: % (N)					
	Strongly Agree	Agree	Agree a little	Disagree a little	Disagree	Strongly Disagree
Q10 (N=1500)	10.9 (163)	18.8 (282)	14.9 (224)	12.5 (187)	23.3 (350)	19.6 (294)
Q14 (N=1509)	18.3 (276)	18.8 (283)	13.3 (200)	10.4 (157)	19.7 (297)	19.6 (296)
Q18 (N=1461)	24.0 (351)	25.1 (366)	18.9 (276)	10.7 (156)	14.6 (214)	6.7 (98)
Q19 (N=1497)	3.5 (52)	2.6 (39)	5.8 (87)	9.6 (143)	33.9 (508)	44.6 (668)

tionship should have any legal rights and responsibilities attached to it (Q19). This was one of the very few questions where geographical location did not seem to have any bearing on responses to the question. However, women ( $M=4.98$ ,  $SD=1.28$ ) were more likely to agree that no relationship should be legally recognised than men ( $M=5.12$ ,  $SD=1.65$ ) ( $t(df1461)=-2.06$ ,  $p=0.039$ ), and heterosexuals ( $M=4.81$ ,  $SD=1.33$ ) were more likely to agree than non-heterosexuals ( $M=5.06$ ,  $SD=1.23$ , ( $t(df1480)=2.76$ ,  $p=0.006$ ). Those over the age of 35 ( $M=5.13$ ,  $SD=1.19$ ) were more likely to strongly disagree with the statement than those under 35 ( $M=4.91$ ,  $SD=1.29$ , ( $t(df1490.9)=-3.48$ ,  $p<0.001$ ), suggesting that older respondents were more likely to see the need for laws to regulate interpersonal relationships (for example, if the relationship breaks down).

(3) *Relationship recognition as an equality issue*  
 ‘Gaining legal recognition of our relationships is the most important equality issue for lesbians and gay men’ (Q16) and ‘legal recognition of lesbian and gay relationships is less important than being accepted in society’ (Q17) specifically examined the status of the legal recognition of same-sex relationships as an equality issue. As Table 9 (below) shows, the majority of respondents (68 per cent, 1001) agreed that gaining legal recognition of relationships is the most important equality issue for lesbians and gay men. Respondents in North America ( $M=2.70$ ,  $SD=1.58$ ,  $t(df1416)=-3.60$ ,  $p<0.001$ ), those over the age of 35 ( $M=2.65$ ,  $t(df1449)=4.87$ ,  $p<0.001$ ), those who defined their sexuality as lesbian, gay, bisexual or other ( $M=2.80$ ,  $t(df1457)=-3.28$ ,  $p=0.001$ ), and those who were in same-sex relationships ( $M=2.67$ ,  $t(df1469)=6.67$ ,  $p<0.001$ ) were all significantly more likely to agree

**Table 9: Responses to Questions 16 and 17.**

Question	Response: % (N)					
	Strongly Agree	Agree	Agree a little	Disagree a little	Disagree	Strongly Disagree
Q16 (N=1474)	23.9 (352)	25.0 (368)	19.1 (281)	12.2 (180)	13.8 (203)	6.1 (90)
Q17 (N=1459)	8.2 (120)	14.8 (216)	19.9 (290)	19.3 (282)	22.6 (330)	15.1 (221)

that gaining legal recognition of relationships was the most important equality issue for lesbians and gay men.

Overall, the majority (57.1 per cent, 833) reported that legal recognition of lesbian and gay relationships was more important than the acceptance of same-sex relationships in society (Q17). But those who were in a same-sex relationship ( $M=3.94$ ,  $SD=1.51$ ,  $t(df1454)=-5.61$ ;  $p<0.001$ ), were lesbian, gay, bisexual or other ( $M=3.84$ ,  $SD=1.52$ ,  $t(df1443)=2.63$ ,  $p=0.009$ ), lived in North America ( $M=3.97$ ,  $SD=1.55$ ,  $t(df1424)=4.46$ ,  $p<0.001$ ) and those aged over 35 ( $M=4.01$ ,  $SD=1.54$ ;  $t(df1454)=-5.43$ ;  $p<0.001$ ) were significantly more likely to prioritise legal recognition of relationships over societal acceptance.

*(4) Perceptions of equality*

Four questions were designed to probe attitudes about, and perceptions of, equality (see Table 10 below): 'lesbian and gay couples should be treated the same as heterosexual couples in law' (Q8), 'legal rights and responsibilities are more important to me than what the legal recognition of same-sex relationships is called' (Q9), 'lesbians and gay men will only get equality if we are able to marry' (Q11) and 'equality and marriage are unconnected'.

As Table 10 (below) shows that the majority (98 per cent, 1499) agreed that lesbian and gay couples should be treated

the same as heterosexual couples in law. The high level of agreement with this statement suggests that respondents' were clearly embracing liberal/formal equality arguments regarding same-sex relationships. Over 1000 respondents ( $N=1004$ ) provided an explanation for their choice, the majority of which (75 per cent, 761) foregrounded notions of 'equality', 'equal rights' or stressed that lesbians and gay men are the 'same' as heterosexuals and, therefore, should be treated as such. Specific comments included: 'all people should be treated the same in law' (R897), 'anything less is not equality' (R279) and 'all people deserve equal rights' (R304). This supports the theory that the hegemonic nature of liberal/formal equality arguments extends to public consciousness regarding the legal recognition of same-sex relationships (see also Harding, in prep., 2006). Nearly all of those who responded 'strongly disagree' and who provided an explanation for their choice (11 out of 13 responses) reported their opposition to equal treatment for lesbians and gay men in anti-LGBT terms: for example 'because the Bible says that it is a sin to be homosexual' (R1284) and 'should not be allowed to marry or have rights at all' (R1122).

The statement 'legal rights and responsibilities are more important to me than what the legal recognition of same-sex relationships is called' (Q9) was also broadly

**Table 10: Responses to Questions 8, 9, 11 and 13.**

Question	Response: % (N)					
	Strongly Agree	Agree	Agree a little	Disagree a little	Disagree	Strongly Disagree
Q8 (N=1530)	89.5 (1370)	6.9 (106)	1.5 (23)	0.7 (10)	0.3 (5)	1.0 (16)
Q9 (N=1470)	30.3 (445)	28.2 (414)	16.7 (246)	6.9 (101)	9.6 (141)	8.4 (123)
Q11 (N=1513)	27.0 (408)	20.8 (315)	15.5 (235)	10.2 (154)	17.3 (262)	9.2 (139)
Q13 (N=1493)	9.8 (146)	12.5 (186)	11.4 (170)	11.7 (174)	25.6 (382)	29.1 (435)

supported, with three-quarters of respondents (75.2 per cent, 1105) agreeing with this statement. Consistent with the responses to other marriage related questions (e.g. Q14 above) respondents from North America ( $M=2.91$ ,  $SD=1.66$ ) were more likely to disagree ( $t(df/1301)=-7.00$ ,  $p<0.001$ ) with this statement than respondents from elsewhere in the world ( $M=2.33$ ,  $SD=1.35$ ). Nearly two-thirds (63.3 per cent, 958) of respondents agreed that 'lesbians and gay men will only get equality if we are able to marry' (Q11). Responses to this statement varied by sexuality and by geographical location. Again, respondents from North America ( $M=2.58$ ,  $SD=1.66$ ) were more likely to agree ( $t(df/1475)=8.65$ ,  $p<0.001$ ) with this statement than respondents from the elsewhere in the world ( $M=3.33$ ,  $SD=1.67$ ).

A large number of respondents disagreed with Q13 that 'equality and marriage are unconnected' (66.4 per cent, 991). Respondents from North America ( $M=4.45$ ,  $SD=1.70$ ) were more likely to report that equality and marriage are connected ( $t(df/1454)=-6.02$ ,  $p<0.001$ ) than respondents from elsewhere ( $M=3.92$ ,  $SD=1.66$ ). Additionally, respondents aged over 35 ( $M=4.06$ ,  $SD=1.83$ ) were more likely to agree that equality and marriage are unconnected ( $t(df/1429)=2.61$ ,  $p=0.009$ ) than those aged under 35 ( $M=4.29$ ,  $SD=1.56$ ). There were no significant differences based on gender or sexuality.

### Discussion and conclusion

Our findings suggest that the legal recognition of same-sex relationships is viewed as a highly important equality issue for the LGB people in this study (see Q8, Q9, Q11 and Q13). Moreover there appears to be more support for same-sex marriage than for same-sex civil partnership (Q12, Q15), particularly from those respondents resident in either Canada or the US. Yet overall respondents were uncertain of whether civil partnership was inferior to marriage, but reported that as long as the legal rights and responsibilities attached to civil partnership

were different from marriage the former would not represent equality. These data also show that liberal/formal equality arguments (i.e. Q8, Q12) are better understood by and received more support from these respondents than either substantive equality arguments or radical arguments (i.e. Q9, Q19). Finally, contrary to prior assumptions in the academic literature, very few gendered attitudinal differences toward the legal recognition of same-sex relationships were evident in this study.

As survey respondents were self-selecting – with responses generated through strategic opportunistic and snowball sampling – there can be no guarantee that the findings reported here are representative. It is widely accepted within LGB scholarship that achieving a representative sample of LGB people is not a realistic possibility (Herek & Berrill, 1992) due to limited knowledge about the extent of the LGB population, and the geographical distribution of LGB people. As this was an online study, all respondents must have had internet access, which could account for the over-representation of those defining their occupation as 'professional' or 'student.' The study did, however, attract a large number of responses which allows interpretations to be made on the basis of the more decisive findings.

In applying these findings to the contemporary British context it would seem that although the UK Civil Partnership Act (CPA) may offer legal parity in terms of the rights and responsibilities of civil partnership in relation to marriage, it will not offer equality in terms of societal recognition of same-sex relationships. Our results suggest that the social acceptance aspects of the legal recognition of relationships are, in many ways, more important than legal rights and responsibilities *per se*. But the introduction of civil partnership is unlikely to mute the calls for same-sex marriage. The experiences of countries which have introduced civil partnership elsewhere (e.g. the Netherlands, Waaldijk, 2001) demonstrate that although it is often welcomed, the mere existence of a

mechanism to ensure same-sex couples the legal rights of marriage is not sufficient to secure social equality. Until all forms of relationship recognition are available to both same and different gendered relationships perceptions of inequality will endure.

Equality is a difficult thing to achieve, however, and the way that the majority of respondents in these data viewed what makes something equal appears quite restrictive. Liberal, human rights based equality arguments are ascendant to the point where intergroup differences are seen as less important than the fundamental sameness of the human subject (see also Harding & Peel, in prep.). The hegemony of the liberal paradigm in relation to equality has removed the scope for radical alternatives that adequately recognise and value the different situations of different groups. Equality means, these data suggest, like being treated alike – therefore, as same-sex couples are like different sex couples, they should have the same choices regarding legal relationship recognition. Because civil partnership is not 'marriage' it is seen to be discriminatory and is positioned below marriage in a hierarchy of relationship forms. Indeed, the CPA has been dismissed by lesbians and gay men – for creating a second-class institution for same-sex couples (Coalition for Marriage Equality, 2004) – and by heterosexuals due to its exclusion of different sex relationships (e.g. BBC News, 2004; Peel & Jowett, 2006). However, the CPA does embody 'like for like' notions of formal equality and has copied the entirety of UK marriage law into the new status of civil partnership, amending all statutes referring to 'husband', 'wife', or 'spouse' to also include 'civil partner'. In the UK a marriage is voidable if, at the time of marrying, a wife-to-be is pregnant by a man other than her husband-to-be. Here is where the continued

importance of difference is thrown into relief because the CPA also reads that a civil partnership is voidable if 'at the time of its formation, the respondent was pregnant by some person other than the applicant.'<sup>12</sup> Unless women have suddenly developed the physiological capability to get each other pregnant<sup>13</sup> this manifestation of formal equality is potentially highly problematic.

Nevertheless, civil partnership is an important legal step in the recognition of same-sex relationships, and could be the first step towards a more inclusive and less hierarchical system of legal recognition for all relationships. It is essential that lesbians, gay men and others in same-sex relationships work towards ensuring that the assimilative and oppressive potential of civil partnership is sidelined, and the radical and inclusive potential is realised. The word 'partnership' evokes egalitarian imagery, and as such could allow those in same-sex relationships to set an example to all those who do not live by egalitarian principles.

In conclusion, same-sex marriage currently seems to offer same-sex couples a more tangible form of equality than civil partnership. The introduction of civil partnership is unlikely to quell calls for same-sex marriage, and if the experience of other countries is taken into account, it is likely to increase such calls. Civil partnership could, however, be the way forward in terms of the realisation of more radical reform of the law relating to interpersonal relationships. But for this aim to be fulfilled a major shift in social attitudes towards equality would be necessary, away from traditional, liberal, formal equality, towards more substantive forms of equality that take into consideration the differing situations of different people.

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<sup>12</sup> Civil Partnership Act 2004 s.50(1)(c)

<sup>13</sup> Although recent research suggests that making a baby using the gametes of two women or two men may not be outwith the realms of possibility (Meikle, 2005).

## Acknowledgements

Thanks to Victoria Clarke, Sonja J. Ellis and Michael Thomson for their helpful comments on an earlier draft. The research presented in this paper has benefited from previous presentation at the British Psychological Society Annual Conference 2005 (University of Manchester), the 28th Annual Scientific Meeting of the International Society of Political Psychology (Toronto, 2005) and the Socio Legal Studies Annual Conference 2005 (University of Liverpool).

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## Appendix 1: Online questionnaire

### Legal Recognition of Lesbian and Gay Relationships Questionnaire

I would be very grateful if you would spare the few minutes it will take to complete the survey. It should take no longer than 10 minutes to complete. I am interested in YOUR views, please answer questions as honestly as possible and feel free to write down your comments.

You are free to refuse to answer any question and you can withdraw at any point. Your responses are confidential and anonymous.

#### Section 1 – Your Relationship

1. Are you in a same-sex relationship? Yes:  No:
2. How long have you been with your current partner?  
1 Year ; 1-3 Years ; 4-7 Years ; 8-14 Years ; 15+ Years
3. Which category best describes your current relationship?  
Monogamous ; Casual ; Open
4. Do you live with your current partner? Yes:  No:
5. Have you had any form of commitment ceremony or blessing with your current partner?  
Yes:  No:   
If yes, please describe:.....
6. Is your current relationship legally recognised? Yes:  No:   
If yes, please describe your marriage or civil union:.....
7. If you can/could marry your partner, would you? Yes:  No:   
Why? Please explain your choice:.....

#### Section 2 – Your Views About Legal Recognition

For questions 8 to 19, please select the view which most closely represents your opinion.

8. Lesbian and gay couples should be treated the same as heterosexual couples in law.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....
9. Legal rights and responsibilities are more important to me than what the legal recognition of same-sex relationships is called.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....
10. Couples should only get legal rights and responsibilities if they live together.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....
11. Lesbians and gay men will only get equality if we are able to marry.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....

12. Lesbian and gay couples should be able to marry just like heterosexual couples.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....
13. Equality and marriage are unconnected.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....
14. The name 'marriage' is unimportant to me.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....
15. Civil Unions are inferior to marriage.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....
16. Gaining legal recognition of our relationships is the most important equality issue for lesbians and gay men.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....
17. Legal recognition of lesbian and gay relationships is less important than being accepted in society.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....
18. The name marriage is important for heterosexuals to accept lesbian and gay relationships.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....
19. No relationship should have legal rights and responsibilities attached to it.  
Strongly Agree  Agree  Agree a little  Disagree a little  Disagree   
Strongly Disagree   
Why? Please explain your choice:.....

### **Section 3 – About You**

Your Age: Under 18 ; 18-24 ; 25-34 ; 35-44 ; 45-54 ; 55-64 ; 65+

Which country do you live in?.....

Your Gender: Male ; Female ; Trans

Your Sexuality: Lesbian ; Gay ; Bisexual ; Heterosexual ; Other

Your Occupation:

Administration/Clerical ; Manual ; Professional ; Student ; Unemployed ;

Retired ; Other

**Definitions:**

**Marriage** is available to heterosexual couples only, except in The Netherlands, Belgium and the Canadian provinces of British Columbia, Ontario and Quebec.

**Civil Union** or **Civil Partnership** is the civil legal recognition of lesbian and gay relationships. They are not connected to religious institutions and usually have most or all of the benefits of marriage. They are widely available in Western countries (e.g. Denmark, Vermont, US). Civil Partnership is NOT currently available in Britain.\*

**Commitment Ceremonies, Holy Union** or **Blessing** is available to lesbian and gay couples. There are NO legal rights and responsibilities attached to them. They can be religious or non-religious.

**Registered Partnership** is available in some British cities (e.g. Brighton, London, Liverpool, Manchester). This is a civil form of partnership recognition. There are NO legal rights and responsibilities attached to it.

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\*These definitions were correct at the time the survey was conducted. Since this time, civil partnerships have become recognised in the UK.