

# Legal Recognition of Same-Sex Relationships in the United States: A Social Science Perspective<sup>1</sup>

Gregory M. Herek  
Department of Psychology  
University of California at Davis

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*ABSTRACT. Whether and how civil society should recognize committed relationships between same-sex partners has become a prominent, often divisive policy issue. The present article reviews relevant behavioral and social science research to assess the validity of key factual claims in this debate. The data indicate that same-sex and heterosexual relationships do not differ in their essential psychosocial dimensions; that a parent's sexual orientation is unrelated to her or his ability to provide a healthy and nurturing family environment; and that marriage bestows substantial psychological, social, and health benefits. It is concluded that same-sex couples and their children are likely to benefit in numerous ways from legal recognition of their families, and providing such recognition through marriage will bestow greater benefit than civil unions or domestic partnerships. Trends in public opinion toward greater support for legal recognition of same-sex couples are discussed.*

In the past decade, the question of whether and how civil society should recognize committed intimate relationships between two people of the same sex has become a prominent and often

divisive policy issue. Supporters of legal recognition have typically framed their arguments in terms of human rights and justice, whereas opponents have usually invoked religious teachings and tradition to support their position (Price, Nir, & Cappella, 2005). In addition to this clash between deeply felt values, the debate has raised factual questions about the nature of same-sex couples, their families, and the institution of marriage in general. Indeed, advocates on both sides have invoked the scientific research literature to support many of their legal and policy arguments.

Although empirical research cannot reconcile disputes about core values implicated by the marriage controversy, it can address factual questions. Indeed, in 2004 and 2005 the American Psychological Association submitted briefs *amicus curiae* which reviewed the scientific evidence pertinent to cases addressing the constitutionality of state laws denying marriage rights to same-sex couples in Nebraska, New Jersey, New York, Oregon, and Washington.<sup>1</sup> The present article, whose author participated in writing those briefs, summarizes and extends their discussion of research findings relevant to the three factual questions that have featured most

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<sup>1</sup> This article is based on the author's work on briefs *amicus curiae* that the American Psychological Association submitted in 2004 and 2005 in cases concerning the constitutionality of state laws denying marriage rights to same-sex couples in Oregon (*Li et al. vs. Oregon*), New Jersey (*Lewis v. Harris*), Washington (*Anderson et. al. v. Sims et. al.*), New York (*Shields et al. v. Madigan et al., 2005*), and Nebraska (*Citizens for Equal Protection v. Bruning, 2005*). The author expresses his intellectual debt and great appreciation to the many individuals who contributed to the preparation of those briefs, especially Clinton Anderson, William Hohengarten, Nathalie Gilfoyle, Mark Small, Anne Peplau, Suzanne Ouellette, Larry Kurdek, Charlotte Patterson, Susan Folkman, Judith Stacey, Karen Franklin, Ross Thompson, Dan Perlman, and Eric Glunt. Special thanks are expressed to Anne Peplau, Clinton Anderson, and Jack Dynis, and the anonymous reviewers who commented on earlier drafts of the manuscript. The author takes sole responsibility for the opinions expressed in this article. Correspondence should be addressed to Gregory M. Herek, Department of Psychology, University of California, Davis, CA 95616-8686.

prominently in legal and policy debates about marriage equality: (1) Do the intimate relationships of same-sex and different-sex couples differ in ways that are relevant to legal recognition of the former? (2) Does having gay, lesbian, or bisexual parents disadvantage a child relative to comparable children of heterosexual parents, such that denying same-sex couples the right to marry is ultimately beneficial for children? (3) Does legal recognition of intimate relationships through the institution of marriage bestow unique psychosocial benefits on those who participate in it and, therefore, disadvantage those who cannot marry?

The article begins with a brief discussion of the history of the marriage equality debate and its broader context in U.S. society. Next, the scientific literature pertinent to the factual questions noted above is summarized. Because extensive research has been conducted on each topic and a thorough review is beyond the scope of the present article, key literature reviews and meta-analyses are cited when they are available. Finally, the social and psychological impact of current laws against marriage between two people of the same sex is discussed, and the prospects for changes in public opinion about marriage equality are considered.

### **Background**

By early 2006, same-sex couples<sup>2</sup> enjoyed at least some degree of official recognition in most European countries and full marriage rights in the Netherlands, Belgium, Spain, and Canada, with legislation pending in South Africa and elsewhere. In the United States, they were legally allowed to marry only in Massachusetts. Six other states had enacted legislation granting varying degrees of limited legal protections and benefits under the rubrics of civil unions (Vermont, Connecticut), domestic partnerships (California, New Jersey, Maine), and reciprocal beneficiary relationships (Hawaii). In addition, some state and local governmental entities offered limited benefits for the same-sex partners of their employees (e.g., access to group health insurance plans), as did many private employers. Same-sex couples' parental rights had statutory protection through second parent adoptions (whereby a parent consents to a partner adopting her or his child

while retaining parental rights) in a handful of states, including California, Connecticut, Massachusetts, New Jersey, New York and Vermont, as well as the District of Columbia. Joint adoption rights had been granted by trial courts in other jurisdictions.<sup>3</sup>

Political opposition to government recognition of same-sex couples has been intense. When a Hawaii court decision (*Baehr v. Lewin*, 1993) raised the prospect that marriage rights might be granted to same-sex partners in the Aloha State, Congress passed the 1996 Defense of Marriage Act (DOMA). DOMA defines marriage as the union of one man and one woman, and exempts states from recognizing marriages performed in another state between two people of the same sex (Defense of Marriage Act, 1996). Most states subsequently passed their own versions of DOMA (Peterson, 2004). Even some states that now accord legal status to same-sex partners (i.e., Hawaii and Vermont) originally did so mainly to avoid granting full marriage rights to such couples as a consequence of court decisions.

Late in 2003, the Massachusetts Supreme Court ordered that state to begin recognizing same-sex unions within 6 months (*Goodridge v. Dept. of Public Health*, 2003). The following May, during the first two days when marriages between same-sex partners were legal, approximately 1,700 couples filed their intentions to marry (Shartin, 2004). In the interim, local government officials in several other jurisdictions around the country briefly issued marriage licenses to same-sex partners until they were stopped by state courts or officials. Licenses were issued to 4,037 couples in San Francisco in February and March of 2004 (Murphy, 2004), to 3,022 couples in Multnomah County (OR) in March and April ("Gay Weddings Halted, but Marriages Stand, 2004), and to 68 couples in Sandoval County (NM) in February (Akers, 2004). Smaller numbers sought marriage licenses in New York and New Jersey (Cullinane, 2004; Precious, 2004).

In response, religious conservatives intensified their state-level campaigns across the country to pass statutes and constitutional amendments banning same-sex marriage. They also called for a federal Constitutional amendment and received support from President George W. Bush, who

used the marriage issue to galvanize supporters in his 2004 presidential campaign (Lochhead, 2004). Eleven states approved bans on same-sex marriage in the 2004 November election, most with support from more than 60% of voters (Peterson, 2004). Since the 2004 elections, still more states have enacted prohibitions on legal recognition of same-sex relationships, and others are in the process of doing so as this article goes to press. (For more historical background, see Chauncey, 2004; Lewin, 1998; Nardi, 1997.)

Proponents of marriage equality have battled these measures in the courts and legislatures. As this article goes to press, cases contesting the constitutionality of laws against marriage and civil unions are being litigated in several states, including California, Maryland, Nebraska, New Jersey, New York, and Washington. In 2005, the California state legislature passed a statute granting marriage equality to same-sex couples, the first such U.S. law to be passed at the state level. However, the bill was vetoed by Governor Arnold Schwarzenegger.

The national debate about marriage equality must be understood in its broader historical context (Cherlin, 2004; Coontz, 2005). For most of Western history, marriage was an institution for securing wealth, property rights, and power. Only in the 19th century did it come to be defined as an institution based mainly on romantic love. In the mid-20th century, the dominant model of marriage in the United States centered around emotional intimacy (husbands and wives were lovers, friends, and companions to each other) and clear gender roles (with a male breadwinner father and a female homemaker mother). By the 1960s, however, cultural shifts threw this “Ozzie and Harriet” model into upheaval. Increasing labor force participation by women and the rise of a feminist movement led to challenges to longstanding gender roles, including those at the core of traditional marriage. Improved birth control technologies and a revolution in sexual mores facilitated the separation of sexual behavior from reproduction along with more widespread acceptance of nonmarital sex. With the rise of the human potential movement, self-fulfillment and the development of personal identity were accorded greater importance in making life decisions, including whether to marry or remain

married. In the face of these changes, many people increasingly came to understand and evaluate marriage according to individualistic criteria, with marital satisfaction defined more in terms of self-fulfillment and -expression than in the performance of culturally prescribed spousal roles (see generally Cherlin, 2004; Coontz, 2005).

Around the same time, gay and lesbian (and, later, bisexual) people began to publicly affirm their sexual orientation, forming visible communities and working to end discrimination based on sexuality (D’Emilio, 1983). As early as the 1970s, significant numbers began to recognize that their intimate relationships manifested the characteristics that had increasingly come to be viewed as central to marriage (Nardi, 1997). In the 1990s, they asserted that their unions met contemporary criteria for civil marriage and argued with growing insistence that the institution’s social and legal benefits should be extended to them (Chauncey, 2004; Lewin, 1998). Meanwhile, political and religious conservatives called for the restoration of marriage as an institution for defining the boundaries for acceptable sexuality, childrearing, and gender roles. Many of those same conservatives had consistently fought the gay community’s efforts to eliminate inequalities between heterosexuals and sexual minorities in other areas, such as employment and housing, and the marriage issue provided yet another arena for battle (Chauncey, 2004; Herman, 1997). While a majority of the public opposes many forms of discrimination based on sexual orientation (Yang, 1997), however, the fight against marriage equality has proved to be a winning issue for conservatives in most of the electoral and legislative arenas where it has been contested, as noted above.

Consistent with ballot outcomes, public opinion research shows that most U.S. adults currently oppose marriage rights for same-sex couples. Nevertheless, attitudes in this arena are increasingly nuanced, with support now widespread for other types of limited recognition. In 2004, on the same day when voters in 11 states overwhelmingly enacted bans on marriage, national exit polls revealed that 60% of voters supported some form of legal recognition for same-sex couples – either marriage or civil unions (Kohut, 2004). Similarly, a July 2005 Pew Center

national survey of U.S. adults found that 53% favored allowing gay and lesbian couples to enter into legal agreements with each other that would give them many of the same rights as married couples (Pew Research Center for the People and the Press, 2005).

This majority support contrasts sharply with public reactions to same-sex couples only a few decades earlier. In 1982, when the San Francisco Board of Supervisors passed the nation's first domestic partners statute, the measure was highly controversial and was vetoed by then-mayor Diane Feinstein with strong support from the city's major newspapers and its Catholic Archbishop (Rannells, 1982). A few years later, only 23% of respondents to a 1989 Gallup national survey believed homosexual couples should have "the same legal rights as if they were husband and wife when it comes to things like inheritance, the right to adopt a child and hospital visits."<sup>4</sup> As recently as 2000, 16 members of the Vermont House of Representatives who supported that state's civil unions law were turned out of office in the first statewide election after their vote (Moats, 2004).

Although civil unions and domestic partnerships are now favored by most of the public, opposition to marriage equality remains strong. In the 2005 Pew survey cited above, only 36% of respondents supported allowing gay men and lesbians to marry legally. Similarly, a Gallup survey conducted the following month found that only 37% of respondents felt "marriages between homosexuals should be recognized by the law as valid, with the same rights as traditional marriages" (Gallup Poll, 2005). Yet, even these figures represent an increase over recent decades in public support for marriage. In the 1988 General Social Survey, for example, only 12% of respondents agreed that "Homosexual couples should have the right to marry one another."

In summary, polling data show increasing public support for recognition of same-sex couples. Most U.S. adults now favor giving those couples many of the rights and privileges bestowed by marriage. Most of the public remains opposed to granting legal marriage to same-sex couples but that majority has shrunk in recent years. With the foregoing discussion as context, the next sections

of the article address the factual questions that have been central to the marriage equality debate.

### **Same-Sex Committed Relationships**

It was noted previously that as cultural definitions of marriage have evolved in the United States and other Western countries, relationship quality and its constituent components have become increasingly central to the meaning of that institution. In this section, empirical research comparing the psychological and social dimensions of same-sex and heterosexual intimate partnerships is considered. Before doing so, it is important to note two caveats on the interpretation and use of this research.

First, there is an important methodological constraint on empirical comparisons between same-sex and heterosexual couples. Among the latter, important differences have been observed between those who choose to marry and those who do not, with the former generally manifesting greater commitment, higher levels of relationship satisfaction, greater happiness, and better mental health (Brown, 2000; Gove, Style, & Hughes, 1990; Nock, 1995; Stack & Eshleman, 1998). In recognition of this pattern, research on different-sex couples routinely controls for self-selection into marriage by differentiating those who are married from, e.g., unmarried cohabiting couples. Because the vast majority of U.S. same-sex couples lack legal marriage as an option, a comparable distinction cannot be made when studying them. As a result, many research samples of same-sex couples have been more heterogeneous than samples of heterosexual couples in terms of relationship duration, degree of perceived commitment, and even cohabiting status. This greater heterogeneity might be expected to produce findings that overstate the extent of dissimilarities between same-sex and different-sex couples because observed differences might be attributed to sexual orientation when in fact they are due to other factors, such as marital status.

A second caveat concerns the nature of scientific research. The null hypothesis (in this case, that same-sex and heterosexual couples do not differ) cannot be proved. A more realistic standard is the one generally adopted in behavioral and social

research, namely, that repeated *failures to disprove* the null hypothesis are accepted provisionally as a basis for concluding that the groups, in fact, do not differ. Moreover, it is important to recognize that some heterogeneity of findings across studies is to be expected simply due to random variations in sampling. For example, even if same-sex and heterosexual couples in the general population truly do not differ in their psychological dynamics, it is to be expected that a small number of studies (roughly 5% if probability sampling methods are employed and conventional levels of statistical significance are used) will report significant differences. This fact highlights the importance of examining the entire body of research rather than drawing conclusions from one or a few studies.

In light of these caveats, the observed similarities between same-sex and different-sex couples are striking. Like heterosexuals, a large number of gay men and lesbians want to form stable, long-lasting, committed relationships (Kurdek, 1995; Peplau & Spalding, 2000) and many successfully do so. Data from convenience samples of gay men and lesbians reveal that the vast majority have been involved in at least one committed relationship, large proportions currently are in such a relationship (across studies, roughly 40-70% of gay men and 45-80% of lesbians), and a substantial number of those couples have been together for a decade or longer (Kurdek, 1995, 2004; Nardi, 1997; Peplau & Spalding, 2000). A comparable research literature based on probability samples does not yet exist but the available survey data (Cochran, Sullivan, & Mays, 2003; Kaiser Family Foundation, 2001; Mills et al., 2001) and the 2000 Census (Simmons & O'Connell, 2003) corroborate these findings and show that many same-sex couples are cohabiting.

In their psychological and social dynamics, committed relationships between same-sex partners closely resemble those of different-sex married couples. Like heterosexual couples, same-sex couples form deep emotional attachments and commitments. They face similar challenges concerning intimacy, love, equity, loyalty, and stability, and go through similar processes to address those challenges (Kurdek, 2001, 2005; Mackey, Diemer, & O'Brien, 2000; Peplau & Fingerhut, in press; Peplau & Spalding, 2000). In

research examining the quality of intimate relationships, same-sex couples have not been found to differ from heterosexual couples in their satisfaction with the relationship or the social psychological processes that predict relationship quality (Gottman et al., 2003a; Kurdek, 2001, 2004, 2005; Mackey et al., 2000; Peplau & Beals, 2004; Peplau & Fingerhut, in press). Research on the stability and duration of same-sex relationships is limited, but data from convenience samples show that long-lasting relationships are common (Blumstein & Schwartz, 1983; Kurdek, 2004). Moreover, the one published study in this area that examined factors leading to relationship dissolution found that a decline in relationship quality predicted dissolution of same-sex and heterosexual relationships alike (Kurdek, 2004).

Although same-sex and different-sex couples are psychologically similar in many respects, some differences between the groups have been observed across studies. First, cohabiting same-sex couples are less likely than heterosexual couples to divide household labor according to culturally defined gender roles. Instead, each partner often takes on both traditionally masculine and feminine tasks (Peplau & Beals, 2004). More broadly, same-sex couples appear to have a greater commitment to equality between the partners than is the case for heterosexual couples (Gottman et al., 2003a, 2003b; Kurdek, 2004), although the extent to which that commitment translates into behavior may be affected by factors such as the partners' employment situations and social class (Carrington, 1999; Peplau & Fingerhut, in press).

A second difference observed between heterosexual and same-sex couples concerns external social relationships and sources of support. Whereas heterosexual couples typically receive considerable social support from each partner's biological families, same-sex couples generally get less support from relatives and instead rely mainly on friends (Kurdek, 2004). In light of the extensive body of research documenting the hostility to a family member's homosexuality frequently displayed by parents and other relatives (e.g., D'Augelli, Hersherberger, & Pilkington, 1998; Herek, 1996), this difference is not surprising. For example, 34% of the respondents to a 2000 survey with a probability

sample of 405 lesbians, gay men, and bisexuals from 15 major U.S. metropolitan areas stated that at least one family member had refused to accept them because of their sexual orientation (Kaiser Family Foundation, 2001). Indeed, many gay, lesbian, and bisexual individuals feel compelled to conceal their sexual orientation from relatives (Herek, 1996; Savin-Williams, 1998), which precludes receipt of social support from those individuals for a same-sex committed relationship. This aspect of the experiences of same-sex couples is a consequence of sexual stigma and sexual prejudice, phenomena that are discussed later in this article.

A third difference among couples is associated with gender. It is reasonable to hypothesize that couples consisting of two women differ in at least some respects from male-male couples, and that male-female couples differ from same-sex couples by virtue of their gender composition. To the extent that gender-linked differences have been observed among committed couples, they appear mainly to revolve around sex. As Peplau (1991) noted, although a couple's sexual frequency declines over time in heterosexual and homosexual relationships alike, the frequency of sex with the primary partner (controlling for relationship duration) appears to be highest in male couples, lowest in female couples, and intermediate in heterosexual couples. Moreover, male couples appear more likely than heterosexual or female couples to openly discuss whether or not their relationship will be sexually exclusive, and to explicitly agree to allow sex outside the relationship under certain conditions (Peplau & Spalding, 2000). These gender-linked patterns were summarized by Peplau (1991), who observed that the data "support the view that men want sex more often than women do and men more highly value sexual novelty" (Peplau, 1991, p. 194; see also Blumstein & Schwartz, 1983, Peplau & Fingerhut, in press).

The relevance for public policy of these few documented differences between heterosexual and same-sex couples is arguably small. Indeed, the differences in division of labor and social support have not been widely mentioned by opponents of marriage equality. However, the greater prevalence of sexual nonexclusivity among male couples has been frequently cited as a reason for

denying legal recognition marriage to all same-sex couples (e.g., Knight, 1997; Women's Prayer and Action Group, 2004). This argument is flawed in important respects, two of which are noted here.

First, whereas the marriage contract is widely understood to include a commitment to sexual exclusivity, the relationship forms currently available to same-sex couples do not. Thus, extra-relationship sexuality has a different meaning for most unmarried same-sex couples compared to married heterosexual couples. Heterosexual couples who do not wish to commit to sexual exclusivity often choose to cohabit rather than marry (Blumstein & Schwartz, 1983), and cohabiting heterosexual couples are less likely to be sexually exclusive than their married counterparts (Forste & Tanfer, 1996; Laumann, Gagnon, Michael, & Michaels, 1994). A similar self-selection process would probably occur among same-sex couples if they were given the choice, with those opting to marry more likely to desire a sexually exclusive relationship than their counterparts who choose to cohabit or otherwise remain legally single. In support of this hypothesis, Solomon and her colleagues (2005) found that gay men who entered into civil unions in Vermont were more likely to have agreed with their partner *not* to have sexual partners outside the relationship than were gay men not in a civil union (Solomon, Rothblum, & Balsam, 2005). Thus, it is problematic to extrapolate from existing data to make predictions about how married same-sex couples might compare with their heterosexual counterparts in this regard.

Second, even if married men in a male-male couple should prove to be more likely than others to have sexually nonexclusive relationships, this would not justify denying marriage equality to the entire class of same-sex couples. National survey data show that approximately 21-25% of men who were ever (heterosexually) married report having extramarital sex, as do 10-15% of ever-married women (Laumann et al., 1994; Smith, 2003). This lack of sexual exclusivity in a significant number of heterosexual marriages is hardly considered a valid reason for denying marriage to all male-female couples. Moreover, among the heterosexually married, the same data show that the prevalence of extra-marital relations varies according to race, religiosity, and prior marital

status, among other factors (Smith, 2003). However, these empirical patterns do not legitimize restricting marriage rights to certain racial or religious groups or the never-married. Neither can comparable data about unmarried male-male couples be considered a valid basis for denying marriage rights to all same-sex couples.

In summary, the conclusion to be drawn from behavioral science research is that the psychosocial qualities of intimate relationships do not reliably differ in key respects according to whether the couple consists of two men, two women, or a man and woman. Whereas some differences have been documented between same-sex and heterosexual couples, their relevance to public policy governing State recognition of relationships is arguably small or nonexistent.

### **Are Children Disadvantaged by Being Raised by a Same-Sex Couple?**

Cultural, legal, and technological changes during the twentieth century have fostered a greater diversity of family forms in U.S. society today compared to even a half-century ago. For example, changes in divorce laws have resulted in more single-parent households and blended families which include children from previous marriages. Never-married individuals increasingly are becoming parents through artificial insemination and adoption. Some of these individuals coparent with a cohabiting partner whereas others raise their children alone. In addition, more married couples than in the past are remaining childless (e.g., Bumpass, 1990; Coontz, 2005).

Against this cultural backdrop, same-sex couples increasingly form the core of families in which children are conceived, born, and raised (e.g., Patterson, 2000; Perrin, 2002). This pattern is especially common among women. The 2000 Census revealed that 34% of cohabiting female couples had children under 18 living in the home, as did 22% of male cohabiting couples. By comparison, approximately 46% of heterosexual married couples were raising children (Bennett & Gates, 2004). Sexual minority men and women face somewhat different issues in becoming parents and raising their children (for reviews, see Patterson, 2004; Perrin, 2002) and, as noted

below, empirical research on lesbian mothers is more extensive than on gay fathers. Policy debates about marriage and parenting, however, have generally not differentiated between female and male couples.

In debates about marriage equality, questions have often been raised about the welfare of the children of same-sex couples. Proponents of marriage equality contend that gay and lesbian parents are as capable as their heterosexual counterparts and that the well-being of children is not contingent on the parents' sexual orientation. For example, the Web page of the National Center for Lesbian Rights includes the assertion that "Social science research has shown that children raised by lesbian and gay parents are just as healthy and well-adjusted as those raised by heterosexual parents" (National Center for Lesbian Rights, 2000, ¶3). Opponents of marriage rights for same-sex partners also invoke scientific research but they claim the children of lesbian and gay parents fare worse than children raised by heterosexual parents. For example, according to the Web site of one conservative Christian organization, there is "overwhelming scientific evidence" that "gay marriage presents a grave threat to children – study after study has found that boys and girls not raised by both of their biological parents are much more likely to, among other things, suffer abuse, perform poorly in school, abuse drugs and alcohol and wind up in trouble with the law" (Focus on the Family, 2004, ¶5). A similar albeit more nuanced statement of this argument was made by another opponent of marriage equality: "While scholars continue to disagree about the size of the marital advantage and the mechanisms by which it is conferred, the weight of social science evidence strongly supports the idea that family structure matters and that children do best when raised by their own mother and father in a decent, loving marriage" (Gallagher, 2004, p. 51, footnote omitted).

Before considering the research evidence relevant to these competing claims, it is important to critically examine the underlying premise of the debate about children, same-sex couples, and marriage. As exemplified in the assertions quoted above, the widespread assumption appears to be that same-sex couples should not be allowed to marry unless it can be proved that their children

are socially and psychologically indistinguishable from children raised continuously from birth by their (heterosexual) married parents. However, framing the debate in this way is problematic for at least two reasons.

First, advocates on both sides of the marriage debate appear to be demanding, in effect, that researchers conclusively demonstrate that no differences exist between the children of sexual minority parents and those of heterosexual parents. As noted previously, however, the null hypothesis cannot be proved. Here again, the more realistic standard is that repeated findings of no significant differences should be accepted provisionally as a basis for concluding that the groups, in fact, do not differ. And, as with empirical studies of couples, it is important to examine the entire body of research rather than drawing conclusions from one or a few studies because random variations in sampling can be expected to produce some heterogeneity of findings. In the long term, for example, even if no differences in psychological adjustment exist between the children of heterosexual versus sexual minority parents in the general population, a small number of studies will inevitably find superior functioning among either children with heterosexual parents or children with sexual minority parents.

Second, whether and to what extent changes in marriage policy will affect the proportion of sexual minority adults who parent or the number of children raised by same-sex couples can only be speculated. It is indisputable, however, that many gay men, lesbians, and bisexuals already are parents, and there is no reason to doubt that still more will conceive and adopt children in the future whether or not they gain the right to marry. Thus, it is not credible to argue that marriage equality should be denied in order to prevent sexual minority adults from becoming or remaining parents. Rather, the question should be reframed in terms of whether the children of same-sex couples are benefited or harmed by laws that prevent their parents from marrying.

Mindful of these limitations in how the argument has been framed, it is possible to evaluate the relevant scientific evidence. An examination of the conflicting claims in the marriage debate

reveals the two sides have based their arguments on different bodies of research. Focus on the Family (2004), Gallagher (2004), and other marriage equality opponents cite studies comparing the children of intact heterosexual families with children being raised by a single parent as a consequence of divorce, separation, or the death of a spouse. Such studies generally show that, all else being equal, having two parents is more beneficial for a child than having a single parent (McLanahan & Sandefur, 1994). However, this research literature does not include studies comparing children raised by two-parent same-sex couples with children raised by two-parent heterosexual couples. Consequently, drawing conclusions about the children of gay, lesbian, and bisexual parents from those studies inappropriately attributes differences resulting from the number of parents in a household to the parents' gender or sexual orientation (e.g., Stacey, 2004).

By contrast, the arguments made by the National Center for Lesbian Rights (2000) and other supporters of marriage equality refer to empirical research that has directly examined gay, lesbian, and bisexual parents – both single and in same-sex couples – and their children. Over the past three decades, more than two dozen such studies have been published (for reviews, see Anderssen, Amlie, & Ytteroy, 2002; Fulcher, Sutfin, Chan, Scheib, & Patterson, 2006; Patterson, 2000, 2004; Perrin, 2002; Stacey & Biblarz, 2001). This body of research is more directly relevant to the marriage debate because it explicitly compares children according to the sexual orientation of their parents, but it is not without flaws. Studies published in the 1970s and 1980s often utilized small, select convenience samples and often employed unstandardized measures. Published reports did not always include adequate descriptions of research methodology. Sometimes key variables (e.g., whether or not an ostensibly single parent was in a cohabiting relationship) were not controlled. However, the overall methodological sophistication and quality of studies in this domain have increased over the years, as would be expected for any new area of empirical inquiry. More recent research has reported data from probability and community-based convenience samples that were not



originally recruited on the basis of sexual orientation (Golombok et al., 2003; Wainright, Russell, & Patterson, 2004), has utilized more rigorous assessment techniques, and has been published in highly respected and widely cited developmental psychology journals, including *Child Development* and *Developmental Psychology*. Data are increasingly available from prospective studies (e.g., Gartrell, Deck, Rodas, Peyser, & Banks, 2005; MacCallum & Golombok, 2004). In addition, whereas early study samples consisted mainly of children originally born into heterosexual relationships that subsequently dissolved when one parent came out as gay or lesbian, recent samples are more likely to include children conceived within a same-sex relationship (e.g., by donor insemination) or adopted in infancy by a same-sex couple. Thus, they are less likely to confound the effects of having a sexual minority parent with the consequences of divorce (Amato, 2001; Amato & Keith, 1991).<sup>5</sup>

Despite considerable variation in the quality of their samples, research design, measurement methods, and data analysis techniques, the findings to date have been remarkably consistent. Empirical studies comparing children raised by sexual minority parents with those raised by otherwise comparable heterosexual parents have not found reliable disparities in mental health or social adjustment (Patterson, 1992, 2000; Perrin, 2002; Stacey & Biblarz, 2001; see also Wainright et al., 2004). Differences have not been found in parenting ability between lesbian mothers and heterosexual mothers (Golombok et al., 2003; Parks, 1998; Perrin, 2002). Studies examining gay fathers are fewer in number (e.g., Bigner & Jacobsen, 1989; Bigner & Jacobsen, 1992; Miller, 1979) but do not show that gay men are any less fit or able as parents compared to heterosexual men (for reviews, see Patterson, 2004; Perrin & Committee on Psychosocial Aspects of Child and Family Health, 2002).

Questions are sometimes raised about the gender and sexual development of children raised by lesbian, gay, or bisexual parents. Relevant data have not been reported on the children of gay fathers, but empirical studies have failed to find reliable differences between the children of lesbian and heterosexual mothers in their patterns of gender identity (Perrin & Committee on

Psychosocial Aspects of Child and Family Health, 2002) or gender role conformity (Patterson, 2000).<sup>6</sup> In terms of sexual development, discussions sometimes focus on whether the children of lesbian, gay, or bisexual parents are disproportionately likely to experience same-sex erotic attractions or to identify as gay. The relevance of this question to policy is dubious because homosexuality is neither an illness nor a disability, and the mental health professions do not regard a homosexual or bisexual orientation as harmful, undesirable, or requiring intervention or prevention. More than 30 years ago, the American Psychiatric Association removed homosexuality from the *Diagnostic and Statistical Manual of Mental Disorders* (American Psychiatric Association, 1980), a decision that has been strongly supported by the American Psychological Association (e.g., American Psychological Association, 2004). Some theorists have suggested it would be surprising if no association existed between the sexual orientation of parents and their children (e.g., Baumrind, 1995; Stacey & Biblarz, 2001), but empirical data addressing this question are limited. Although much research has examined the possible influences of genetic, hormonal, developmental, social, and cultural variables on sexual orientation, no findings have emerged that permit scientists to conclude that sexual orientation is determined by any particular factor or set of factors. To the extent that data are available, however, they show that the vast majority of children raised by lesbian and gay parents eventually grow up to be heterosexual (e.g., Bailey, Bobrow, Wolfe, & Mikach, 1995; Patterson, 2000, 2004; Tasker & Golombok, 1997).

The studies cited above demonstrate that sexual minority parents are not inherently less capable of raising well-adjusted children than are heterosexual parents. Because they utilized convenience samples (as have the vast majority of empirical studies of child development in general), they do not provide a basis for estimating population parameters for all children of sexual minority parents relative to those with heterosexual parents. One recent study, however, used a probability sample and thus provides a valid basis for generalization to the population. Wainright, Russell, and Patterson (2004) analyzed

data from the National Longitudinal Study of Adolescent Health, whose participants are drawn from a stratified random sample of all U.S. high schools with at least 30 students (AddHealth, 2004). The researchers compared 44 adolescents parented by female couples and 44 adolescents parented by heterosexual couples, matched on relevant demographic characteristics, and found no significant differences in psychological well-being or family and relationship processes (e.g., parental warmth, integration into one's neighborhood). Adolescents with parents in a female couple felt significantly more integrated into their school than those with parents in a male-female couple (Wainright et al., 2004).

More studies based on probability samples are needed on the children of sexual minority parents, especially the children of gay and bisexual fathers. Yet, empirical research to date has consistently failed to find linkages between children's well-being and the sexual orientation of their parents. If gay, lesbian, or bisexual parents were *inherently* less capable than otherwise comparable heterosexual parents, their children would evidence problems regardless of the type of sample. This pattern clearly has not been observed. Given the consistent failures in this research literature to disprove the null hypothesis, the burden of empirical proof is on those who argue that the children of sexual minority parents fare worse than those of heterosexual parents.

### **Benefits of Marriage**

The belief that being married bestows benefits on wedded couples is widespread among the public (Thornton & Young-Demarco, 2001) and scholars (e.g., Coalition for Marriage, Family and Couples Education, 2002; Waite, 1995). Although empirical data and common experience show that marriage is not a panacea, and that life circumstances and personality characteristics make it a better option for some than others (e.g., Huston & Melz, 2004), its positive consequences are nevertheless well documented. Married men and women who are satisfied with their relationships generally experience better physical and mental health than their unmarried counterparts (Diener, Suh, Lucas, & Smith, 1999; Gove et al., 1990; Johnson, Backlund, Sorlie, & Loveless, 2000; Ross, Mirowsky, & Goldstein,

1990; Simon, 2002; Stack & Eshleman, 1998). This outcome does not result simply from being in an intimate relationship; otherwise comparable heterosexuals who are in cohabiting couples generally do not manifest the same levels of health and well-being as married individuals (Brown, 2000; Nock, 1995; Stack & Eshleman, 1998; but see Ross, 1995). Nor does it appear to be simply a product of self-selection by healthy and happy individuals into marital relationships (Gove et al., 1990; but see Huston & Melz, 2004). Of course, marital status alone does not guarantee greater health or happiness: People who are unhappy with their marriage often manifest lower levels of well-being than their unmarried counterparts, and experiencing marital discord and dissatisfaction is often associated with negative health effects (Gove, Hughes, & Style, 1983; Kiecolt-Glaser & Newton, 2001; Williams, 2003). Nevertheless, happily married couples are generally better off than the unmarried.

The positive health effects of marriage result in part from the tangible resources and protections accorded to spouses by society. The U.S. General Accounting Office has identified 1,138 statutory provisions in which marital status is a factor in determining or receiving federal benefits, rights, and privileges ranging from Social Security survivors' benefits to affordable housing programs (General Accounting Office, 2004). State governments grant still more benefits. Many of the statutory advantages enjoyed by married partners are financial, including those deriving from tax laws, employee benefits, death benefits, and entitlement programs. These special considerations provide married couples with greater economic and financial security than unmarried individuals. Such security is an important predictor of mental and physical health (Brown, 2000; Ross et al., 1990; Stack & Eshleman, 1998; see generally Pearlin, Menaghan, Lieberman, & Mullan, 1981).

Another factor contributing to the well-being of married individuals is the greater support they receive from others, compared to the unmarried. Marital relationships differ from nonmarital intimate relationships, in part, by requiring a lifelong commitment that is publicly affirmed, typically in the presence of family members, friends, and civil or religious authorities. Thus

social support and integration are central to the institution of marriage, and the various rituals associated with marriage can be understood as cementing the couple's ties to the larger community (e.g., Slater, 1963). This public aspect of marriage increases each relationship partner's sense of security that the relationship will endure (Cherlin, 2000, 2004). Consistent with these observations, empirical research shows that married adults tend to receive more social support than unmarried adults, especially from parents (Cooney & Uhlenberg, 1992; Nock, 1995; Sprecher, 1988; Umberson, 1992).

In addition to their greater financial stability and social support, spouses have special rights and privileges not accorded to other adult, nonbiological relationships. In this way, marriage provides buffers against the psychological stress associated with extremely traumatic life events. For example, a spouse can make health decisions for an incapacitated partner, including decisions involving the continuation or cessation of heroic measures to prolong the partner's life. Such capabilities can contribute to a sense of mastery or personal control (Pearlin et al., 1981), which is associated with better health among spousal caregivers (Burton, Newsom, Schulz, Hirsch, & German, 1997; Miller, Campbell, Farran, Kaufman, & et al, 1995). Similarly, although the death of a partner is highly stressful (Gove et al., 1990; Holmes & Rahe, 1967) and often has negative consequences for the surviving partner's psychological and physical health (Stroebe & Stroebe, 1987), these deleterious effects can be offset to some extent by the legal benefits marriage bestows. A surviving spouse typically receives social support and sympathy from others, can make decisions about funeral and burial arrangements, and has automatic rights to inheritance, death benefits, and bereavement leave. These factors can somewhat mitigate the considerable stress of bereavement (e.g., Norris & Murrell, 1990).

Married couples' legal status also enables them to exercise control over other types of stressful situations, or to avoid them entirely. For example, a married person facing litigation can nonetheless communicate freely with her or his spouse because the law creates marital privileges against being compelled to testify against one's wife or

husband. Under normal circumstances, a noncitizen spouse will not be deported or forced to leave the country, and special considerations accorded to some noncitizens (e.g., employment status, asylum) may extend to their spouse (General Accounting Office, 2004). Because marriage is recognized across state and national borders, husbands and wives know that their relationship and, when applicable, their parental status, will be considered valid outside their home state.

In addition to these benefits, the institution of marriage also creates deterrents to relationship dissolution. Social scientists have long recognized that marital commitment is a function not only of attractive forces (i.e., features of the partner or the relationship that are rewarding) but also of external forces that serve as constraints on dissolving the relationship. Barriers to terminating a marriage include feelings of obligation to one's spouse, children, and other family members; moral and religious values about divorce; legal restrictions; financial concerns; and the expected disapproval of friends and the community (Adams & Jones, 1997; Levinger, 1965). By creating barriers and constraints on dissolving the relationship, marriage can be a source of relationship stability and commitment (Adams & Jones, 1997; Cherlin, 2004; Nock, 1995). It must be noted that in the absence of adequate rewards, the existence of barriers alone is not sufficient to sustain a marriage in the long term. Not surprisingly, perceiving one's intimate relationship primarily in terms of rewards, rather than barriers to dissolution, is associated with greater relationship satisfaction (Previti & Amato, 2003). The presence of barriers, however, may encourage partners to seek solutions for their problems rather than prematurely dissolving a potentially salvageable relationship. Indeed, the presence of barriers is negatively correlated with divorce, suggesting that they contribute to staying together for some couples in some circumstances (Heaton & Albrecht, 1991; White & Booth, 1991).

Finally, although not well documented empirically, marriage offers intangible benefits. Durkheim (1951) observed that it helps to protect the individual from anomie. Expanding on this notion, 20th century sociologists characterized marriage as "a social arrangement that creates for

the individual the sort of order in which he can experience his life as making sense” (Berger & Kellner, 1964, p. 1) and suggested that “in our society the role that most frequently provides a strong positive sense of identity, self-worth, and mastery is marriage” (Gove et al., 1990, p. 16; see also Cherlin, 2004). Although it is difficult to quantify how the meaning of life changes for individuals once they marry, empirical research clearly demonstrates that marriage has distinct benefits that extend beyond the material necessities of life (e.g., Burton, 1998).

### ***Consequences of Non-Recognition for Same-Sex Couples and Their Children***

While the psychosocial benefits of marriage are well documented, empirical data are not available to directly assess the effects on same-sex couples of governmental nonrecognition for their relationships. Nevertheless, it is reasonable to conclude that the differential treatment of those couples, vis-à-vis married heterosexuals, creates special challenges and obstacles for them with ultimately negative consequences for their well-being. Without legal recognition, partners in same-sex couples lack both the practical benefits of marriage and the buffers that marriage provides against the psychosocial consequences of traumatic events. The financial situation of same-sex couples is likely to be less stable than that of married couples, for example, because they do not enjoy the many economic protections of marriage in areas such as taxation and property rights. Indeed, only one fourth of the states have laws that explicitly prohibit workplace or housing discrimination on the basis of sexual orientation. Fearing discrimination, many members of same-sex couples feel compelled to conceal not only their relationship but also their sexual orientation (Badgett, 2001; Schneider, 1986; Woods & Lucas, 1993). Even when gay and lesbian employees do not fear dismissal or harassment because of their sexual orientation, they nevertheless receive fewer job-related benefits than their married coworkers. Family leave policies, health insurance, and pension plans, for example, typically include an employee’s spouse but not a same-sex partner. Even when benefits such as health insurance coverage are extended to a same-sex partner, they are taxed as income; this is typically not the case for benefits to heterosexual spouses.

Because same-sex couples lack the protections that marriage provides when a spouse dies, they must incur the considerable expense of creating legal protections for the surviving partner through wills, trusts, and contracts for joint ownership of property. Even these measures do not always protect the partners. A will can be contested by the decedent’s biological relatives, for example and, unlike a spouse, the surviving partner is likely to incur a substantial tax burden when taking sole legal possession of a home that the couple jointly owned (e.g., Badgett, 2001).

The consequences of having one’s intimate relationship unacknowledged by the law are not only financial. For example, a member of a same-sex couple may be excluded from her or his partner’s medical care. She or he may be denied as basic a right as access to the partner in a hospital setting restricted to “immediate family” members, such as an emergency room or intensive care unit. The case of Sharon Kowalski and Karen Thompson offers a dramatic example in this regard. They had been committed partners for 4 years and were living together in a house they had jointly purchased when a 1983 automobile accident left Kowalski severely brain damaged, unable to speak or walk, and temporarily comatose. Lacking a legal relationship to Kowalski, Thompson was blocked from even getting information about her partner’s condition immediately after the accident. When Thompson disclosed the nature of their relationship to Sharon’s parents, Kowalski’s father refused to acknowledge his daughter’s lesbian orientation. He gained legal guardianship and barred Thompson from having any contact with Sharon, even by mail. It was not until 1991, after an extensive legal battle, that Thompson was named Sharon Kowalski’s sole legal guardian (Hunter, 1995; Thompson & Andrzejewski, 1988).

When a member of a same-sex couple dies, her or his surviving partner may experience a similar negation of their relationship. She or he may not even be able to make funeral arrangements. Instead, the decedent’s biological relatives may take control of the former’s estate, completely excluding the surviving partner (e.g., Richards, Wrubel, & Folkman, 1999-2000). Such experiences of *disenfranchised grief* (Doka, 1989) may compound the considerable psychological

distress experienced by the surviving partner, with potentially long-term mental health consequences. For example, one longitudinal study of 30 HIV-negative men whose partner died from AIDS found that the quality of their psychological functioning one year after the partner's death was predicted by their sense that ceremonies of leave taking (e.g., funerals) were appropriate and satisfactory (Weiss & Richards, 1997). The experience of being partly or completely excluded from such ceremonies thus appears to contribute to poorer psychological functioning. Examples of other areas in which same-sex couples are disadvantaged relative to married couples include immigration (foreign nationals cannot secure U.S. residence or citizenship through their relationship to a same-sex partner) and private communication (members of same-sex couples can be called to testify against their partner in legal proceedings).

As a consequence of these and the many other forms of differential treatment to which they are subjected, same-sex couples are exposed to more stress than married couples, especially when they encounter life's inevitable difficulties and challenges. Because experiencing stress increases one's risk for mental and physical illness (e.g., Dohrenwend, 2000; Kiecolt-Glaser, McGuire, Robles, & Glaser, 2002), their lack of legal protection places members of same-sex couples at greater risk for health problems compared to married couples.

It may have consequences as well for the duration and stability of their relationships. Although homosexual and heterosexual relationships share many of the same attracting forces, same-sex couples do not have the barriers to relationship dissolution that the institution of marriage provides heterosexual couples. Consequently, gay men and lesbians probably experience fewer institutional barriers to ending their relationships compared to married heterosexuals (Kurdek, 1998). Although this relative lack of barriers probably means that fewer gay men and lesbians find themselves trapped in unhappy relationships, it may also promote the breakup of couples facing problems that could be resolved. Given the lack of institutional barriers, along with the legal and prejudicial obstacles that same-sex partners face, the prevalence and durability of gay and lesbian relationships are striking. Nevertheless, the

stability and longevity of those relationships would most likely be enhanced if the partners enjoyed the same levels of social support and public recognition of their relationships as do partners in heterosexual couples.

It was noted earlier that questions about parenting in the marriage equality debate should be reframed to consider whether the children of same-sex couples are helped or harmed by laws that bar their parents from marrying. To the extent that government recognition of same-sex relationships facilitates well-being for parents, it will enhance the well-being of their children because children benefit when their parents (regardless of the latter's sexual orientation) are financially secure, physically and psychologically healthy, and not subjected to high levels of stress (Patterson, 2001; Chan, Raboy, & Patterson, 1998). Another negative consequence of the absence of legal recognition is that children born to same-sex couples do not automatically enjoy a legally defined relationship with both parents. Such legal clarity is especially important during times of crisis, ranging from school and medical emergencies involving the child to the incapacity or death of a parent (e.g., Amato & Keith, 1991). In those situations, a stable legal bond with the surviving parent gives a child much needed security and continuity, and minimizes the likelihood of conflicting or competing claims by non-parents for the child's custody.

Moreover, in the absence of legal recognition for same-sex couples, the children born to such couples are accorded a status historically stigmatized as "illegitimacy" and "bastardy" (Witte, 2003). Although the social stigma attached to illegitimacy has declined in recent decades, being born to unmarried parents is still widely considered undesirable. Indeed, opponents of marriage equality have argued that the stigma attached to unwed parentage serves a valuable social function and should be perpetuated (Gallagher, 2004). This stigma is likely to be extended to the children of unmarried same-sex couples.

### *Marriage vs. Civil Unions and Domestic Partnerships*

In summary, marriage bestows many psychosocial benefits and protections. As a consequence of

being denied the right to marry, same-sex couples are more likely than different-sex couples to experience a variety of stressors and thus are at greater risk for psychological and physical illness. Although direct empirical tests are not available to experimentally assess the effects on same-sex couples of governmental nonrecognition for their relationships, it is reasonable to conclude that being denied the right to marry has negative consequences for their well-being and ultimately creates challenges and obstacles to the success of their relationships that are not faced by heterosexual couples. The logical conclusion to be drawn from this discussion is that same-sex couples and their children will benefit from legal recognition of their relationships. In making this prediction, it is important to reiterate that self-selection will play a role in legal unions between same-sex partners just as it currently does with different-sex partners. Given the opportunity to marry, not all same-sex couples will choose to do so, any more than is now the case for heterosexuals. For example, roughly one fifth of the sexual minority respondents in the previously cited Kaiser survey said they would *not* want to get married, even if marriage to a same-sex partner were legal (Kaiser Family Foundation, 2001; see also Rothblum, 2005). However, those who choose marriage can be reasonably expected to benefit from it, like their heterosexual counterparts.

But is complete marriage equality necessary to afford same-sex couples and their families access to the benefits, resources, and privileges currently enjoyed by heterosexual married couples? It might be argued that the problems and inequities experienced by same-sex couples can be adequately addressed through arrangements such as civil unions and second-parent adoptions, which could conceivably grant all of the rights and privileges now conferred through civil marriage without actually designating the couple as “married.” This argument is problematic on at least three grounds.

First, marriage is recognized across state and national borders, but civil unions and domestic partnerships are not. Consequently, same-sex couples in civil unions do not have legal grounds to demand that their relationship be recognized outside the state. Today same-sex couples

traveling beyond the borders of their home state cannot be certain they will be treated as a couple or family, e.g., in the event of a medical emergency involving one of the partners or a child. As a result, their mobility may be limited or, if they travel across state borders, they are subjected to heightened levels of uncertainty, anxiety, and stress compared to heterosexual married couples.

Second, whereas marriage as a social institution has a profound effect on the lives of those who inhabit it, the extent to which civil unions and domestic partnerships have comparable effects is unclear. As noted above, heterosexual cohabiting couples do not derive the same health advantages as married couples from their relationships. Indeed, the level of public debate and controversy surrounding the question of whether marriage rights should be granted to same-sex couples is an indication of the special status accorded to marriage as a social institution. Although forming a domestic partnership or civil union may increase a couple’s feelings of love and commitment (Solomon et al., 2005), it seems unlikely that those institutions will be found to confer the same social and psychological benefits as marriage.

The transformative power of marriage and the special meaning associated with marital status is attested to by the widespread desire among lesbians, gay men, and bisexuals to marry a same-sex partner. This desire was evidenced in the previously cited Kaiser poll, in which 74% responded affirmatively to the question, “If you could get legally married to someone of the same sex, would you like to do that someday or not?” (Kaiser Family Foundation, 2001, p. 31). It is further evidenced by the fact that many same-sex couples travel long distances across state and national borders to marry. For example, the same-sex couples married in San Francisco in 2004 came from 46 states (including California) and 8 foreign countries (Herel, Marech, & Lelchuk, 2004). Many same-sex couples from the U.S. have traveled to Canada to be married (e.g., Marech, 2004).

Finally, creating a separate, quasi-marital status for same-sex couples perpetuates and may even compound the stigma historically associated with homosexuality. A status or characteristic is

stigmatized when it is negatively valued by society and is consequently a basis for disadvantaging and disempowering those who have it (e.g., Herek, 2002; Link & Phelan, 2001). Once it is acknowledged that same-sex committed relationships do not differ from heterosexual committed relationships in their essential psychosocial qualities, their capacity for long-term commitment, and the context they provide for rearing healthy and well-adjusted children, the rationale for according them a different legal status from heterosexual relationships must ultimately focus on the sexual orientation of the partners. Indeed, although it has usually been conceptualized in individualistic terms, sexual orientation is not simply a personal characteristic that can be defined in isolation. Because individuals express their heterosexuality, homosexuality, or bisexuality only by acting (or desiring to act) with another person, sexual orientation is inherently about relationships, whether they are enduring, transient, or merely desired. The intimate personal connections that people form to meet their deeply felt needs for love, family, and intimacy lie at its core.

Denying same-sex couples the label of marriage – even if they receive all other rights and privileges conferred by marriage – arguably devalues and delegitimizes these relationships. It conveys a societal judgment that committed intimate relationships with people of the same sex are inferior to heterosexual relationships, and that the participants in a same-sex relationship are less deserving of society's recognition than heterosexual couples. It perpetuates power differentials whereby heterosexuals have greater access than nonheterosexuals to the many resources and benefits bestowed by the institution of marriage. These elements are the crux of stigma. Such stigma affects all homosexual and bisexual persons, not only the members of same-sex couples who seek to be married.

Sexual stigma has a variety of negative consequences for sexual minorities, including social ostracism, discrimination, and violence (e.g., Badgett, 2001; Herek, Gillis, & Cogan, 1999; Meyer, 2003). It creates a felt need among lesbians, gay men, and bisexuals to conceal their sexual orientation, which can have negative effects on their psychological and physical health

(Cole, Kemeny, Taylor, & Visscher, 1996; Herek, 1996). To the extent that stigma motivates lesbians, gay men, and bisexuals to remain hidden, it further reinforces sexual prejudices among heterosexuals. Prejudice generally decreases when members of the majority group knowingly have contact with minority group members (Pettigrew & Tropp, 2000) and, consistent with this pattern, antigay attitudes are significantly less common among heterosexuals who report having a close friend or family member who is gay or lesbian (Herek & Capitanio, 1996). Thus, by denying same-sex couples the right to marry legally, the State compounds and perpetuates the stigma historically attached to homosexuality. This stigma has negative consequences for all gay, lesbian, and bisexual people, regardless of their relationship status or desire to marry.

The foregoing discussion should not be read as completely dismissing the value of institutions such as civil unions and domestic partnerships. To the extent that these forms of legal recognition address some of the current inequities between same-sex and heterosexual committed relationships, they are a desirable alternative to nonrecognition. However, they cannot be equated with marriage.

## Conclusion

Whether and how to legally recognize same-sex couples will ultimately be decided through society's political and legal institutions. One way the social and behavioral sciences can contribute to the resolution of this question is by testing the validity of assumptions that underlie policy positions. The present article has demonstrated the lack of an empirical basis for assertions that same-sex and heterosexual relationships differ fundamentally in their psychosocial qualities and dynamics, and that people in same-sex relationships are deficient in parenting abilities. Moreover, it has shown that same-sex couples and their children are disadvantaged by their lack of legal recognition, that they would benefit in numerous ways from such recognition, and that quasi-marital institutions do not afford the same protections and benefits as marriage. Finally, it has explained how restricting same-sex couples to a separate and inherently unequal status

perpetuates antigay stigma.

There is an ongoing need for more empirical study of same-sex intimate relationships and sexual minority families, especially research that employs probability samples. Several understudied areas have already been discussed above (e.g., comparisons of the children of male couples with children of heterosexual and female couples). In addition, the advent of marriage equality in some jurisdictions (e.g., Massachusetts, Canada, the Netherlands) now permits comparisons between married same-sex couples and their unmarried counterparts, including sexual minority couples in civil unions or domestic partnerships. Such comparisons will allow researchers to address a variety of questions, including whether differences previously observed between married and cohabiting heterosexual couples can be generalized to male and female couples; whether and how marriage exerts a psychologically transformative effect on partners; and whether the benefits of other legal relationship forms, such as civil unions, are comparable to those of marriage. Comparisons of heterosexual and same-sex married couples will also afford exciting opportunities for researchers to better understand the role played by gender-linked variables in marital relationship dynamics (Peplau & Fingerhut, in press). At the same time, research is needed on the unique challenges and stressors faced by sexual minority individuals and their families as a result of differences across state and international borders in the extent to which same-sex relationships are currently recognized.

Some might argue that, despite its inherent value, such research is largely irrelevant to the current national debate about marriage equality because, as noted at the outset of the present article, that debate involves a fundamental clash of values. Motivated by deeply felt political and religious beliefs, it might be claimed, advocates on both sides of the debate are resistant to considering scientific data that contradict their preexisting opinion. This viewpoint, however, fails to recognize important features of the current debate. Heterosexuals' attitudes toward sexual minorities are changing rapidly. In the last two decades, public sentiment has dramatically shifted toward greater tolerance and less condemnation of sexual

minorities, with opposition to discrimination based on sexual orientation now widespread (e.g., Sherrill & Yang, 2000; Yang, 1997). As noted above, civil unions were highly controversial only a few years ago but now are supported by a majority of the U.S. public. While marriage equality is opposed today by most adults, the size of that majority has eroded over the past decade. In addition, many Americans probably hold conflicting values in this area, adhering to traditional beliefs about the nature of marriage while simultaneously valuing fairness and opposing discrimination based on sexual orientation. For those individuals, accurate information about the factual questions raised by the marriage debate may be highly influential and may lead them to adopt more nuanced opinions, such as supporting civil marriage equality while leaving the issue of religious marriage to individual denominations.

Thus, although the U.S. debate about marriage equality involves strongly held views on both sides, many Americans hold opinions and beliefs between the extremes. That middle ground has shifted in recent years to encompass support for civil unions and domestic partnerships. Given other trends toward greater support for sexual minority rights (Sherrill & Yang, 2000), coupled with the continuing evolution of the institution of marriage (Coontz, 2005), it is reasonable to hypothesize that the opinions of Americans in this middle ground will continue to shift and that support for marriage equality will become a majority position in the foreseeable future. This scenario is speculative but is intended to highlight the importance of continuing scientific study of the issues relevant to the current policy debate. Although empirical research may not affect the opinions of advocates strongly committed to either side, it may well be influential in shaping the actions of legislators, judges, and policy makers, and the opinions and voting behavior of the moveable middle segment of the U.S. population.

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## Notes

<sup>1</sup> The impetus for submitting these briefs was a series of APA policies enacted by the membership since 1975 based on the premise that psychologists and all mental health professionals should "take the lead in removing the stigma of mental illness that has long been associated with homosexual orientations" (Conger, 1975, p. 633). In 2004, the APA Council of Representatives voted to "take a leadership role in opposing all discrimination in legal benefits, rights, and privileges against same-sex couples" and to "provide scientific and educational resources that inform public discussion and public policy development regarding sexual orientation and marriage (Paige, 2005, pp. 498-499). That same year, in a separate resolution, the Council also voted to "take a leadership role in opposing all discrimination based on sexual orientation in matters of adoption, child custody and visitation, foster care, and reproductive health services" and to provide scientific and educational resources that inform public discussion and public policy development regarding discrimination based on sexual orientation in matters of adoption, child custody and visitation, foster care, and reproductive health services..." (Paige, 2005, p. 500).

<sup>2</sup> Throughout this article, the phrase "same-sex couple" – rather than, e.g., "gay male couple" or "lesbian couple" – is used to refer to intimate partnerships consisting of two men or two women. This descriptor avoids the problem of making unnecessary presumptions about the sexual orientation of the partners. In descriptions of data from public opinion surveys, however, the original question wordings have been preserved.

<sup>3</sup> As this article goes to press, legislation and litigation regarding same-sex couples and parenting are pending in many states and countries. For current information, readers are advised to consult the Web sites of organizations that monitor relevant laws and policies. Examples include the National Adoption Information Clearinghouse (<http://naic.acf.hhs.gov/index.cfm>), Lambda Legal Defense and Education Fund (<http://www.lambdalegal.org>), and the National Gay and Lesbian Task Force (<http://www.thetaskforce.org/>).

with mental health, especially compared to psychological femininity (e.g., Barrett & White, 2002).

<sup>4</sup> Throughout this article, polling data described without an accompanying bibliographic citation were obtained from the Roper Center for Public Opinion Research database, accessed via LexisNexis.

<sup>5</sup> Nevertheless, same-sex couples often find they are restricted to adopting children or infants from troubled backgrounds (e.g., children with HIV or other diseases, offspring of mothers with drug abuse histories) or from other countries (who often have histories of poor nutrition or other health challenges). Researchers must be careful to control for these factors when making comparisons to adoptive children raised by heterosexual couples.

<sup>6</sup> Based on their review of the literature, Stacey and Biblarz (2001) asserted that six empirical studies have indicated that children of lesbian mothers display less gender role conformity than children of heterosexual mothers. However, only two of the cited sources reported statistically significant differences in this regard (Green, Mandel, Hotvedt, Gray, & Smith, 1986; Hotvedt & Mandel, 1982), and both of those reports appear to have been derived from the same ongoing study. Moreover, many of the differences reported in that study (e.g., that daughters of lesbian mothers were more likely than daughters of heterosexual mothers to aspire to non-traditional occupations for women, such as doctor, astronaut, lawyer, or engineer) can be considered healthy in a world in which gender-based discrimination persists. Indeed, empirical research suggests that psychological androgyny tends to be associated