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Same-sex couples



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In recent times there has been increasing discussion of same-sex couples and the place of same-sex marriage. Some fostering agencies are now actively recruiting same-sex couples as carers and developments in reproductive technology have opened up new options for a woman in a lesbian relationship to have children.

What does the law say?

Australia, like most other countries, does not recognise same-sex marriages. The Marriage Act of 1961 specifies that marriage is a union between a man and a woman. Only the Netherlands currently recognises marriages of same-sex couples although a number of other countries such as Denmark, Iceland, Norway, Sweden, the state of Vermont in the United States and some Canadian provinces allow for registration of same-sex partnerships as a form of legal recognition (Caruana 2002). However the situation in many of these, and other countries, is in the process of change.

Except as far as children are concerned, the Family Law Act does not apply to de facto relationships, regardless of whether they are heterosexual or homosexual relationships. Throughout Australia, de facto relationships are governed by state based, rather than Commonwealth law. These state based laws can govern matters such as property adjustments following relationship breakdown, the enforcement of cohabitation agreements and spousal maintenance.

Since financial adjustments in de facto relationships are governed by state based laws, the treatment of same-sex relationships differs between states. In Western Australia, recent reforms to the Family Court Act mean that as far as their children, property, maintenance and financial agreements are concerned, de facto couples, including same-sex couples, are treated in the same way as married couples.

The *Tasmanian Government Relationships (Consequential amendments) Bill* has recently allowed for the registration of same-sex relationships as from January 2004. This Bill extends a range of benefits to same-sex partners including the right to adopt their partner's children, have access to their superannuation, provide authority for medical treatment and inherit.

In other states different provisions apply. The laws relating to financial matters after separation in the Northern Territory and South Australia that apply to heterosexual de facto couples do not apply to same-sex couples. The ACT, Victoria, Queensland, Tasmania, Western Australia and New South Wales

treat same-sex couples in the same way as other de facto relationships. These states do not confer on de facto couples the same rights as Commonwealth law applies to married couples.

In all states except Western Australia and Tasmania, state laws do not allow for the adoption of children by same-sex couples. All other matters relating to disputes about children after separation are governed by the Commonwealth Family Law Act regardless of the marital status or sexual orientation of parents. Nevertheless, children of same-sex couples are treated in different ways to opposite-sex couples under some circumstances. Specifically, in cases of donor insemination the consenting male partner of a woman who undergoes an artificial conception procedure is regarded as the parent of the child. This same presumption does not apply to the lesbian partner of a woman who conceives in the same way (Caruana 2002). The main exception to this rule is in Western Australia where the new definition of "de facto" contained in the *Acts Amendment (Lesbian and Gay Law Reform) Act 2002 (WA)* accords lesbian parents who conceive by way of donor insemination and assisted reproductive technologies, the same legal status as heterosexual couples.

How common are same-sex couples?

There is a lack of representative information regarding same-sex couples and households. One source is the 2001 Census. The census form provided same-sex couples with the opportunity to identify as being in a same-sex relationship with someone in the same household.

Using 2001 Census figures, only a very small proportion of household based couples declared themselves as a same-sex couple. Of all couples, just under half of 1 per cent were same-sex couples – 0.26 per cent were gay couples and 0.21 per cent were lesbian couples (Table 7.1). Except for those in their early twenties, same-sex couples appeared a little more common among men than among women. These Australian figures are similar to those obtained in the most recent Canadian Census which estimated a prevalence of 0.5 per cent of same sex couples (Ambert 2003). The 2000 US Census estimated that one 1 per cent of *all couples sharing a household* (married + cohabiting) were same-sex couples (Ambert 2003).

For a variety of reasons, including the way in which same-sex couples are identified in the Census, the census figures are likely to underestimate, to an unknown extent, the number of such couples (ABS 2003g). Using a different methodology, estimates

of same sex-couples can be made from the Australian Study of Health and Relationships – a national probability sample of 19,000 cases from Australian population age 16-59. These estimates are derived from questions about whether the survey respondent had a regular sexual partner with whom they lived.

After weighting the sample data to reflect the population aged 16-59 years as enumerated by the 2001 Census it has been estimated that there are 28,144¹ female same-sex couples and 41,535² male same sex couples (Smith 2003). These estimates compare with 9,840 male same-sex couples and 8,312 female same-sex couples identified in the 2001 census. Based on the Australian Study of Health and Relationships, estimates of all couples living in the same household and aged 16-59, 2.2 per cent are same-sex couples, 1.3 per cent are male same-sex couples and 0.9 per cent are female same-sex couples (Smith 2003).

The figures reported below are based on figures from the 2001 Census. In interpreting these, the likely underestimates must be taken into consideration. The figures, however, provide a sense of the relationship between acknowledging living in a same-sex relationship and a range of characteristics. There is no particular reason to expect that the underestimates provided by the Census will distort the *patterns* evident in the tables that follow.

Same-sex relationships were considerably more common among younger people, with the highest percentage occurring among couples in the 20-24 year old age group where 1.1 per cent identified as same-sex. Of couples in their late twenties and their thirties around 0.9 per cent were same-sex.

The older a person was the less likely they were to be in a household based same-sex relationship. The extent to which this pattern reflects a growing number of same-sex relationships among younger people or a greater reluctance of older same-sex couples to self declare is impossible to say.

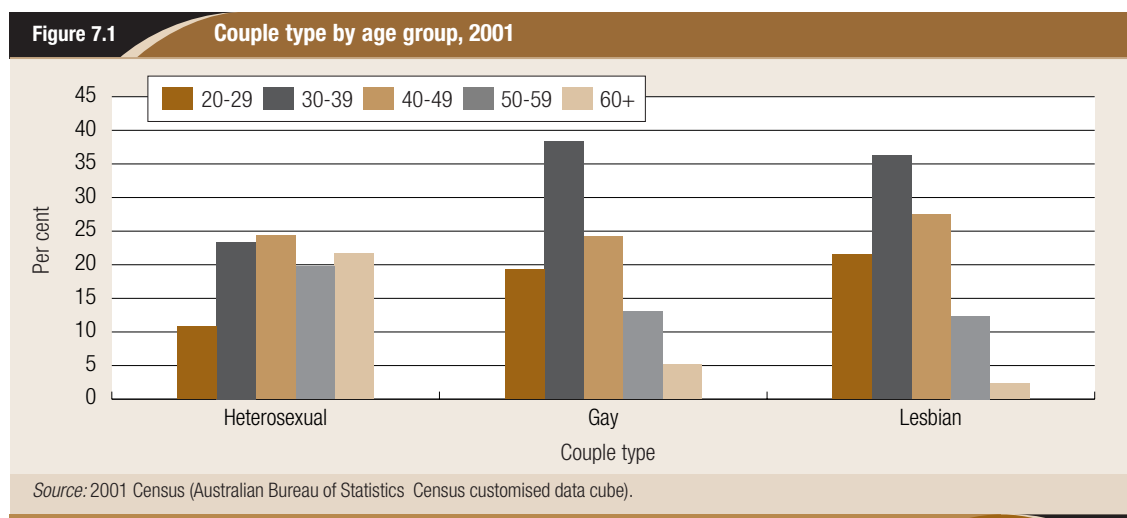
A different way of looking at the link between age group and the type of relationship in which people live is to examine the percentage of a particular couple type that are in specific age groups.

Figure 7.1 highlights the pattern for same-sex couples to be much more likely than opposite-sex couples to be younger. Around 20 per cent of gay and lesbian couples were in their twenties compared to just 11 per cent of heterosexual couples. A similar pattern is evident for those in their thirties – about 37 per cent of gay and lesbian couples are in their thirties compared to 23 per cent of heterosexual couples. The opposite pattern held among older people. Of gay and lesbian couples just 13 per cent were in their fifties compared to 20 per cent of heterosexual couples.

Table 7.1 Same-sex and opposite-sex couples by age group, 2001

Lives as part of a:	Age									Total %
	20-24 %	25-29 %	30-34 %	35-39 %	40-44 %	45-49 %	50-54 %	55-59 %	60+ %	
Heterosexual couple	98.91	99.20	99.21	99.29	99.45	99.57	99.65	99.76	99.92	99.53
Gay couple	0.55	0.43	0.44	0.41	0.29	0.22	0.19	0.15	0.06	0.26
Lesbian couple	0.54	0.37	0.35	0.30	0.26	0.21	0.16	0.09	0.02	0.21
N	237443	624710	884083	985463	1012271	935296	890290	682045	1723241	7974842

Source: 2001 Census (Australian Bureau of Statistics Census customised data cube).



Do many same-sex couples have children?

Same-sex couples may have children living with them. To date most of these children have been born into a previous heterosexual relationship (McNair et al 2002) but increasingly there is the possibility of using new reproductive technologies to conceive a child outside of a heterosexual relationship.

It is hardly surprising that heterosexual couples are more likely than homosexual couples to have children living with them. Table 7.2, however, indicates that close to one in five lesbian couples has a child living with them. A much smaller proportion of gay couples – less than 5 per cent – has a child living with them. McNair et al (2002) have explored the circumstances and aspirations of lesbian couples with children in much more detail.

These figures can be compared to those in North America. The 1990 US Census estimated that 22 per cent of lesbian headed households and 6 per cent of gay headed households had a child under 18 (Black et al., 2000). The 2001 Canadian Census produced a figure of 15 per cent of lesbian couple households and 3 per cent of gay couple households with children. These figures, like the Australian figures, do not include lesbian or gay *individuals* with children living with them (Ambert 2003.)

Who are the same-sex couples?

Are same-sex couples more highly educated than opposite-sex couples?

Gay and lesbian couples tend to be much more highly educated than heterosexual couples (Figure 7.2). Of self-reported homosexual couples in the 2001 Census, gay men living as a couple were twice as likely as men in heterosexual couples to have a degree or higher qualification (33.2 per cent compared with 16.6). Women in lesbian couple relationships were even more highly educated with 41.2 per cent having a degree or higher qualification compared with 17 per cent for heterosexual couple women.

What are the professions of same-sex couples?

The occupational profile of those living in a gay or lesbian relationship is different from those in heterosexual relationships in some notable respects (Table 7.3). Those in gay or lesbian couples are much more likely than heterosexual couples to work in professional occupations. For example, almost 38 per cent of those living in a lesbian relationship and 31 per cent of those in a gay relationship had a professional occupation. This compares with just under 20 per cent of those in a heterosexual relationship who worked in a professional job.

In contrast, a relatively small percentage of those in gay or lesbian relationships worked in blue collar jobs (10.5 per cent of lesbians and 12.5 per cent of gays) compared to those in a heterosexual relationship where 28.4 per cent worked in blue collar jobs.

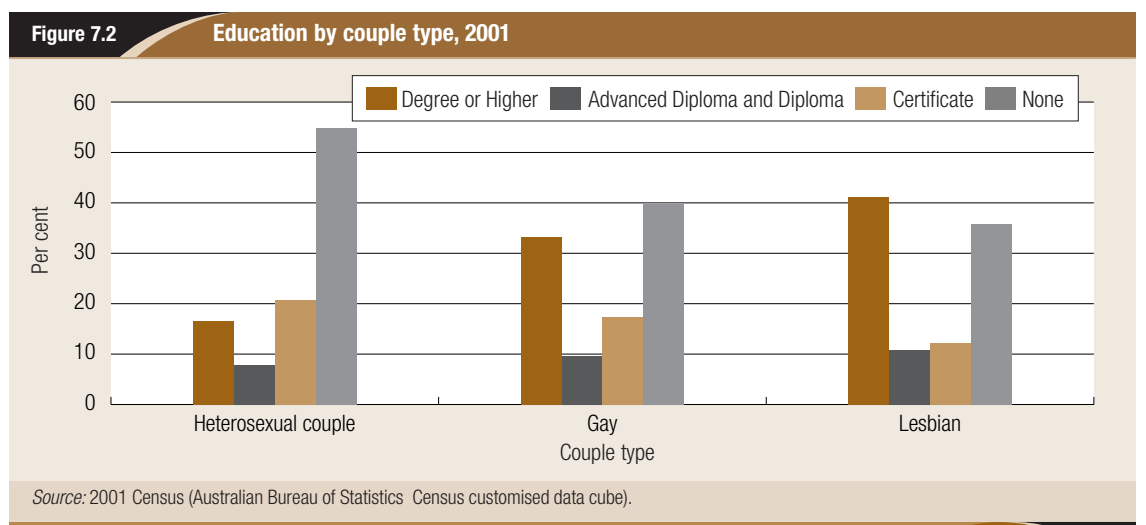
Do same-sex couples earn higher incomes than opposite-sex couples?

Consistent with their higher educational and occupational profiles, those living in gay and lesbian relationships tend to have much higher income levels than the typical person in a heterosexual relationship (Table 7.4).

Men living in gay relationships are more likely than those in heterosexual couples to be in the highest

Family contains	In heterosexual relationship %	In gay relationship %	In lesbian relationship %
Dependent children	46.76	3.55	16.55
Non dependent children	10.25	1.07	2.55
No children	42.99	95.38	80.91
<i>N</i>	7964005	20749	17037

Source: 2001 Census (Australian Bureau of Statistics Census customised data cube).



income group (30 per cent compared with 23 per cent). Conversely, relative to men in heterosexual relationships, gay men are unlikely to be in the lowest income groups. Women in lesbian relationships are much more likely than women in heterosexual relationships to have high incomes. Of women in a lesbian relationship, 23 per cent were in the highest income group compared to just 7 per cent of women in heterosexual relationships. Part of the reason for this discrepancy is that a greater proportion of women in heterosexual relationships have younger children and work part time.

Are same-sex couples mainly from Anglo backgrounds?

The country in which people are born bears some relationship to whether or not they live in a homosexual or heterosexual relationship – no doubt partly a reflection of the acceptability of gay and lesbian relationships within different cultural groups. The clearest differences are:

- Women in lesbian relationships are more likely to be Australian born than are either men in gay relationships or men and women in heterosexual relationships (Table 7.5).

- Men and women in gay or lesbian relationships were more likely than those in heterosexual relationships to have been born in New Zealand and North America (Table 7.5).
- Relative to those in heterosexual relationships, those in gay or lesbian relationships were very unlikely to have been born in Southern Europe, the Middle East, North Africa, developing South East Asian countries, China and Southern Asia (Table 7.5).

Do same-sex couples have religious affiliations?

Men and women living in a gay or lesbian relationship are much less likely than those in heterosexual relationships to acknowledge a religious affiliation. For example, 17 per cent of those in a lesbian relationship said they were Anglicans compared to 25 per cent of those in a heterosexual relationship. Similarly, 20 per cent of those in a lesbian couple said they were Catholics compared to 29 per cent of those in heterosexual relationships (Table 7.6).

The difference between those in homosexual and heterosexual relationships was more marked for the smaller religious groups. Eight per cent of those

Table 7.3 Couple type by occupation, 2001

	Couple type		
	Heterosexual %	Gay %	Lesbian %
Managerial and professional			
Managers and Administrators	11.7	12.2	11.0
Professionals	19.7	31.1	37.8
Associate Professionals	13.1	17.2	15.8
Clerical and sales			
Advanced Clerical and Service Workers	4.4	3.4	2.9
Intermediate Clerical, Sales and Service Workers	15.9	16.9	16.0
Elementary Clerical, Sales and Service Workers	6.8	6.6	6.1
Blue collar			
Tradespersons and Related Workers	12.3	6.8	4.0
Intermediate Production and Transport Workers	8.4	2.5	2.8
Labourers and Related Workers	7.7	3.2	3.7

Source: 2001 Census (Australian Bureau of Statistics Census customised data cube).

Table 7.4 Couple type by annual individual income, 2001

	Male		Female	
	Men in heterosexual relationship %	Gay relationship %	Female in heterosexual relationship %	Lesbian relationship %
<\$10,400	17.8	10.4	36.7	10.0
\$10,400-\$25,999	21.8	18.7	32.6	23.0
\$26,000-\$36,300	18.1	18.5	13.8	19.8
\$36,301-\$51,999	19.1	22.0	10.1	24.0
\$52,000+	23.1	30.3	6.8	23.2

Source: 2001 Census (Australian Bureau of Statistics Census customised data cube).

living in a heterosexual relationship said they belonged to the Uniting Church compared to just 4 per cent and 4.7 per cent of those in gay or lesbian relationships respectively. A similar pattern occurs for virtually all religions except for Jewish where the proportion of homosexuals who were Jewish was slightly higher than among heterosexuals.

The converse of this pattern is that those living in homosexual relationships were much more likely

than those in heterosexual relationships to acknowledge no religious affiliation. Of gay men and lesbian women 40 per cent said they had no religious affiliation – over two and a half times higher than those living in a heterosexual relationship (14.8 per cent) (Table 7.6).

What do Australians think of same-sex couples?

Our knowledge of attitudes regarding same-sex relationships is patchy but the general picture is that the typical Australian is strongly opposed to homosexuality. Nevertheless, opinions are strongly polarised and the available evidence suggests that this opposition is declining (Kelley 2001).

The limited available survey evidence is of a generally negative view towards homosexuality and to gay and lesbian couples having the same legal status as married couples or being able to adopt children. Depending on the particular question asked, between 60 and 70 per cent of Australian adults are opposed to homosexuality – or at least were opposed when the surveys were conducted at various points in the 1990s (Table 7.7).³

The recent 2003 Australian Social Attitudes Survey indicated that 43 per cent of adults regard a same-sex couple with children as a family (compared with 98.8 per cent in relation to unmarried heterosexual couples with children). Just 19.5 per cent regarded a same-sex couple without children as a family compared with 32.5 per cent who regard an unmarried heterosexual couple without children as a family.

Table 7.7 shows an interesting gender difference in relation to attitudes towards male and female homosexuality. Men, but not women, distinguish between male and female homosexuality. Men condemned male homosexuality more than women did but men and women were indistinguishable in their attitudes to female homosexuality, with 66 per cent of both men and women condemning female homosexuality. Men condemned male homosexuality more than they condemned female homosexuality while women condemned male and female homosexuality to the same extent (Table 7.7).

The greater opposition to homosexuality among men than women was not even across all age groups. It was greatest among younger people where men were considerably more opposed to homosexuality than were young women. This gender gap tapered off so that among those over 50, men and women were virtually indistinguishable in their attitudes to homosexuality.

The older people were, the more likely they were to oppose homosexuality, the legal recognition of homosexual relationships, homosexual adoption or regarding a same-sex couple with children as a family. About 90 per cent of those aged 60 or over,

Table 7.5 Couple type by country of birth, 2001

	Couple type		
	Heterosexual %	Gay %	Lesbian %
Australia	68.8	70.2	77.2
New Zealand	2.3	4.8	4.0
North America	0.5	1.8	1.8
Southern Europe	5.4	1.5	0.9
Middle East & North Africa	1.7	0.7	0.4
South East Asian Developing	3.1	4.1	1.7
China	1.1	0.4	0.2
Southern Asia	1.3	0.6	0.4
Northern & Western Europe	2.2	2.2	1.6
UK	8.4	7.9	8.5
Ireland	0.4	0.5	0.4
Other South Eastern Europe	0.4	0.2	0.1
Eastern Europe & Former USSR	1.0	0.4	0.3
Asia, Developed	0.7	1.6	0.5
Other	2.7	3.3	2.0

Source: 2001 Census (Australian Bureau of Statistics Census customised data cube).

Table 7.6 Religious preference by couple type, 2001

	Couple type		
	Heterosexual %	Gay %	Lesbian %
Anglican	25.1	18.0	17.0
Catholic	28.7	21.2	19.7
Presbyterian/Reformed	4.5	2.6	2.5
Uniting Church	8.1	4.0	4.7
Greek Orthodox	2.5	1.1	0.7
Other Orthodox	1.3	0.2	0.3
Baptist	1.9	0.9	0.8
Lutheran	1.6	0.9	0.9
Pentecostal	0.3	0.1	0.0
Fundamentalist Protestant	1.1	0.4	0.5
Sect	1.1	0.3	0.2
Other Christian	0.2	0.4	0.4
Buddhism	2.0	4.3	2.8
Hinduism	0.6	0.3	0.3
Islam	1.5	1.0	0.4
Judaism	0.5	0.7	0.8
Other Religion	4.2	4.5	7.2
No Religion	14.8	39.2	40.7
Not stated	6.9	7.9	9.3

Source: 2001 Census (Australian Bureau of Statistics Census customised data cube).

Table 7.7 Attitudes towards homosexuality

	Gender			Age					
	All %	Male %	Female %	20-29 %	30-39 %	40-49 %	50-59 %	60-69 %	70+ %
Believe that male homosexuality is always wrong(1989-90) ¹	72	77	67***	63	61	72	81	89	89***
Believe that female homosexuality is always wrong (1989-90) ¹	66	66	66	54	54	68	78	85	87***
Sex between two adult women is always wrong ³ (2001)	23.2	21.4	25.1						
Sex between two adult men is always wrong ³ (2001)	31.8	36.9	26.6						
Opposed to the law treating homosexual couples the same as married (1995) ²	63	70	56***	45	54	64	70	80	78***
Opposed to homosexual couples adopting children (1995) ²	71	80	68***	55	68	73	81	88	88***

Source: de Vaus (1997a).

p<.05; **p<.01; ***p<.001

¹ National Social Science Survey, 1989-90 ² Australian Family Values Survey, 1995 ³ Australian Study of Health and Relationships

compared with 60 per cent of those under 40, believed that male homosexuality is always wrong. Almost 90 per cent of those aged 60 or over compared with only 55 per cent of those in their twenties, opposed homosexuals being able to adopt children.

While there is a generally negative attitude towards homosexuality in Australia, the population is quite polarised in its views. In his analysis of changing attitudes Kelley (2001) points out that:

“Australians are either unambiguously tolerant or unambiguously censorious, with very few holding ambivalent or nuanced views in the middle” (p. 15).

Despite the generally negative attitudes, there is some evidence that Australians are becoming more tolerant of homosexuality. Although the figures reported in Table 7.8 are not just about homosexual couples or views about same-sex families, it is likely that attitudes about homosexuality in general can be extended to homosexual families.

Surveys conducted at different times can give some idea of changes in attitudes to homosexuality. However, care must be taken in comparing different surveys at different times as differences in question wording and sampling can be responsible for some of the apparent differences. Nevertheless, considerable change in attitudes appears to have taken place. In 1989-90 the National Social Science Survey found that 72 per cent of adults thought that sex between two men was always wrong and 66 per cent thought

Table 7.8 Attitudes to homosexuality, 1984-2000

Homosexuality	1984-85 %	1999-2000 %
Always wrong	64	48
Almost always wrong	9	9
Wrong only sometimes	11	15
Not at all wrong	16	28
Total	3012	1223

Source: Kelley (2001).

that sex between two women was always wrong. Similar questions in the 2001 Australian Study of Health and Relationships indicated disapproval levels of 32 per cent and 23 per cent respectively (Table 7.7). In 2003, 47 per cent disagreed with the law recognising same-sex relationships while in 1995, 63 per cent were opposed to treating a same-sex couple the same as a married couple. Certainly, the much more accepting attitudes of younger people suggests that, over time, there will be much greater acceptance of same-sex relationships.

Table 7.8 shows responses to the same question on two surveys conducted about 15 years apart. Attitudes have become less opposed to homosexuality. While 64 per cent of adults in 1984-85 said that homosexuality was always wrong this figure had dropped to 48 per cent by 2000. Conversely the percentage who said that homosexuality was not at all wrong increased from 16 per cent in 1984-85 to 28 per cent in 2000.

Endnotes

1 24,939 identified as lesbian and 3,205 as bisexual.

2 29,796 identified as gay and 11,730 as bisexual.

3 The discussion relating to the some of figures in Table 7.7 is drawn from de Vaus (1997a).

Highlights

- Declared same-sex couples in the 2001 census represent a very small proportion of all couples – just under 0.5 per cent of all household couples.
- Estimates of same-sex couples from the Australian Study of Health and Relationships are that 2.2 per cent of household based couples are same-sex couples.
- Children are present in approximately one in five households of lesbian couples but in less than 5 per cent of those of gay couples.
- Compared to heterosexual couples, same-sex couples are much more likely to:
 - be younger;
 - be employed in professional occupations;
 - have a degree or higher educational qualification;
 - have a relatively high income;
 - be born in Australia (lesbian couples only), New Zealand or North America;
 - have no religious affiliation.
- Although homosexuality continues to be opposed by significant sections of society there appears to be far more acceptance of homosexuality in 2001 than just ten or 15 years earlier.
- There appears to be growing support for the legal recognition of same-sex relationships. However, there is a polarisation of views with very few people holding a position between strong approval and strong condemnation.