

Classifying Relationship and Marital Status among Same-Sex Couples

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Abstract

To accurately portray a population's demographic and social profile, the measures used must keep up with changes in society and laws. Recent legal changes have permitted same-sex couples to marry. However, recent estimates from the U.S. Census Bureau's American Community Survey (ACS) suggest that the number of same-sex couples reporting "husband or wife" is larger than the number of same-sex couples legally married in the U.S. (Gates and Steinberger, 2009; O'Connell and Lofquist, 2009). This paper reports the results of focus groups to learn how gay and lesbian couples think about and report their relationships and marital status. We also explored what certain terms, definitions, and categories mean to this subpopulation. The paper concludes with recommendations for question revisions that can accurately reflect the status of members of same-sex cohabitating couples.

Keywords: relationship, marital status, LGBT, focus groups

1. Background

Enumerating same-sex couples in the United States is an ongoing challenge for the U.S. Census Bureau. In the 1990 Census, "unmarried partner" was added to the relationship question's list of response categories used to describe how persons within a household are related to Person 1 (head of the household). This became a new way to classify same-sex (and opposite-sex) cohabiting couples. Data from the 1990 Census indicate that 145,130 gay and lesbian couples selected this relationship category (U.S. Census Bureau, 1993). In 1993, the Hawaii Supreme Court, in a ruling that was subsequently overturned, allowed same-sex couples the right to marry. Thus, in theory, "unmarried partners" could become "husbands" and "wives."

Over the last 15 years, other states have legalized gay marriage and other types of statuses such as civil unions and domestic partnerships that convey some of the legal benefits and rights of marriage. By 2009, 36.1 percent of the U.S. population resided in an area with some form of same-sex legal recognition (Gates, 2010). At the same time, the federal government passed the Defense of Marriage Act (DOMA) in 1996, stating that marriage between same-sex couples is not recognized at the federal level.

With some options available to legally codify their relationships, the ways in which gays and lesbians answered official government surveys began to change. The terms "husband/wife" and "now married" began to extend to some same-sex couples as they responded to government data collections such as the American Community Survey (ACS). There is a scant literature on the topic of relationship and marital status classification in the Lesbian, Gay, Bisexual and Transgendered (LGBT) population. Following Census 2000, Badgett and Rogers (2003) conducted surveys to estimate how many same-sex couples actually selected "unmarried partner." They concluded that an undercount likely occurred. O'Connell, Lofquist, Simmons and Lugaila (2010) recently

¹ Disclaimer: This report is released to inform interested parties of research and to encourage discussion. The views expressed are those of the authors and not necessarily those of the U.S. Census Bureau.

documented reasons for a sharp decline in 2008 in same-sex couples being counted as “spouses” as opposed to “unmarried partners.” They point to changes in the ACS processing, data capture, questionnaire design and layout as potential reasons for the decline.

Exactly how same-sex couples define and apply these labels and under what circumstances is unclear – but what *is* clear is that many are choosing them. In fact, many more are choosing them on the ACS than could possibly be legally married. According to The Williams Institute, at the end of 2008, approximately 35,000 same-sex couples were legally married within the U.S. and 86,000 couples were in some type of legally sanctioned same-sex relationship status. However, data from the 2008 ACS estimated the number of same-sex couples indicating “husband/wife” close to 150,000.² This is higher than the number of couples in all legally sanctioned unions, including marriage, domestic partnerships and civil unions (Gates, 2009). This discrepancy between administrative records and survey self-reports of “husband or wife” suggests an interesting measurement issue for the Census Bureau: are rapid changes in the legal recognition of gays and lesbian unions changing how they define and report their relationships?

It is clear that the Census Bureau and other federal statistical agencies must begin to rethink how these constructs are measured to keep up with legal and societal changes. With same-sex marriage laws in flux but looking to expand, we must closely examine the evolving definition of marriage to accurately reflect and include the living situations of same-sex partners.

2. Research plan

As an initial effort to study this topic, we conducted focus groups to study classification error in the relationship and marital status questions.³ Focus groups were well-suited for this research for two reasons: 1) they would allow us to use an open-ended setting to get input on a topic for which there is little to no research; and 2) they would allow us to assemble homogeneous groups of participants with characteristics of interest to investigate the potential effects of these characteristics on responses to these questions.

We structured the focus groups to investigate the following broad research questions:

- What are the naturally occurring terms used to introduce same-sex partners?
- How do individuals in same-sex relationships answer the current ACS/Decennial Census relationship and marital status questions?
- Does an individual’s answer to these questions depend on current legal relationship status and/or the laws in the state where he/she resides?
- Are the current questions interpreted to be asking about **legally defined** relationship/marital status or something else?
- What are people’s reactions to alternative terms/categories?
- How do **opposite-sex** couples who are cohabitating but not legally married interpret and complete the current ACS/Decennial Census relationship and marital status questions? What are their reactions to alternative terms/categories?

² Not all couples selected “husband/wife,” however; approximately 414,000 same-sex couples identified as “unmarried partners” (Williams Institute, 2009).

³We also plan to conduct cognitive interviews to test alternative versions of the relationship and marital status questions that evolve from the focus groups and hope to conduct small-scale quantitative tests with questions that test well in cognitive interviews.

3. Methodology

3.1 Data Collection and Recruitment Criteria

In all, 18 focus groups (14 with individuals in same-sex relationships, four with opposite-sex couples who are not legally married) were conducted in 7 locations across locations with a variety of policies regarding same-sex marriage.

Three locations were in states that have some recognition of same-sex marriages: Boston, MA, where same-sex marriage has been legal since 2004; San Francisco, CA, where gay marriage was legal from June 16 to November 5, 2008; and Washington, DC, where at the time of our focus groups, the City Council had agreed to recognize same-sex marriages performed in other jurisdictions.⁴ The remaining locations represented states without policies granting legal recognition to any type of same-sex union (Houston, TX; Topeka and Wichita, KS; Ft. Lauderdale, FL; and three rural locations in Georgia)⁵. A total of 186 people – 94 women and 92 men – participated.

The recruiting criteria focused on additional characteristics potentially related to participants' reports of relationship and marital status on a census form, including:

- for opposite-sex couples, no legal union; for same-sex couples, variation in the presence or absence of a legal union, and the type of union (marriage, domestic partnership or civil union);
- for all opposite-sex couples and same-sex couples in Boston, no legally recognized union in a location where such a choice was available;
- the length of the relationship;
- the age of the participants;
- the presence of children in the household;
- the education level of the participants; and
- the native language of the participants (to investigate cultural variation)⁶.

In Boston, we purposely recruited participants without any legal union for one group, while a second group included participants with a legal marriage, in order to address the first two characteristics. In both Washington, DC, and San Francisco, all the participants in a group of women had legal marriages, and all but two of the participants in a group of men had domestic partnership agreements.⁷ The remaining characteristics were distributed across the groups, though the men's group in Ft. Lauderdale and one of the opposite-sex groups in Houston specifically targeted people with less than a college-level education.

Recruiting efforts also attempted to get participation from a range of racial and ethnic groups. In Houston, two Spanish language groups (one opposite-sex, one same-sex) were conducted, with all the participants self-identifying as Hispanic. In the remaining opposite-sex groups, we had a relatively even distribution of participants who self-identified as Hispanic, African-American, and White. In the same-sex focus groups,

⁴ Legislation has since passed that allows same-sex marriages to be performed within the District of Columbia.

⁵ To help ensure confidentiality, the rural locations in Georgia are not named.

⁶ The current paper does not discuss in-depth findings from two Spanish language groups.

⁷ There was one couple in the Washington DC men's group who did not have any legal certificates for their relationship; the other three couples were registered as domestic partners in DC.

however, far more whites participated than any other racial or ethnic group. In these 12 groups (participant $n = 146$), only nine African-Americans participated, seven individuals who self-identified as Hispanic, and two participants who self-identified as Asian American. In part, this is a function of the demographics of the locations where some of the groups took place (rural Georgia and Kansas), but it also reflects ethnic differences around gay identity that we were unable to address with our recruiting strategies. This limitation should be taken into consideration when reviewing the findings of this study.

All groups were led by a professional qualitative researcher with expertise in moderating focus groups about sensitive topics. A survey methodologist also attended each session.

3.2 Protocol and Moderator's Guide

The moderator's guide was structured in several parts. Participants were first asked to describe how they introduce their "better halves." Next, they were given a paper questionnaire resembling the Census 2010 form⁸ and were asked to complete it for everyone currently in their household. Participants were instructed to complete the form as if it were an official Census document that had arrived in the mail. No discussion or questions were allowed during this task.

This was followed by a discussion of how they answered the questions and their reactions to a variety of other terms. Following the discussion of the relationship question, participants were asked to complete a paper copy of the ACS marital status question for themselves and their partners. This led to a discussion of the concepts and terminology in the question. These two questions were completed separately to facilitate an independent discussion of the two concepts.⁹ After completing the two questions, the moderator probed about whether participants perceived the form to be asking about legal relationship/marital status between Person 1 and Person 2 or something else.

4. Results

We communicate results first for the relationship question and then marital status. Within each, we present findings for five groups: same sex participants with no legal status living in states where gay marriage is legal; same sex participants living in domestic partnerships or civil unions; same-sex participants who were married; same-sex participants with no legal status living in states that do not provide any legal recognition; and opposite sex participants. While there was certainly not 100-percent consensus across these groups, this approach seemed most fruitful. Our analysis suggests that other recruitment variables such as gender, length of relationship, presence of children, age or education did not influence how participants interpreted the meaning of different relationship terms.

4.1 Terms Use to Describe Partners and the Relationship Question

One goal of the focus groups was to understand terms naturally used to introduce same-sex partners. When we asked participants to indicate how they would introduce their "better half" to the moderator, we found that gay and straight participants often used the same terms of introduction:

⁸ The form included name, relationship, age, and gender but did not include the race and Hispanic origin questions.

⁹ This goal was achieved for the relationship question. However, the discussion of the marital status question appeared to be affected by the preceding discussion.

- “I would describe her as my wife.” (Opposite Sex)
- “I refer to him as my husband.” (Same sex)
- “I introduce my partner as my partner.” (Same sex)
- “I’ve been with my partner for about two years.” (Opposite Sex)
- “I would refer to him as either partner or boyfriend.” (Same sex)
- “She’s my girlfriend.” (Opposite sex)

Perhaps not surprisingly, opposite-sex participants were more likely to introduce their partners as “fiancé” if they were engaged, but some same-sex participants who had made plans to get married also said they would use this term of introduction. These terms are very similar to those noted during other qualitative interviews with cohabitating couples (Hunter, 2005).

One important finding from these discussions was that, particularly for gays and lesbians, participants’ use of reference terms was not static, but rather conditional upon their assessment of the context. For example, in familiar social surroundings that included friends (often other gay people), the respondent might use the term husband or wife (“I’m not worried about losing my job, so she’s my ‘wife’”). However, in situations that were deemed a little less accepting, a different term such as “partner” or even the non-committal “friend” might be used.

- “How would I introduce my partner? It depends on the setting. If it’s this setting, I would say, ‘my partner, NAME.’ If it’s outside, ‘my good friend, NAME’ or ‘uncle.’”
- “It depends. If it’s family, it’s ‘wife.’ If it’s like in school, a social environment, or work, it’s ‘spouse’ because everyone’s more ok with that term. ... ‘Dependent’ is the one I used at work – I hate that. If ‘spouse’ is on there, I’ll mark ‘dependent’ and ‘spouse.’”

Opposite-sex participants made similar decisions, based less on the perceived “threat” of the context and more on the relative importance of the document or the situation:

- “I think it sounds more important to put husband or wife than to put boyfriend or girlfriend. Depending upon that paper and how important that paper is...”
- “It depends upon what forms. If anything, I would put her down as my wife. If we were out in public I would refer to her as my wife. If it’s appropriate. If it’s not appropriate then we don’t. We’re just a couple. Sometimes it’s to your advantage [to put wife].... Most bureaucratic things – government things, ...anything to do with any kind of welfare situation. Sometimes it’s a medical thing and they ask if you’re married, well for all intents and purposes you are.”

Several participants across female groups expressed distaste and even avoidance of the term “wife.” These women viewed “wife” as too heterosexual-normative, derogatory, and even subservient. Alternatively, some of the opposition to the term “wife” came from women coming out of heterosexual marriages; these women expressed disdain as in “I’ve been a wife before and I won’t be a wife again.” They tended to use “spouse” or “partner” or avoid any kind of label and introduce partners by name only. Others, however, were comfortable with the term “wife” and in fact, preferred to make the point to strangers that they are married to a woman. The latter sentiment seemed to apply more to younger participants (i.e., under 30), perhaps because they view it as a possibility early in their lifetime. For example, one participant said, “that is something that could happen. We could be really soon. We just go to my home state, Vermont, and get married.” For this cohort, the idea of following a traditional path to marriage starting with a proposal

and followed by engagement is not as foreign as it is for older same-sex couples still adjusting to the possibility of same-sex marriage. These younger women seemed eager to embrace marriage and some were excited to reclaim the term “wife” and apply it to less traditional lesbian couples. We did not conduct any groups with males in same-sex marriages so we are hesitant to generalize these conclusions beyond the female groups.

After indicating the terms used to introduce partners in different circumstances, the moderator spent time discussing how participants had completed the relationship question on their mock forms (see Figure 1) and why they had selected their responses. The answers for those in a same-sex relationship were predicated largely upon their current legal relationship status *and* the same-sex recognition of the state in which they reside.

How is this person related to Person 1? Mark (X) ONE box.

<input type="checkbox"/> Husband or wife	<input type="checkbox"/> Son-in-law or daughter-in-law
<input type="checkbox"/> Biological son or daughter	<input type="checkbox"/> Other relative
<input type="checkbox"/> Adopted son or daughter	<input type="checkbox"/> Roomer or boarder
<input type="checkbox"/> Stepson or stepdaughter	<input type="checkbox"/> Housemate or roommate
<input type="checkbox"/> Brother or sister	<input type="checkbox"/> Unmarried partner
<input type="checkbox"/> Father or mother	<input type="checkbox"/> Foster child
<input type="checkbox"/> Grandchild	<input type="checkbox"/> Other nonrelative
<input type="checkbox"/> Parent-in-law	

Figure 1. Facsimile of Relationship Question Completed by Participants

Answers to this question were cut-and-dry for the group of males in same-sex couples who had no legal recognition and lived in Massachusetts, where same-sex marriage is allowed. Because they can be married (but choose not to), they closely resembled their straight counterparts who cohabit but remain unmarried. All the participants selected “unmarried partner” and there was little ambiguity or discussion about their selection. The reason was simple: “it’s appropriate especially here in Massachusetts where you *can be married legally*” (emphasis added). For the most part, this also represents how the opposite-sex participants described their relationship status. In the vast majority of cases, “unmarried partner” was checked, but not always. In a few cases, husband/wife was selected. In at least one case, this occurred when the person was engaged and soon to be married. In at least one other case, the participant reported not seeing the “unmarried partner” category toward the end of the list. Nonetheless, for the most part, the current relationship question appears to work with little measurement error for both heterosexual unmarried couples and homosexual couples without legal recognition who *reside in a state where marriage is allowed*. The availability of same-sex marriage creates an “even playing field” for both same-sex and opposite-sex couples and thus provides a similar set of expectations and interpretations of the terms “husband/wife” and “unmarried partner.”

Answers to the relationship question were also consistent for the same-sex couples in a registered domestic partnership or civil union. These participants overwhelmingly chose “unmarried partner” to describe their relationship status. However, there was an undercurrent of dissatisfaction with the categories since the current intimate partnership categories are all “marriage-centric” (i.e., husband/wife and unmarried partner) and do not include alternatives such as “domestic partner” or “civil union partner.” This notwithstanding, the current categories generally worked for this subgroup. We note, however, that both the domestic partnership groups were composed of males, so we cannot generalize these conclusions to same-sex female couples in the same legal status.

Finally, "unmarried partner" was also the most frequently selected category among participants in same-sex relationships with no legal relationship recognition (from anywhere) who reside in a state that does not recognize same-sex marriage. However, this group expressed the most anger and frustration over the current relationship categories. For example, one participant said, "I wanted to say a committed partner, a life partner or something else. But this was the closest I could get." Many indicated that they were tempted to select "husband/wife" because they felt that this category much more closely described their current relationship with their partner: "yeah, I was saying my heart response was immediately like 'wife.'" However, when pressed if they interpreted the question to ask about a legal status or something else, most interpreted it to be asking about a state-sanctioned/legally recognized marriage. As such, many expressed a desire to check the spousal category but interpreted it as "does not apply."

All the legally married same-sex participants marked "husband/wife," regardless of local laws. This included three groups held with lesbians who were legally married in the U.S. and resided in a state where those marriages were recognized, as well as four married persons (two women, two men) who had been married elsewhere and currently lived in states that neither granted same-sex marriage licenses nor recognized same-sex marriages from other jurisdictions. Participants in states where marriage was legal made the following statements:

- "I didn't look for anything else, I always go for 'wife' on the forms now that we're married. That's why we got married, so that we can mark 'wife.'"
- "I consider her my wife; I consider myself the husband. The lesbian husband because I'm just not the wifely type."

Hypothetical probing ("If you had a legal marriage from [California], but lived in a state where your marriage was not valid, how would you respond to the relationship question?") revealed that most participants would mark "husband/wife," regardless of the fact that neither their state nor the Federal government would recognize the legality of the relationship:

- "Who cares if the state you're living in doesn't recognize it?"
- "Oh, I would check off [wife], absolutely. I don't care if it would make everybody pissed off, and I really don't care if it wouldn't be recognized where I'm at. I don't care if I was in Antarctica, I would say wife, absolutely."
- "I would still check husband or wife. As far as I'm concerned, I'm legally married, I don't care what the federal government thinks."

A few, however, said they would *not* mark husband or wife, precisely because they would not have legal recognition in their state of residence. Some quotes to illustrate this position:

- "That's one of the reasons we've held off getting married, because I'm on hold, waiting to hear if I have to move to Chicago...we get married here, the state of Illinois wouldn't recognize it...what would be our legal status?...I don't want to be some legal test case they write about in *The Advocate*, you know, like the two women in Texas trying to get divorced, because they were married here [in Massachusetts] but they're trying to separate in Texas."
- "If it's state-dependent, saying you were married, it would be useless in Georgia, because it's not recognized here. But if you were in Massachusetts, it would be perfectly fine, I'd be like, yeah, married, wife and wife."

Still others were unclear on how they were “supposed” to answer the question, given both the lack of recognition in their home state and the lack of Federal recognition. The first quote below is from one of the married women in Boston who had readily checked “husband/wife” in the opening exercise:

- “I think I would spend a lot more time thinking about what I wanted to do if I lived in a state where I wasn’t legally married.”
- “How are you supposed to fill it out, is it based on the states? ...I guess I would put married to a Canadian [his partner is from Canada]. (laughter) I don’t know...”

While our data suggest that most participants would mark “husband/wife” even if their Massachusetts marriages were not recognized in their states of residence, there were enough ambiguous responses that this remains somewhat an open question. If the Census question is asking about a legal relationship, when is a “legal marriage” not legal?

Finally, some participants indicated they would select “husband/wife” although they were not legally married or in any type of legally recognized relationship status. When participants were pressed about why, their answers varied. Some indicated that they consider their relationship to be equivalent to a conventional heterosexual marriage in that they are in a committed long-term relationship, share a home, and indicate their partner as primary beneficiary. These individuals did not perceive the question to be asking about a government-recognized relationship but rather “a description of what I perceive my relationship to be.” Another common denominator appeared to be having been joined previously in a non-legal Holy Union or commitment ceremony witnessed by friends and family. Prior to recent legal changes, such ceremonies were the only option available to couples from somewhat older cohorts who wanted a publicly-witnessed ceremony or celebration. With the advent of new options, such ceremonies are somewhat outdated and becoming less popular. But for those couples whose relationships predate these changes, these ceremonies are a point of reference for publicly signifying their committed relationship and as such, “husband/wife” may feel more appropriate than “unmarried partner.” As one such participant explained, “as far as I’m concerned, in the eyes of God, I’m married...and everything that entails. So maybe the government doesn’t accept the fact that we’re married, I am, in my belief system, I am married.” We base this observation only on a few participants, but consider it a hypothesis worthy of further examination.

For the most part, however, persons in same-sex couples without legal recognition residing in areas that do not recognize gay marriage indicated willingness to select “unmarried partner” because it was both legally accurate and the word “partner” was an adequate description of their relationship. Persons in opposite-sex couples overwhelmingly selected the “unmarried partner” category to describe relationship and there was little cause for discussion about it. All interpreted “husband” and “wife” to refer to legally married partners; therefore, the terms did not apply to them. There were, however, three women who selected the term “husband” to describe their partners -- these women were either engaged to be married within the month or were in a common-law marriage as defined by their current or former state of residence.

4.3 Alternative terms for relationship category?

Following a discussion of how participants marked the current ACS/Decennial relationship item, the moderators presented several alternatives, including spouse, partner, same-sex partner, domestic partner, boyfriend/girlfriend, significant other, and housemate/roommate. Many of the alternatives had been discussed as part of the earlier

conversations about terms used to present partners and responses to the relationship question. Interestingly, some of the terms that participants said they commonly used (“I introduce her as my girlfriend,” “He is my partner”) were received less favorably during this discussion. Ultimately the discussion revolved around what terms were seen to be “appropriate” for a perceived legal form such as the Decennial Census.

“Partner” got mixed reactions from the gay groups. Some felt it required a qualifier to be acceptable, as in “committed life partner” or “same-sex partner.” Without a qualifier, some felt the word “partner” could mean a business partner or some other non-intimate partnership status. Many opposite-sex couples said that “partner” was a moniker primarily used to describe gay relationships. This sentiment was voiced across all the opposite-sex groups and for this reason, most indicated they would not prefer “partner” as a category.

In general, the term “spouse” was positively received by most participants in same-sex couples, particularly those who had bristled about the “heterosexual” sounding terms husband and wife. Couples who were legally married liked the gender neutrality of the term, while others with no legal recognition commented that “spouse” seemed less legal-sounding than “husband/wife.” But, not all agreed. Some gays interpreted the term spouse to imply legally married status just like “husband/wife.” This was also the case for opposite-sex couples, who viewed the term as redundant with “husband/wife;” as one said: “[It] feels like [a] married name – it means the same thing as husband or wife.” Unlike some same-sex couples, the opposite-sex couples almost unanimously rejected the word “spouse” as an accurate way to describe their relationship to one another.

The groups were split on their preference for categories that explicitly delineated “same-sex” and “opposite-sex” partners. Interestingly, the gay participants seem to fall into two camps – one very much liked the idea of seeing “same-sex partner” on a government form. These people believed such a category would yield a more accurate count of same-sex couples. But others from the LGBT groups were not convinced such delineations were necessary since gender is also captured on the form. Other gays and lesbians who were in favor of marriage equality also did not prefer gender differentiations in the partner category. As one woman put it “I’m a lesbian, I’m married, and I’m proud of it, why would I check [same-sex] partner?” There were also participants who initially supported the idea of a “same-sex partner” category, but then noted that they knew plenty of friends who would not mark that response option out of fear:

“I believe, I *know* there’s still some people that wouldn’t check it. I know – some of our best friends have been together for 40 years and I know they would not check it. ... Because they are so closeted.”

The opposite-sex couples also felt the distinction was unnecessary and for some, not appropriate on a government form. Overall, the opposite-sex groups were not in favor of the distinction between “same-sex” and “opposite-sex” partnerships.

The term “domestic partner” was not favored by any of the participants except same-sex couples who were in a legally registered partnership. For some, the term evoked negative connotations like “the maid” or “my domesticated servant.” Conversely, for couples in such a partnership, this category was familiar and exactly the term they were searching for. Several expressed concern that unmarried partner, while the closest term available to describe their relationship, was not adequate because the “unmarried” part denied the official status of their relationship.

The term “significant other” met with lukewarm response in most groups. Some viewed the term as a decent choice if nothing else was offered, but others felt it was outdated or used primarily as a politically correct term for opposite-sex couples who live together. Still others were unclear what the term really meant, and they said they would find it odd to see the term on a government form. The term “housemate/roommate” was overwhelmingly decried as inappropriate to describe relationship status for both same and opposite-sex couples. Participants suggested this term does not denote any emotional significance, and almost unanimously, same-sex couples rejected it outright. “It’s a lie. I mean, she’s not my roommate, she’s never just been a roommate, so why tell people that?” and “...depending upon where you live...you used to have to say housemate or roommate. But in this date and time, we just skip that [roommate/housemate] real fast because my partner is my partner.”

The term “boyfriend/girlfriend” did not fare well among any of the groups, gay or straight. There were several stated reasons for this. First, older participants felt that the term was inappropriate for the stage of their relationship:

- “It doesn’t sound like a serious- like, ‘I have a new boyfriend or girlfriend.’ It’s like a two-month kind of a deal.”

Secondly, many felt that it was a term that is used by much younger people:

- “We’re not fifteen!”

Finally, although there were a couple of isolated requests for what one participants called “a girlfriend category” on the census form, gay and straight participants generally viewed these terms as inappropriate for an official document:

- “It seems like they would not take you very serious on the census – boyfriend, girlfriend, people break up all the time. You could be my girlfriend one day, and then ‘This is my girlfriend. I guess I messed up on the census yesterday.’”
- “I think it sounds more important to put husband or wife than to put boyfriend or girlfriend. Depending upon that paper and how important that paper is...”

4.4 Marital status

What is this person's marital status?

Now married

Widowed

Divorced

Separated

Never married

Figure 2. Facsimile of Marital Status Question Completed by Participants

The marital status question (see Figure 2) presented a host of challenges for the participants and, by extension, the analysts. One of the most significant difficulties was that we were unable to get a “clean” reaction to the question, since participants were asked to complete this question after 45 minutes of discussion about the relationship question and *its* challenges with respect to same-sex partnerships. As an example, one participant who had marked “unmarried partner” for the relationship question marked “now married” for the marital status question, explaining her reasoning as, “I just wanted to take a stand.” Her response was not an isolated event, as suggested by the following comment from a woman who has no legal certificate for her relationship, but marked “now married” for this question:

“... Typically when I check these forms I always put that I’m single, because that’s the legal category that I fit into. Neither one of us has been legally married before. But tonight I sort of, I’m saying this isn’t a legal document – I mean I feel like it’s more about what do I consider myself, where do I best fit in to what they’re giving me? Not so much what is the legal truth. So I put now married on both, but I don’t think that I would have had I not come here tonight and had the conversations about [does Census] really care what’s legal or not...”

Thus, it is necessary to note that the context in which discussions were observed may not generalize to the situation of responding to a form mailed to a respondent’s house.

While we must take into account the effect of the discussion on some participants’ responses, other patterns in their selections and subsequent discussions merit attention. First, a general pattern showed itself: legally married same-sex couples reported themselves as “now married” regardless of where the marriage took place and whether or not it is recognized in the place where the participants live. This included the 29 married women in jurisdictions where same-sex marriage is recognized, and the four married participants in other jurisdictions, who were married in California, Massachusetts, Connecticut, and even Canada. They felt that if they were legally married anywhere, the “now married” category applied regardless of the local laws on same-sex marriage. “We have a certificate, so we are married.” There was some discussion about the fact that the marriage is recognized in the state but not by the federal government and the census is a federal form. This did not, however, affect their decision to record themselves as married.

With very few exceptions, opposite-sex participants – who have the option to marry regardless of where they live – and same-sex partners in Boston who had no legal status (but who have the option of getting legally married in Massachusetts) marked “never married” or “divorced.” This included several opposite-sex couples who reported that they were engaged to be married. This question seemed very straightforward to them. [I gave that answer] “cause we never got married. We’ve never been married – that’s a plain answer. That’s what it is!” A respondent marked more than one box, because he had been both widowed and divorced from different partners.

By marked contrast, the marital status question did not work well for participants who are in same-sex relationship without legal recognition and live in areas where marriage is not allowed. The question was viewed as “marriage-centric” and participants did not see a category that recognized their status. Most marked “never married” or “divorced” (from a heterosexual spouse). They clearly expressed the reasons for their frustration: They felt that the category “never married” does not reflect their lives, and as a result they felt personally discounted.

- “These questions totally negate me.”
- “I’ve been with this person for over 20 years and none of these really fit.”
- “I can’t answer...this would be a blank. I couldn’t answer it because ‘now married’ would be ... false in every sense, so I couldn’t do that. I get no satisfaction out of answering that. And ‘never married’ is utterly false to my heart.”

In addition, participants who had been divorced in brief heterosexual marriages that had occurred many years ago felt frustrated by the fact that their marital status was defined by a previous relationship that was unimportant compared to their current relationship. (This sentiment was also expressed by members of opposite-sex unmarried couples.)

During these discussions participants said that asking for “marital status” from individuals who cannot legally get married is one more way that society denies the existence of same-sex, committed, long-term relationships. The ubiquitous request from participants to change the stem of the question is summed up in the following individual’s comment: “I still would like the question to say *relationship* status... because marital assumes you *can* get married.” Participants also offered suggestions for additional categories that more accurately reflect their relational situation. These included “committed same-sex relationship” and “committed relationship.” The former term provides recognition that the relationship has the personal significance of marriage but is not legally recognized.

Some participants whose relationships do not have legal recognition and live in areas where marriage is not allowed reported themselves and their partners as married. In many cases, these responses were in conflict with the responses they had given to the relationship question. The reasons cited most frequently were that the participants had been together for so long that they think of themselves as married, or that they had church ceremonies or holy unions. However, not all participants who had holy unions or commitment ceremonies reported themselves as married; in fact, the majority of participants, including many who had had such ceremonies, did not consider these ceremonies to be marriage equivalents.

For participants who were in domestic partnerships, the results were somewhat mixed. They did not see a category on the form that fit their situation, and they responded in different ways. The majority reported themselves and their partners as “never married.” They recognized that the domestic partnership status is not equivalent to marriage, and did not feel it was appropriate to mark the married category. However, some participants -- particularly those with local county domestic partnerships in states without state-wide recognition -- reported themselves as “now married.” Another reason for marking the “now married” box was a streak of rebellion because none of the other categories fit the participants’ status.

A small number of participants took a different approach. They either left the question blank or wrote in “none of the above” to indicate their views that the response categories were not relevant to them. “If you want accurate information then give me the choice to give you that information. If you’re failing to get that information, then the census is not going to be correct to begin with, it’s going to be skewed.”

Participants in opposite-sex relationships commented on the alternate wording of the question only in response to a moderator’s question about their relationship status, and then they opined that asking about relationship status would be good. They offered other options for inclusion as response categories that reflected non-marital living situations as well. One suggestion was “engaged.” Other people wanted additional terms to reflect their current situation. “You’ve gotta put something more...something more...something that can describe your marital status a little bit better. You’ve got a window here that’s not presented, maybe something should be added. Like you’re ‘with somebody’ or ‘in a relationship’ or ‘common law.’” Other suggestions included “legal domestic partnerships,” “legally unrecognized relationship,” and “lifetime partner.”

A factor in how participants responded to the marital status question was whether they thought the question referred to a legal status or not. In almost all groups, discussion spontaneously evidenced a sentiment that the question does refer to a legal status. Even

without an inquiry from the moderator (which came later), the vast majority of participants reported that it was a request for legal status. Participants in same-sex relationships who lived in areas where marriage is not legal were unhappy about marking “never married,” but did so because they perceived it to be a question about legal status. Some people chose to ignore the fact that it was asking for a legal status because there was not a response option that accurately reflected their situation. And a few people thought it was asking for their perception of their relationship status. In the opposite-sex groups, almost all the participants thought the question was asking about a legal status. Religious ceremonies generally were not viewed as legal marriage equivalents, but there was a small bit of disagreement. Participants who lived in places where marriage was legal, whether or not they had chosen to get married, almost unanimously felt that the marital status question was asking for their legal status.

5. Conclusions and Summary

Our investigation of the terminology used by persons in same-sex cohabitating couples and their reasons for using that terminology revealed that these terms are not fixed – they greatly depend upon the context of the situation. It may depend upon the audience (gay or straight?), the situation (formal or informal?) or, within the context of filling out a form, upon the categories presented on that form. Terms that reflect *legal statuses* are viewed as appropriate for a census form.

We saw limited variation in how our participants answered the census relationship and marital status questions and we believe this can largely be explained by the legal status “prism” through which the form is viewed. With this in mind, we draw four conclusions.

First, a legal marriage trumps local laws. Participants who had legal marriages (the 29 married women in jurisdictions where same-sex marriage is recognized, and the four married participants in other jurisdictions) offered consistent and non-problematic responses: “husband or wife” and “now married.”

Second, where marriage is legal and couples choose *not* to be married, the response options are clear and have very little emotional impact. “Unmarried partner” worked well for the LGBT couples in states where they could be married as well as for straight couples who, similarly, had chosen not to be married. The reason for this is simple: the option is equally available to both groups but both choose to remain unmarried.

Third, in states where same-sex marriage is not legally possible, participants took exception to the marital question itself. No matter the length of their current relationship, their marital status was either “never married” or some reflection of a previous, heterosexual lifestyle. Although most participants reported correctly, they expressed frustration that their current, often long-term committed relationships were not accounted for by this question. This lack of response options means that functionally equivalent relationships (and households) that exist in two different states could be enumerated differently because the ACS questionnaire only collects information about *marital* status.

Fourth, participants with other types of legally recognized same-sex unions (domestic partnerships, civil unions) gave consistent responses to the relationship question (i.e., unmarried partner), but the options available in the marital status question do not allow respondents to reveal that there is a legally recognized civil component to the union. The current marital status question does not account for these types of legal relationships.

5.1 Recommendations for Future Testing

Building on our four main conclusions, we outline some broad principles for testing. Since participants tended to interpret the census items as measuring legal constructs, the current relationship and marital status items could be revised to clarify this notion.

5.1.1. Relationship Question

To reinforce the legal notion in the relationship question, we suggest testing versions that encourage the selection of the “husband or wife” category by only those with a *legally recognized* marriage. This can be achieved partly by adding new categories that capture new marriage-like relationship statuses introduced within the last 10-15 years. These could include categories such as: “domestic partner,” “civil union partner,” “civil union or domestic partner,” “legally registered civil union/domestic partner,” and so on.

Two other changes that stress the legal notion could be developed: 1) to add categories that are appropriate for those with relationships that are emotionally and functionally equivalent to “husband or wife” but without any legally recognized status, such as “unmarried partner,” “partner/boyfriend/girlfriend,” “partner/significant other;” and 2) to change the wording of the question stem, instructions, and response categories themselves. For example, an instruction could be added to indicate “select husband or wife only if legally married” or the categories could reiterate legal status as in “legally married husband or wife” or “legally registered domestic partner” or “partner without legal recognition.”

Another recommendation for testing is to list the intimate partner categories (legal or not) near each other so that functionally equivalent relationships appear together in the list. This could be achieved by moving up the “unmarried partner” category to encourage unmarried couples to select something other than “husband or wife.”

Lastly, we suggest testing the term “spouse” either in addition to or instead of the “husband or wife” category. “Spouse” was viewed favorably by most same-sex couples (legally and non-legally recognized alike), but it is not clear without further testing whether it might encourage the selection of a legally married category only for those legally married. We did not get a clear impression of how that term might be used or interpreted, especially among the opposite-sex and our Spanish-speaking groups.

5.1.2. Marital Status question

The main finding regarding this question was that there is resentment from unmarried same-sex couples that the current question does not allow them to record their current relationship situation. One obvious solution to address this situation is to include new response options that capture new legal statuses.

If this does not provide a sufficient crosswalk to meet data needs between current marital categories and new functionally equivalent options, another question might be added. This question would separate the measurement of most recent legal relationship status from current cohabitation status, and it would address concerns of participants who sought to provide their relationship status. This is not an easy task but one approach might be to first ask about current cohabitation status, including a list of cohabitation possibilities such as “living with legally-married spouse,” “living with registered domestic/civil union partner,” “living with partner - no legal recognition,” “living apart from married spouse/registered partner,” “not currently in a cohabiting relationship.” This question could then be followed by a question inquiring about current legal

relationship status that would include traditional marital status categories along with those reflecting new categories of recognition. Allowing unmarried same-sex partners to record their cohabitation status *before* they encounter marital status could reduce misclassification.

Finally, we suggest adding wording that stresses the notion of legality as part of the question stem or part of the response options. If legality is included as part of the response options, the stem can include the notion of ‘current’ or ‘most recent’ to assist respondents who have had more than one legal status in their lifetime.

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