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Public Statement on the Recognition of Same-Sex Relationships

Peter Hegarty & Meg Barker on behalf of the Committee of the
Lesbian & Gay Psychology Section of the British Psychological Society, March 2006

The Lesbian and Gay Psychology Section of the British Psychological Society (BPS) welcomes the move by the British Government to introduce Civil Partnerships in December 2005. However, civil partnerships are not the same thing as marriage. We also agree with the resolution by the American Psychological Association (APA), which argues that laws against same-sex marriage are a form of discrimination based on sexual orientation.¹ In spite of the introduction of civil partnerships, laws against same-sex marriage still operate in the United Kingdom.

The APA resolution states that discrimination impacts the well-being of LGB people. It further states that a large number of gay men and lesbians want to enter committed relationships, that they are capable of maintaining those relationships, and that they derive satisfaction and well-being from them. The APA resolution supports these claims with reference to the research literature. We agree with these claims and do not contest the research that supports them. However, we are wary of the presumption that lesbians and gay men deserve marital rights and responsibilities *by virtue* of the similarity of their relationships to those of some kinds of married heterosexual couples. Indeed, experts on marriage have complained of being forced to make this argument, which privileges heterosexual relationships, when speaking publicly about the same-sex marriage debate.² As a result, our reasons for supporting the rights of couples to enter same-sex marriages differ from those mentioned by the APA resolution. These differences reflect the greater attention that is paid to social constructionist arguments in British lesbian and gay psychology in comparison to its American counterpart.³

- The cross-cultural evidence for the universality of same-sex sexualities and relationships is overwhelming.⁴ Modern governments have an obligation to recognize citizens' and residents' private relationships, and there is no *a priori* reason why same-sex relationships should be treated differently from relationships between differently-sexed persons. In many cases, same-sex

relationships resemble heterosexual marriage more than they resemble any other form of kinship that the British government currently recognizes. Thus, in debates about the legality of same sex marriage, the burden of proof should lie with those who want to continue to limit marriage rights to opposite-sex couples rather than extend them to all couples irrespective of the gender of the parties involved.

- Appeals to particular religious or civil ‘traditions’ of exclusively *opposite-sex* marriage are not coherent arguments against the legalization of same-sex marriage at the current time. Historical evidence shows that ‘traditions’ are necessarily contested, and are often selectively re-invented to serve recent political ends.⁵ We consider the Defence of Marriage Act in the United States of America to be one such ‘invention’ of the tradition of heterosexual marriage. There is ample evidence that the legal rights and responsibilities of marriage have shifted in accordance with changes in society. Marital laws’ assumptions about the race, age, and kinship relationship of partners; the number of partners one can marry; and the rights of partners to own property and to bring legal actions against each other have all been historically variable.⁶ There is no reason to assume that partners’ genders are any more intrinsic to the definition of marriage than any of the characteristics mentioned above.
- Same-sex couples have had marriage ceremonies in the distant⁷ and recent⁸ past. The rise of same-sex relationships is a modern phenomenon. Its recognition by the British government is not. The increased visibility and acceptance of same-sex identities and relationships in recent decades constitutes a clear change in British society to which the law ought to respond.
- In addition to the legal rights and responsibilities that it endows, marriage is of symbolic importance, and same-sex and opposite-sex couples should have equal legal rights to access the symbolic status of being married.⁹ Reluctance to equalize marriage law may be evidence of subtle heterosexist prejudice. Many heterosexual-identified people espouse the abstract ideal of sexual-

orientation based equality, but continue to have negative emotional reactions towards lesbians and gay men.¹⁰ This complex prejudice has been called ‘ambivalence’¹¹ and leads to negative treatment of lesbians and gay men when they call heterosexual privilege into question.¹² Lesbians and gay men who claim the right to marry – which is currently a privilege that only differently-sexed couples enjoy – may be vulnerable to such prejudice. Indeed, same-sex couples are demonized in US media.¹³

- The APA resolution refers only to the rights and psychologies of lesbians and gay men. However, the rights of others, most obviously bisexual men and women, are also impacted by laws prohibiting same-sex marriage. We affirm the civil rights of bisexual people to form same-sex marriages. Sexual orientation or identity should not be a basis upon which the right to form a same-sex marriage is based.
- We welcome in broad terms the long-overdue rights and responsibilities granted to trans citizens under the British Gender Recognition Act (2004). However, the failure of the act to allow a trans person to access the provisions of the act and change their legal gender status while remaining married to their partner constitutes a form of sexual orientation based discrimination. This limitation of the act erroneously presumes that only same-sex marriage is viable.
- There are a diversity of ways in which non-heterosexual people manage their relationships and form ‘families of choice’.¹⁴ It is important that relationship law continues to be informed by research on the shifting ways that people manage their private lives, rather than assuming the decreasingly popular heterosexual monogamous couple as the standard of comparison for all. Recognition of a broader range of relationships does not undermine the viability of heterosexual marriage as a choice for some.¹⁵

In conclusion, we welcome the recognition of same-sex civil partnerships in the UK, but do not recognize the limitation of marriage rights to differently-sexed couples as valid.

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