The Impact of Policy on the Economic Opportunities and Well-Being of the LGBT Community

Theadora Fisher

This paper examines the impact of public policy on the economic position of the lesbian, gay, bisexual, and transgender (LGBT) community when compared to the rest of the US population. The paper explores this issue by examining the impact of public policy on asset building opportunities. First, the assets approach is outlined. Second, a range of asset building barriers are explored that could be addressed through public policy, such as prejudice and discrimination in the workplace, and the exclusion of same-sex couples from the benefits of legal marriage. Policy implications suggest the development of non-discrimination policies and access to equal benefits through marriage and/or civil unions, which would help address the wage differential and higher parenting and living costs faced by LGBT families.

Within the gay rights movement, the rhetoric surrounding the push for civil rights is often couched in terms of social equality and citizenship, however the underlying arguments are often economic. One of the fundamental concerns is that the lesbian, gay, bisexual, and transgender (LGBT) community faces barriers to economic opportunities that are available to other citizens due to their status as a sexual minority. Current anti-discrimination policies are often called for to prevent gay and lesbian individuals from losing their jobs or employment opportunities, and hence their income. Access to marriage is often portrayed as a civil or human right, with the rhetoric surrounding the debate about love in manners such as the Unitarian-Universalist slogan, “standing on the side of love” (Unitarian Universalist 2009) and individual freedom of choice. However, the issue of access to marriage is much larger. Marriage, sanctioned by the state, brings economic protection and asset-building opportunities (in the form of tax benefits, joint credit applications for mortgages and other debts, and access to benefits such as social security), secures inheritance, and reduces costs for family formation and child-rearing through legal recognition of parenting relationships (Bennett and Gates, 2004). This paper
explores how public policies may directly or indirectly limit the asset-building opportunities of the LGBT population to improve our understanding of the impact of policy on this population.

**Assets, Policy and Opportunity**

*What Do We Know about the LGBT Population?*

One major challenge that arises when looking at issues that impact the LGBT community is that of the availability of data. There are only a few national surveys that ask questions about sexual orientation, namely the General Social Survey (GSS) which is used generally as a pooled sample from 1988-1996, the National Health and Social Life Survey (NHSLS) conducted in 1992, and the U.S. Census beginning with 1990 (Black et al. 2000, 140). These data are very useful, and since information started being collected on this community, many researchers have taken advantage of these sources. However, according to Black et al (2000), there are some issues with information from these surveys. For one, the GSS and the NHSLS results are very small samples. Fewer than 2% of 3,432 respondents for the NHSLS identified as either gay or lesbian; the GSS produces a sample of about 150-450 gays and lesbians depending on how these categories are defined.

The U.S. Census is a much bigger dataset, with 13,700 identifiable gays and lesbians (Black et al. 2000). The problem with the census data, however, is that the method used to distinguish gays and lesbians is participation in a cohabiting, non-roommate household with a member of the same sex. Since the only LGBT people this dataset counts are same-sex partner-headed households, it is useful for comparisons between gay and straight couples, but does not tell the whole story of the LGBT experience. Many researchers run extra comparison tests between their gay and lesbian observations and their straight observations to try to make sure that their sample is as trustworthy as possible. Black et al. (2007) compare statistics on key areas like income and education across the census data and the GSS data (which tracks gays and lesbians at the individual level, not the couple level) and finds these statistics are similar for both individuals and couples across both dataset. This suggests that, though the census just deals with partnered gays and lesbians, they are representative of the general population of gays and lesbians. Additionally, all three datasets...
have the issue of non-disclosure. There is a stigma attached to being recognized or perceived as gay; many people are not out to their communities, workplaces, and even to their families. There is no way to tell how many respondents choose to conceal or lie about their sexualities.

Assets and their Connection to Well-being

Poverty and financial well-being are often equated with earned and unearned income. However, the commonly accepted Sherraden (1991) argument suggests that in order to more accurately understand an individuals’ well-being and capacity for economic mobility, one must look at the resources held – the assets as well as the income. The assets approach understands income as the means for day-to-day survival and assets as the resources to get ahead. However, assets are not just financial – social capital, in the form of family networks, business contacts, and group affiliation, and human capital, in the form of education and job skills, are both very important to an individual’s pursuit of financial stability and well-being. Assets are instrumental in achieving higher education, homeownership, class mobility, and financial security (Page-Adams and Scanlon 2001, 8), and provide an important buffer against unexpected financial crises such as a lost job or an extended illness. One out of four American households are ‘asset-poor’, meaning that their stock of assets is not big enough to sustain them for three months at the poverty level if they were to lose their income (Woo et al. 2004). In this theoretical framework, assets are key to financial stability and security.

There is a growing body of literature that shows a positive relationship between assets and well-being. Page-Adams and Scanlon (2001) survey the literature and find that homeownership, youth savings accounts, financial wealth and investment income are all correlated with positive benefits for parents as well as their children. They also point out that “homeownership plays a crucial role in wealth accumulation for U.S. households ” (Page-Adams and Scanlon 2001, 7). Assets have more than a practical, financial impact on the lives of those who have them – they have a psychological impact as well. According to Sherraden (1991), assets increase the time horizon for a person’s thinking about their future; if they are aware of a concrete opportunity, then there is a goal they can work towards accomplishing. Sen (1999) makes this point in a slightly different way – a person’s circumstances may be so
restricted that it is not possible for them to imagine another way of life, but that simple fact should not be misconstrued to mean that they would not be happier with more and better opportunities.

The U.S. has many policies that directly or indirectly impact asset-building for individuals and families. Tax policies include the mortgage interest tax deduction, which allows homeowners to reduce their income tax if they are paying off a mortgage, tax benefits to saving money in special retirement accounts, and tax breaks on interest from higher education debt (Howard 1997). The many benefits that accrue to married couples also promote asset-building, including social security survivor benefits, joint credit assessments used for determining eligibility for mortgages and large purchases, and the tax bonus for married couples making unequal incomes. Therefore, focusing on asset-building policies and opportunities is potentially a fruitful way to look at the economic challenges faced by the lgbt community. We have seen that assets are important to individual well-being and development; through this lens, we will explore policies that influence asset accumulation within the lgbt population, whether through limitations related to discrimination and inadequate provision for anti-discrimination measures or through the lack of access to institutions like marriage.

**Linking Policy to Economic Opportunity**

Why do disparities exist between different communities, and what role does policy play in providing economic opportunities to some people and not others? Many legal barriers to equality have been lifted including 21 states with antidiscrimination laws, 13 of which include gender identity as well as sexual orientation, and four states, Massachusetts, Connecticut, Iowa, and Vermont allow same-sex couples to legally marry each other (National 2009). However research suggests that policy barriers that restrict opportunities and advancement for the lgbt community compared to the general population continue to exist. Three barriers stand out: 1) absence of specified protection from discrimination, such as in the workplace; 2) specific discriminatory policy, such as the ban on serving in the military; and 3) the lack of access to the institution of marriage and its attendant benefits. Existing studies primarily examine these barriers by looking at an individual’s access to resources such as income and employment, which are important components of asset accumulation. This section first examines the
acquisition of income and education through the framework of specific and non-specific discrimination policies and then will turn to an examination of the impacts of the access barrier to marriage as it affects asset accumulation, child-rearing choices, and tax status.

**Assets and Employment**

*The Wage Differential*

When addressing the question of barriers to asset accumulation, one of the most basic facts to establish in assessing the economic position of the LGBT community is whether or not average earnings are the same between both LGBT and straight populations. There is a common stereotype about the LGBT community in which they are more highly educated and well-paid than the rest of the population (Badgett 2001, 1). According to Vaid (1996) this assumption stems from marketing studies, where surveys were sent out to magazine subscribers and given to people who attended gay pride events in urban metropolitan areas. These studies found that household income was well above average for both gay men and lesbians. This promoted an image of two gay white men living in an urban environment, both with good jobs and no children as the primary profile of the population. In fact, the opposite is true. More recent and systematic studies suggest that a negative wage differential does exist for the LGBT community. For example, Badgett’s (1995) groundbreaking study of the wage effects of sexual orientation discrimination found that gay and bisexual men earn between 11% and 27% less than their straight male counterparts. However, Badgett (1995) also found no statistically significant difference between lesbian and bisexual women’s earnings and their straight female counterparts. Although her findings about gay men have not been challenged and are very robust, the observation about lesbians’ wages have not been replicated in subsequent studies. Black et al. (2003) found that lesbians actually earn more than straight women, and hypothesize that this may be for a number of reasons. Lesbians have a different view of their life trajectory – they do not plan to marry men, which is a factor for straight women’s decisions about investment in their market production skills. The authors discuss gender discrimination against women, which could lead to a perception effect – straight women often assume they will get married and so put less effort
into market production skills because they expect to partner with a higher-earning man and/or seek careers that will enable them to have flexible working hours during child-rearing years which often provide lower wages. Lesbians, on the other hand, believe that they will face discrimination on the basis of gender, and possibly also on the basis of sexual orientation, and so put extra effort into market production skills and career tracks that afford advancement believing that their potential partners will face the same constraints that they themselves face (Black et al. 2003, 468). Additionally, Black et al. (2003) stated that lesbians also know that they will not be able to share in the financial benefits of marriage, so that living costs will be higher overall.

Human capital and education also influence wage and employment levels and are important assets in leveraging and increasing income and financial wealth (Sherraden 1991). The research points toward lesbians and gay men having higher education levels than the average population, which would, at first glance, reinforce the stereotype of the lgbt community’s higher income outlined earlier. However, some studies (Barrett et. al. 2002; Black et al. 2003) show that in spite of higher average educational achievement, gays and lesbians are still earning less than their straight counterparts. In Black et al.’s (2003) study of the earnings effects of sexual orientation, they control for the effect of men’s backgrounds on their educational achievement. They find that the gay men in the sample have higher educational achievement relative to straight men, but that there is no difference in the educational achievement of their fathers across the study. This suggests that gay men, all other things equal, are choosing to pursue more education than comparable straight men. Yet despite their higher levels of education, gay men are still unable to close the wage gap between themselves and straight men (Black et al 2003). Consistent with these findings, Barrett et al. (2002) study points out that “gay men overall earn less than heterosexual men, showing that they do not convert their education into income at the same rate as straight men” (178).

The discussed studies demonstrate how the lgbt community face wage-based barriers in accumulating financial assets. Gay men continue to earn less than, not only their straight male counterparts, but even those of lower education levels as well. Additionally, although lesbian women are able to earn equal to or more than their heterosexual counterparts, these differences may
be the result of employment decisions that are influenced by gender and sexual-orientation based discrimination.

**Employment Antidiscrimination Policy**

Currently, federal policies do not prohibit sexual orientation discrimination in private employment or explicitly in public employment (Kalawitter and Flatt 1998). However, the Employment Non-Discrimination Act, a federal legislation that would ban sexual orientation discrimination in private employment, is under consideration. At the state level, twenty-one states and the District of Colombia have passed laws banning sexual orientation discrimination in employment (Human Rights 2010).

One might think that in regions where there are antidiscrimination policies in place to protect LGBT people from being fired because of their sexual identity there would be a smaller wage penalty. However contrastingly, research indicates that these local legislative efforts either have no or a negative effect on the LGBT workers’ wages. For example, Klawitter and Flatt (1998) did not find that “employment protections for sexual orientation directly increase earnings for members of same-sex households. Average earnings for both same-sex and different-sex couples are higher in areas with more employment protection, but these differences are explained by worker and area characteristics,” such as urban/rural differences and skill level/occupational differences (Klawitter and Flatt 1998, 676). Although antidiscrimination policies do not adequately decrease the wage differential between gays and lesbians and their straight counterparts, Klawitter and Flatt (1998) did suggest that such policies could still contribute to the well-being of gays and lesbians, since they give an individual “recourse against discrimination.”

However, another study indicates that not only do antidiscrimination policies not reduce the wage gap between gay men and married straight men, they could potentially increase this gap as well. Carpenter (2007) found that in localities where gays and lesbians have protection from employment discrimination, the straight male marriage premium is higher than in localities where gays and lesbians have no protection from discrimination. His argument is that “employers who are uncertain about a worker’s sexual orientation might plausibly use marriage as a signal for heterosexuality (i.e. marriage could signal that the worker is not...
gay)” (Carpenter 2007, 77). This would mean that there is an implicit bias against gay men, and the more ‘non-gay’ one appears, the more the wage will increase. This is a fairly weak finding, however, and Carpenter calls for further research on the connection between the heterosexual marriage premium and the homosexual wage penalty.

In looking beyond government policies, employment policy set by companies themselves can have the power to fill the gap left by the absence of government protections for LGBT workers. Such policies have shown to have a major impact on the well-being of LGBT employees. For example, Ragins and Cornwell (2007) point out that though gay and lesbian employees make up a significant part of the workforce, they “do not enjoy the basic ‘family-friendly’ privileges of their heterosexual counterparts; many lesbian and gay employees do not have health care benefits for their partners and cannot take time off work if their partner becomes ill or dies” (105). The authors find that gay family-friendly policies had a significantly positive effect on workers’ organizational commitment, organizational self-esteem, and a negative effect on employees’ intention to quit their jobs. LGBT workers were also more likely to come out at work when these policies were in place.

**Military Service Discrimination**

Military service is a special barrier that can be understood as both employment discrimination and a significant barrier to asset building opportunities. There are many ways that military service can create career trajectories and enhance educational qualifications (key features of economic mobility), which makes the exclusion of gays and lesbians a particularly significant barrier to opportunity. However the US military has an active government policy of excluding gays and lesbians.² Gays and lesbians are currently officially banned from serving in the military, but under the ‘don’t ask, don’t tell’ policy, they are allowed to serve as long as they do not disclose their sexuality or discuss it in any way (Gates 2004, 7). This policy has not stopped gays and lesbians from serving, however. According to a research brief by Gates (2004), partnered gay men are slightly less likely to serve in the armed forces than straight men, and partnered lesbians are almost twice as likely to serve as straight women. It is interesting to think about this high propensity for partnered lesbians to serve in the military, since one would assume that being partnered would increase the
chances of having one’s sexuality revealed and subsequently being thrown out of the military. Perhaps there is an even higher proportion of un-partnered lesbians serving in the military who are not counted by the census. It is very difficult to get statistics on sexual minorities serving in the armed forces since the ‘don’t ask, don’t tell’ policy creates a significant barrier to inquiring about the topic.

**Assets and Family Well-Being**

As noted earlier, access to marriage and its state protected benefits is a major focus of the gay rights movement. In all but five states (Massachusetts, Connecticut, Iowa, New Hampshire, and Vermont), same-sex marriage is not legal, and no same-sex couples are accorded the federal benefits of marriage due to the Federal Defense of Marriage Act (DOMA), though this policy is currently the target of several lawsuits (Alliance 2008). Aside from the many social and cultural benefits that society accords to marriage, the officially recognized legal status confers many rights and privileges that are key to promoting family security and stability. Specific aspects of marriage that this paper examines are parenting and custody laws, the economic and tax implications of joint households, inheritance laws, and the possibility of being covered under their partner’s health insurance policy.

Marriage is a main concern of same-sex couples when they decide to become parents. Couples may have children that are genetically related to one of them, from a previous heterosexual relationship or artificial insemination and surrogacy; others may adopt children either domestically or internationally. In the 1990 census sample, 21.7% of partnered lesbians and 5.2% of partnered gays had children present in the home, about 75% of whom were under 18 years of age. More recent numbers from the 2000 census show that 20% of same-sex couples are raising children under the age of 18 (Romero et al. 2007, 2). Marriage plays an important role in access to methods of starting families – many fertility clinics explicitly choose not to work with women who are in relationships with other women (Cahill and Tobias 2006). Once the child is conceived, lack of access to the institution of marriage introduces the cost of adoption into the relationship, as even if one parent is the biological parent, the other parent must always officially adopt
in order to be recognized as a second legal guardian (this process is known as ‘second-parent adoption’) (American Academy 2002, 1).

If a same-sex couple wants to start a family via adoption, they may also face additional costs, and in six states they are prohibited from adoption outright including Utah, Nevada, Michigan, Florida, Arkansas, and Mississippi (National 2008). As either adoption or second-parent adoption plays a role in almost all same-sex-parented family configurations, the cost of this process must be seen as a pernicious economic penalty that accruess to same-sex couples. For example, Black et al. (2007) found that “gay and lesbian couples who wish to adopt must face not just monetary costs but also time and effort to overcome implicit and explicit discriminatory obstacles” (57).

Once they have the child, the new family may be operating within significant resource constraints. According to the 2000 census, lesbian and gay parents have fewer financial resources than straight married parents. They have a lower median household income ($46,200 versus $59,600), and fewer of them own their own homes (51% versus 77% of straight married parents) (Romero et al. 2007, 3). Ash et al. (2004) found that the state of same-sex parenting in Massachusetts posits that same-sex couples face credit constraints when applying for mortgages because they cannot marry, making it more difficult to buy a home together.4 More generally, Black et al. (2000) found that “regardless of age category, the rate of homeownership is lower for partnered gay and lesbian households than for married-couple households” (153). This study also revealed that in the event that same-sex couples do own a house, it is either somewhat more expensive (lesbians) or much more expensive (gay men) than those owned by married-couple households; this is counterintuitive given the lower average income held by gays and lesbians, but may indicate that same-sex couples are choosing to parent in wealthier than average communities, where they may feel that there is a more tolerant attitude towards their family.

Another major benefit of marriage is inheritance. Inheritance is automatic for the spouse of a married person in the event of their death, and if an unmarried partner dies with a will, their wishes will be most likely be followed (Johnson et al. 1998). However, if an unmarried partner dies without a will, then state intestacy law will prevail. In most cases, the state will pass along the deceased’s
estate first to children, then to parents, then to siblings and other blood relatives if there are no surviving children or parents. According to Johnston et al. (1998), states developed these policies in light of public opinion that the deceased’s estate should not be kept by the government but given back to the family. Same-sex couples who do not have access to marriage must create new legal documents to designate their partner as the person who inherits their estate as well as to address other important matters, such as who has the power to make medical decisions in case of incapacity; this is another way in which lack of relationship recognition adds to the cost burden of same-sex couples, since hiring a lawyer to draw up these documents is expensive and time-consuming (Johnson et al. 1998). Furthermore, these documents are not always respected when it comes time to disperse the deceased’s estate. Unmarried partners are also infrequently covered under their partner’s health insurance. Even in places where they are covered, the benefit is taxed, unlike that of a straight married spouse, which adds to the financial burden faced by the couple (Konrad 2009).

Marriage also has many tax implications for couples: married couples can file their taxes jointly, transfer ownership of property without paying a transfer tax, pay for a spouse’s health insurance policy before taxes, and inherit property from a deceased spouse without paying estate tax. One practical problem brought into play by DOMA is that though a couple may be married in their home state, and thus may inherit without tax penalties, the IRS has no obligation to recognize that marriage for tax purposes. These highlighted issues in this section illustrate the importance of marriage as an asset-building opportunity as well as a social institution with many important benefits.

Policy Reflections

The issues and barriers to equal opportunities for the LGBT community outlined in this paper suggest a need for policy change in several areas related to employment, marriage, and family formation. As long as legal barriers exist to exclude the LGBT community from engaging fully in society and the economy, they as individuals and the families they form will be have fewer opportunities than the rest of the population for economic mobility and security. From employment to adoption to inheritance, these
barriers to opportunity lead LGBT families to face greater obstacles to security and incur greater costs than their straight counterparts. The most effective strategy for ensuring that these individuals and families experience the same security and stability as the straight population is to grant them the same rights and benefits and access to opportunities that straight people enjoy. This can be achieved through revising policies that single out and discriminate against gays and lesbians, or that simply fail to protect their rights; eliminating the ban on serving in the military and adoption restrictions; removing barriers to marriage, or creating a legal status that is identical to marriage which carries with it the legal benefits of marriage at both the federal and the state level.

This paper has started to identify the existing policy barriers that negatively impact the LGBT community and restrict its opportunities for wealth-building and advancement. Granting access to the legal institution of marriage would address issues of inheritance and family-building. Implementing protection from employment discrimination would give the LGBT community more job security and access to employment. Further, the census and other national surveys should be adapted to ensure that data on the LGBT community is being gathered to help inform our understanding of the challenges faced by this population.

Theadora Fisher is in her second year of the M.P.P. program at the Heller School, concentrating her studies on the impact of discrimination and homophobia on the LGBTQ population. She works for transgender equality in Massachusetts, focusing on H.1728/S.1687, a bill that would prohibit discrimination on the basis of gender identity and expression. During the summer of 2009, she interned with the Massachusetts Transgender Political Coalition, where she compiled testimony for H.1728’s public Judiciary Committee hearing.

Notes

1. This is the acronym most commonly used in literature. Using lower-case font is a newer practice among members of this community, and reflects the fact that the words themselves are not capitalized in everyday usage.
2. This is codified in the Uniform Code of Military Justice (10 U.S.C. sec. 801-946)


4. This report was published before same-sex marriage rights were recognized in Massachusetts. These constraints are no longer present for same-sex couples in MA, but this point is generalizable to the broader LGBT population.

References


*The author maintains the copyright of this work. You may not copy, distribute or publish the work or part of it in any form without citing the source. Inquiries may be sent to the author directly at theaodora.fisher@gmail.com.*