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Legitimate Love: The meaning of civil partnership for the positioning of lesbian and gay people in society

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Legitimate Love: The meaning of civil partnership for the positioning of lesbian and gay people in society

Abstract

The Civil Partnership Act (CPA) came into force in the UK on the 5th December 2005, entitling same-sex relationships to formal legal recognition. It is the second piece of legislation (following the Adoption & Children Act, 2002) that begins to redress the legal inequalities between opposite-sex and same-sex couples by giving civilly partnered (CP'd) couples similar civil and financial benefits to married couples. The study was a qualitative exploration of the experiences of individuals that have registered a CP. The analysis showed that same-sex couples face many challenges living in a heteronormative society. CP led to a sense of increased social recognition of same-sex relationships and increased feelings of social support. Many participants also felt that CP challenged negative stereotypes regarding the identity of LGB individuals and relationships. However, difficulties were expressed in their attempts to find a coherent sense of their new positioning in society as a CP'd couple.

Key Words: Civil Partnership, lesbian, gay, marriage

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Introduction

The CPA gives same-sex couples over the age of 16 the opportunity to formally register their relationship, thereby gaining formal recognition and access to the same civil rights as married heterosexual couples. Registered partners can claim bereavement benefits, joint income-related and pension benefits; they are recognised under inheritance and intestacy laws and can gain parental responsibility for each other's children. According to the Office of National Statistics (2007), 18,056 CPs were registered between December 2005 and December 2006 in the UK, indicating the popularity of this legislation.

Whilst the civil rights available to civilly partnered (CP'd) and married couples are similar, the government is clear that the two are separate and distinct categories of relationship. The key differences are that a) unlike marriage, CP is not recognised at an international level and b) heterosexual couples can choose whether to have a religious or civil ceremony whereas same-sex couples can only opt for a civil procedure. Given the central role that marriage plays in many aspects of society, Kitzinger and Wilkinson (2004) argue that denying a social group access to the institution of marriage oppresses the group, sending a message to society that they are less worthy of equality. The denial of marriage because of race or religion has been used by governments to oppress minority groups throughout history: e.g. marriage being outlawed

between Jews and German nationals in Nazi Germany and between black and white in the South African Apartheid regime (Kitzinger & Wilkinson, 2004). Stoddard (1997) suggests that allowing same-sex partners to marry would benefit everyone by freeing the institution of its symbolic sexism. This is reinforced by Hunter (1995) who proposes that the equality within same-sex couples would serve as an example to counter social, political and economic inequality in many heterosexual marriages.

Herek (2006) argues that CP provides a quasi-marital status for same-sex couples, preventing same-sex relationships from being seen as 'normal' in society, which has negative consequences such as social exclusion and discrimination. However, CP might appeal to some critics of marriage because it affords the same rights as a marriage but avoids signing up to the history of gendered oppression that a marriage represents. Yep (2002) suggests that the previous exclusion of same-sex relationships from legislation effectively wrote same-sex couples out of existence. For example, before the CPA, LGB people reported feeling that their interpersonal relationship was not recognised as a valid form of relationship and that they were excluded from many aspects of society, such as social arenas, next-of-kin rights and financial benefits (Donovan *et al.* 1999).

Other arguments against marriage are still relevant to CP; namely that they make a partnership a legal contract between the couple and the state (in which the state could change the terms without consultation at any time), and that these institutions privilege the couple as the core social unit, thus

prescribing what is 'acceptable and unacceptable homosexually' (Clarke & Finlay, 2004; 20). Both marriage and CP hold the values of monogamy and longevity as desirable, and place the presumed sexual-bond between members of a couple at the top of a hierarchy over other sexual and non-sexual forms of relationship, thereby giving no 'recognition of the possibility of a plurality of intimate arrangements for sex, affection, reproduction, economic support and care for the young, the infirm and the elderly (Kymlicka, 1991)' (Kitzinger and Wilkinson, 2004; 143). The devaluing of these alternative ideas and arrangements is a loss for both sexual minorities and heterosexuals. Robson (1998) urges lesbians and gays to celebrate what makes their relationships different to heterosexuality and to resist 'domestication' and not 'surrender' to heterosexual norms and standards in order to achieve equality in society (Barker, 2006).

While these academic debates regarding CP take strongly polarised positions, studies into lay opinions (e.g. Clarke *et al.*, 2006; Harding, 2006; Harding, 2008; Smart, 2006) show that, whilst they echo the pro-anti debates outlined above they tend to be more ambivalent and contradictory. Smart (2006) suggests that this ambivalence reflects the tension within individuals between their acknowledgement of the political side of becoming CP'd and their personal desires for what they want to get from it. Despite this ambivalence and some of the critical views regarding CP (e.g. the fear of being regulated the government, Harding, 2008) the legislation around same-sex relationships is generally regarded as being a positive factor in gaining equality within law (Harding and Peel, 2006).

This study adds to the growing literature in this area by exploring the personal experiences of nine CP'd individuals.

Methodology

Two methods of analysis were used to analyse the data: Interpretative Phenomenological Analysis (IPA) (Smith *et al.*, 1999) and Foucauldian Discourse Analysis (FDA) (Potter & Wetherell, 1995). IPA is concerned with the 'insider perspective' of a phenomenon, that is, it tries to understand the phenomenon from the participants' description of their lived experience (Larkin *et al.*, 2006). IPA was conducted on all of the data, then FDA was then applied to one of the IPA themes. FDA stems from work by Foucault (1985) and is concerned with the discursive resources that construct ways of experiencing a phenomenon (Willig, 2001).

Some authors suggest that these two types of analysis are rooted in two opposing epistemological positions, which means that they cannot be used together (Reicher, 2000). For example, it has been argued that IPA and FDA make different assumptions about the utility of language, where IPA sees language as *describing* social reality, FDA sees language as a tool that *constructs* social reality (Reicher, 2000). In response to Reicher's comment, this study adopted Heidegger's (1962) view of phenomenology, which considers the context of culture, assumptions and language to be essential to the way we make sense of the world. In this way, Smith (1996) argues that

IPA can be linked to discursive approaches as they both consider that a phenomenon can be constructed in different ways depending on the context. For another example of these approaches being used in conjunction see Johnson *et al.* (2004).

Participants were recruited through adverts placed in an LGB coffee shop, an LGB website, a newsagent, the Lesbian and Gay British Psychological Section email newsletter and via snowballing. Recruitment depended on the following selection criteria:

1. Only one partner per couple (to maximise the diversity of the participant population)
2. The individual had to be in a registered partnership under the Civil Partnership Act in the UK
3. Their partnership had to be registered for a minimum of three months so that they had some experience to draw on since the ceremony
4. A good level of spoken English (due to the nature of the methodology)

A total of nine participants were recruited, their demographics are given in Table 1. The mean age for the women was 33.5, whereas for men it was 47. This difference reflects the national trend of CP registration in the UK, where the average age is older in male couples than female couples (Office of National Statistics, 2007). The male mean age matched the national average for males; however, the female mean age was 11 years younger than the national average for female couples, possibly as a result of the snowball

sampling. Pseudonyms are used to illustrate the quotes used in this article.

None of the participants worked in academia.

Table 1. Demographics of participants

Pseudonym	Age	Gender	Ethnicity	Number of months in CP at interview
Kate	32	Female	White Australian	4.5
Laura	29	Female	White British	22
Steffi	33	Female	White German	23
Karen	40	Female	White British	23
Bob	63	Male	White British	18
Tim	37	Male	White British	3.5
Nick	38	Male	White British	16
David	49	Male	White British	16
Stefan	49	Male	White German	22

Participants were interviewed using a semi-structured interview based on areas identified as relevant from the literature review such as: reasons for entering a CP; experiences of the CPA including reception by others; changes they had experienced; the meaning of the CPA and the impact of the CPA on them as individuals and on their relationship. The interviews were carried out between September 2007 and February 2008. They were conducted in the participant's homes and lasted between 35 to 70 minutes each. The first named author transcribed them verbatim before the analysis was carried out.

Results and discussion

The dominant theme that emerged throughout all the interviews was participants' new positioning in society. The results from the four subordinate themes that linked to this superordinate theme will be presented, along with relevant discussion points that emerged from the FDA analysis.

The superordinate theme of their new positioning in society refers to the way that participants experienced a shift in their social status and visibility in society following their CP, both as a couple and as an LGB person. However, they also experienced ongoing uncertainties as to this new positioning, particularly in relation to two key social systems: their family and the institution of marriage. In making sense of their new CP'd status on their social positioning many people made comparisons between CP and heterosexual marriage.

Increased recognition as an “authentic” couple

The participants expressed a sense that the CP made their relationship seem more “authentic” (Kate) to others. Despite the fact that all of the couples had been together for several years, many felt that the acknowledgment of same-sex relationships under British law had increased their visibility and therefore recognition and support of their couple status. For example, Laura felt that the CPA provided a “solid framework”, making it easier for others to understand the nature of her relationship:

...being able to articulate to people what we were doing and I think it [the CP] was something that was real and recognised
(Laura)

This view echoes the sentiments of the participants in Solomon *et al.*'s (2004) study into civil unions in Vermont:

I feel the commitment we made in Vermont has given us some sort of basis for outsiders to take it more seriously and see us as a couple
(p285)

From a FDA perspective, a dominant heteronormative discourse was evident throughout participant accounts, placing heterosexual relationships as 'normal' and same-sex relationships as 'other'. Butler (1990) suggests that a heteronormative discourse constructs same-sex couples as an unsuccessful imitation of opposite-sex couples. Thus having the "solid framework" of the CPA was an important way of articulating to others that same-sex relationships are not an unsuccessful imitation of opposite-sex couples but worthy of legal recognition.

This could also explain why the four participants who had considered having a commitment ceremony before the CPA had been passed had decided not to go through with it. The lack of legal recognition seemed to give it less value:

We had considered it [a commitment ceremony]... but I guess not seriously enough to go through with it because it was just a ceremony that had no legal standing (David)

Having a way of communicating the serious nature of their relationship seemed to modify the way that others viewed the couples. For example, Bob describes how his relationship was seen as more authentic in the eyes of others following the CP:

I think people do regard us more as a couple now, I mean a lot of people, a lot of older people, have come up to us and said things to us like 'I'm really glad for you' almost under their voice [laughs] and you sort of think, they're regarding us differently so we obviously are different in their eyes... are we behaving differently? (Bob)

Thus the government's endorsement of same-sex relationships caused others to consider the couple as more committed to each other. This change appeared to have happened despite the fact that Bob did not believe they were behaving differently.

Inclusion/exclusion from social systems

The participants seemed particularly concerned with their new status in relation to the institution of marriage and their family.

The institution of marriage

From a discursive perspective, the construction of heterosexual relationships as the normal, natural union places marriage (as the legal and religious expression of this) as the 'gold standard' (Clarke, 2003) of relationship status. As such, the institution of marriage is a significant social system in society.

On a social level many participants felt included into the institution of marriage through the support of friends and family, indeed Ellis (2007) suggests that *socially* CPs are considered to be the same as marriage. This is exemplified by Tim, who indicates below that the use of marriage terminology by his friends and family felt validating and made him feel as if he had the same social status as married couples

Given that they are using that title [husband] for M [civil partner] would signify a change in their mind as they didn't use that title before, which I guess is quite nice actually, quite endearing really, and the recognition too, for M and I that, in their eyes we're a married couple like everybody else (Tim)

However, the participants also felt that there were inequalities between the legal aspects of marriage and CP, which not only excluded them from the privileges bestowed by the institution of marriage but also gave them a lower social status in society:

Ideally it will be good to be able to have a civil ceremony which would encompass either same-sex partners or opposite-sex partners and a religious ceremony that would do the same thing and it would be the same rights and it would be very simple and straight forward and not the slight two-tiered system that there is at the moment (Laura)

Feelings of exclusion seemed to be linked to the way that participants' personal values were accounted for by the CPA. For example, as a mother Karen felt angry that her civil partner had to adopt their daughter rather than being able to add her name to the baby's birth certificate in the same way that a man would have automatically been able to.

If she was a man she's automatically be dad and just put her name on the birth certificate, marriage accounts for it and that's it, but that doesn't count in civil partnerships (Karen)

Similarly, two participants described having religious values that had been excluded from their civil partnership ceremony.

It really bothered her [partner], she wanted to be able to do a religious ceremony and she never will (Kate)

Harding (2008) found that this separation of religion from CP was seen as a positive aspect of the law for some people as it created a distinction between

opposite-sex and same-sex relationships. This view was not expressed by the participants of the current study. Indeed, even those who did not have strong religious values voiced their sense of exclusion from the church due to the strong opposition it had taken to prevent the CPA being passed.

The Church of England in the main is against Civil Partnerships, some sort of passage in the Bible that says it's, you know, man on man is like forbidden, so if they don't want us in their religion anyway I don't want to be in it (Nick)

Thus participants seemed to experience moments of feeling both included and excluded from the institution of marriage. Inclusion felt significant to participants due to the increased sense of social integration that it brought about, and because there was a belief that aspects that were important to some participants (like religion and specific legal rights) were left out of their union as a result of the exclusion of same-sex relationships from the institution of marriage.

Family

In terms of positioning within the family network, all of the participants experienced endorsement of their relationship from at least some family members. This led to an increased sense of belonging to the wider family network, for example:

Our families spend Christmas together... the civil partnership sort of reinforces the way that, I guess our relationship is viewed within the wider family (Laura)

However, five of the participants said that at least one family member was more reticent about their CP. This resulted in some feelings of exclusion as a couple from aspects of family life. For example, Nick described feeling saddened and frustrated that his parents' rejection of his CP'd relationship meant they treated him differently from his married siblings:

My mum and dad don't want to know some of the details of our relationship as they would expect to know of my sister's marriage and my brother's marriage (Nick)

"Are you a Miss or Mrs?" – Dissatisfaction with the lack of social label

Only Kate referred to her civil partner as "the wife" throughout her interview without finding the term problematic. It is interesting that Kate was a Christian as Yip (2004)'s survey of Christians' views on same-sex marriage found that participants who did not find marriage terminology problematic were those who emphasized marriage as symbolic of their devotion and commitment to each other, as it would with all Christian coupled relationships. A secular view in support of the use of marriage terminology is also echoed in academic arguments to 'reclaim these terms for those who contend that marriage is restricted to heterosexuals' (Liddle & Liddle, 2004; 53).

All of the other participants felt that marriage terms did not represent their relationship as a same-sex couple:

I still find 'wedding' a bit difficult, I tried to get used to it because I think it *was* a wedding, and it *is* a marriage but there is that sort of weight of those words of 'marriage' and 'wedding' and you know what comes with it and I think "no that isn't us" (Stefan)

A rejection of marriage terminology because of the historical and cultural associations with a sexist and dysfunctional social institution is reflected in the literature (e.g. Holt, 2004; Yip 2004). However, whilst participants wanted to reject marriage terminology many expressed confusion regarding the appropriate language to use:

We do wonder what we're meant to call each other, sometimes I say "my partner", sometimes I say "my husband" (Nick)

Several people experienced the difficulty in terminology most acutely when talking to heterosexual others as they felt that the CP terminology made it harder for people to understand their relationship. As a result, several participants described modifying their language to help others understand their relationship status, typically drawing on marriage terminology:

It's quite awkward saying civil partnership, and in the end I guess now we refer to it as our wedding because it's easier and people know what we're talking about (David)

This finding reflects the sentiments of Liddle and Liddle (2004) who also used marriage terminology to help family and friends realise the commitment of their relationship to each other. Similarly, marriage terminology as a universally understood concept of relationship recognition and privileged social status was sometimes drawn on to articulate the meaning of CP and to gain access to resources. For example, Karen describes the difficulties she had with an insurance company who discriminated against her due to their ignorance about the CPA. Despite describing earlier in the interview that she disliked marriage terminology she seemed to use it inadvertently when she needed to:

I will say "oh no, no I'm her partner, you know we're *civilly partnered*, we're married, you *can* give me that information it's a joint application" (Karen)

This inconsistency in terminology seemed to create feelings of frustration amongst the participants. McConnell-Ginet (2006) suggests that social labelling is more than 'just semantics'; rather it shapes identity and creates a sense of shared values and community. In this case, the lack of a uniformly applied social label made it harder for participants to feel a coherent sense of identity or community, which may go some way to explain their frustration and

also why they seemed to struggle with understanding their new position in society. For instance, Karen exclaims that the government has failed to give CP'd couples a "lifestyle word". This fits with Richardson's (2000) argument that LGB people are not full citizens in the same way as heterosexual individuals, consequently making it important for participants that they should have their lifestyle (and citizenship) recognised in a way that is not based on an imitation of the heteronorm.

The above demonstrates how difficult participants found it to move away from marriage terminology as it was a powerful way of articulating the nature of the union. Despite this, all but one participant felt that marriage terms did not reflect the essence of same-sex relationships.

Identity as a LGB person in society

Many participants shared a perception that the CPA had led to an increased acceptance of LGB people in Britain. As such, participants felt that their position as a LGB individual in society had shifted. This had a real impact on their lived-experiences, for example, Steffi and Stefan explained how this made it easier to be 'out' as they felt there was less prejudice, whereas Karen noticed a small shift in her father's acceptance of her sexuality:

I've never worked anywhere where I haven't been 'out' but it's actually easier now as it's accepted now as a life, it's got the government's blessing (Stefan)

I've always been 'out' at work but there's being 'out' and there's having fifty people, the whole department, around you giving you a bottle of champagne and making a speech. It's quite a step up (Steffi)

For my dad the act made it easier because then other people have got to accept it as well, it's not just this weirdo, it's lots of people, enough to make the law change (Karen)

From an FDA perspective, the dominant construction of gay identity within the accounts of male participants seemed to be a negative one of promiscuity or even danger. For example, Stefan referred to the gay role models available to him as he grew up:

[to hear stories of gay] people getting married, what that must have done in villages all over the country... in terms of saying "oh I could be that" and giving people a sense of like, you know gay marriage ... I think that's quite enormous. So in the longer term I think it's made quite a healthy, you know, something on the, on gay identity... for people in general but it will be easier somehow, it will be counterbalanced a bit more. Because the role models I had was of gay mass murderers and I remember the picture of one being arrested and really fancying him and thinking "well what's that"?! You know, the only man who gets declared to me to

be gay is a mass murderer and a paedophile and it's like, that's not me but that's in me somewhere (Stefan)

In this extract the CP seemed to be constructed as providing an escape from these negative identities, by producing a 'healthy' alternative for gay men. Rather than murderers and paedophiles they can now find themselves in the subject position of 'domesticated' (Rauch, 1997) and therefore less dangerous. Similarly, gay relationships are often viewed in wider society as primarily sexual in nature (Auchmuty, 2004); CP offers a romantic, stable, family/couple orientated construction. Stefan's comment suggests that new constructions of LGB identity could have an affirmative impact on younger gay adults by offering alternative role models that could reduce the likelihood that negative constructions of LGB people are internalised. This could have implications for stress-related mental health difficulties, such as anxiety and depression, which have been found to be more prevalent in LGB research populations than heterosexual populations (Cochran & Mays, 2000).

A couple of participants also felt that the social scripts around marriage, such as expectations of when to marry, would now apply to LGB people. For instance, Bob felt that LGB people would have less "social mobility" and would be expected to "settle down" like heterosexual men at a younger age. Similarly Stefan felt worried that being old, gay and single could create a negative identity:

The worst images of spinsters and bachelors, that sort of thing, suddenly applies to the gay world where it wasn't before (Stefan)

Harding (2008) found similar concerns amongst her participants, although rather than seeing this in only a negative light, some of them reflect that lesbians and gay men can use the legislation as an opportunity to carve out their own construction of CP.

Summary

Same-sex couples have faced many challenges living in a heteronormative society. Yep (2002) summarises these challenges by stating: "the equation of 'heterosexual experience = human experience' renders all other forms of human sexual expression pathological, deviant, invisible, unintelligible, or written out of existence" (p 167). Indeed the experience of CP discussed here seemed to be directly related to the perceived changes in stigma and discrimination against same-sex relationships. For example, participants felt that CP improved the recognition of same-sex relationships in society, increased access to social privileges and civil rights, and counterbalanced some of the negative identities of gay men.

The results touched on the privileged status of marriage stemming from the dominance of the heteronormative discourse. For this reason the institution of marriage created the biggest ongoing dilemma for participants. On the one hand, participants could see the power of the institution of marriage, which could be tapped to improve their social standing, social inclusion and to

communicate the authenticity of their relationship. On the other hand participants disliked its inherent heterosexual nature, which they felt could not accurately reflect the lifestyle of LGB people.

Implications from this research

Implications for therapists

Despite the legal distinction between CP and heterosexual marriage, CP is often spoken of using marriage terminology. Indeed, the current study indicated that many of participants' acquaintances referred to them as married and that they themselves also tended to use marriage terminology in reference to their relationship. However, the use of marriage terminology creates the risk of 'thin' stories developing around CP'd life, where inappropriate assumptions based on beliefs about heterosexual marriage could be inadvertently applied to same-sex couples. The findings in this study demonstrate that many participants did not consider themselves as married nor did they think this terminology could accurately reflect the nature of their relationship, lifestyle or non-heterosexual citizenship. This suggests that practitioners need to pay careful attention to the use of language because marriage terminology could 'gloss over' the important differences between opposite-sex and same-sex couples, (such as the motivation to become CP'd and assumptions of monogamy) and could close down opportunities for conversations about social inequalities.

This study also indicated that a subjugated sexual minority status impacts on the way that people talk about their experience of CP and their opportunities for action. Within queer theory, Langdrige (2008) believes that an important role of the clinician should be to facilitate conversations that raise a client's consciousness of deeply embedded cultural discourses. To do this he advocates using socio-political critique to engage the client in alternative ways of seeing the world and therefore creates new possibilities for narrating their life story. The current research goes some way to raising *clinicians* awareness of the taken-for-granted heteronormative ideals that are likely impacting on LGB individuals or couples seeking therapy and so equips them to undertake this type of work.

This study also raises questions for psychologists working with *heterosexual* couples. For example, marriage is often viewed as the normal progression for heterosexual couples and therefore questions regarding the reasons for getting married are rarely asked. Research into the reasons why heterosexual couples get married (e.g. Hibbs *et al.*, 2001) found that only a small proportion were aware of the legal implications of their marriage or had this as a reason to get married; in contrast, the political and legal reasons for CP were prominent in participants' minds. At a time when marriage is becoming less popular and co-habitation is increasing (Auchmuty, 2004) such questions for heterosexual clients seem even more important.

Finally, this study has implication for the training of therapists and researchers. LGB issues are rarely discussed on training courses (e.g. Shaw

et al., 2008; Davies, 2007) and the complexities of the arguments and politics of civil partnership as an 'alternative' to marriage will not be covered in the detail reflected in this study. However, these dilemmas may be the concerns that couples bring to therapy. Including an overview of the significance of the CPA in training is therefore important.

Future research

Given that the CPA is still only a few years old, there are still many unanswered questions about the impact of it on couples and individuals in society, both LGB and heterosexual. Indeed, the current research suggests that the CPA may have wider implications than simply for individuals in a CP. Future research could help to gain a more comprehensive understanding of the impact of the CPA on other LGB people and on the families of those who have become CP'd.

As participants in the current study are amongst some of the first to have had the opportunity to register their relationship under the CPA it would be useful to continue researching the experiences of CP after it has been available for longer. Once the CPA has been available for a few years it is possible that newly CP'd couples have a different experience of it. Finally, the longest any of the couples in this study had been in a CP was 23 months. Patterson (2004) suggests that the benefits of being in a CP may accumulate over time for couples and their descendants. Re-interviewing participants in the future (or interviewing couples who have been CP'd for a longer period of time) may provide information about this.

Conclusion

With the advent of CPs, LGB couples have gained civil and financial rights; however they have been met by new challenges and dilemmas. A challenge identified within this article was how couples can carve a recognised and respected social position for themselves within a society that privileges heterosexuality, without 'selling out' and fully adopting a heterosexual model.

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