

# Same-Sex Marriage in Canada: Five Years Later

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# Bill C-38: The Civil Marriage Act

- Canada's same-sex marriage law was passed on July 20, 2005
- Canada was the 4<sup>th</sup> country to extend marriage to same-sex couples
- As in other countries, there is little research and less theory about same-sex marriage

# Predicting When a Country Will Pass a Same-Sex Marriage Law

- Kees Waaldijk (2001) developed a model to describe the progress toward SSM legislation
- “Law of Small Change” refers to a sequence of events, each paving the way for the next
- There are three such events that play out over a period of time leading up to SSM legislation

# “Small Change”: Three Events (Waaldijk, 2001)

	Canada	United Kingdom	United States
Decriminalization of homosexuality	1969 <sup>1</sup>	2001 <sup>4</sup>	2003 <sup>7</sup>
Antidiscrimination legislation	1996 <sup>2</sup>	2003 <sup>5</sup>	--
Benefits for same-sex couples	2000 <sup>3</sup>	2005 <sup>6</sup>	--

## Since Bill C-38

- Only a small % of same-sex couples have married in Canada since 2005 (i.e., 16%)
- An underestimate as this % is based on Census 2006 (the next census is in 2011)
- But the effect is real: “Now nobody can say I don’t have a real family” (McCarthy, 2008)

# Incentives and Barriers

(Badgett, 2009; Eskridge & Spedale, 2006)

- Same-sex couples choose not to legalize their relationships if they have fewer incentives and more barriers (Badgett, 2009)
- E.g., compared to female couples, Danish male couples had more incentives to register their partnerships (Eskridge & Spedale, 2006)

# A Hypothesis?

- Eskridge & Spedale's (2006) hypothesis re: same-sex partnership registration in Denmark
- In Denmark, gay men had more incentives than lesbians did to register their partnerships
- Why? Gay men have more money, are less likely to be raising children than lesbians are

# The Canadian Case (Two Examples)

- Americans who married in BC were most likely to come from CA, WA, OR, and TX
- American lesbians were more likely to come from a state within a 1-day drive of BC
- American gay men were more likely to come from farther way (i.e., CA or TX)

# US Residents Marrying in BC (2004-2007)

	<b>Lesbians</b>	<b>Gay Men</b>
1-Day Drive (WA, OR)	55%	36%
Farther Away (CA, TX)	45%	64%

# Gay Couples vs. Gay Families?

- Eskridge & Spedale (2006) found that Danish lesbians were more likely to be raising children
- Canadian census data from 2006 shows the same pattern in Canada
- Lesbians (whether cohabiting or married) are more likely than gay men to be raising children

# Lesbian Households (Census 2006)

	No Others	With Child(ren )	Another Member	Total
Total	15320 (74%)	3090 (15%)	1820 (9%)	20605
Married	1940 (56%)	735 (21%)	630 (18%)	3450

# Gay Male Households (Census 2006)

	No Others	With Child(ren )	Another Member	Total
Total	21105 (85%)	695 (3%)	2800 (11%)	24740
Married	2435 (60%)	335 (8%)	1145 (29%)	4010

# Partial Support

- These data support Eskridge & Spedale's (2006) hypothesis that gay men have more disposable income, and that lesbian couples are more likely to have children
- But, these data also suggest that having children is an incentive to marry, for both lesbians and gay men (as is having another family member in the home)

# Same-Sex Divorce

- Canada's first same-sex divorce occurred in 2004 before SSM was legal nation-wide
- When Bill C-38, the Civil Marriage Act, was passed in 2005, the federal Divorce Act was amended allowing same-sex divorce
- I.e., Section 8 replaced the Divorce Act's "opposite sex" definition of spouse

# “Divorce Catch-22” (Wiltshire, 2009)

- Even less research on same-sex divorce, but most of the discussion involves Americans
- E.g., same-sex American couples who marry in Canada may not be able to divorce
- I.e., if their state does not recognize their marriage, they cannot be divorced (NY is an exception)

# In Conclusion

- 5 years after Bill C-38, we still don't know very much about same-sex marriage
- Next year, Census 2011 will provide us with a much clearer picture of SSM in Canada
- It is now time for more theory development and theoretically-driven research on SSM