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Same-Sex Couples and the Marital Surplus

The Importance of the Legal Environment

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Before same-sex marriage was legalized in the United States, a plethora of studies examining the treatment of gays and lesbians in various markets arose. They mostly focused on discrimination in labor markets, not specifically marriage. The importance of persistent preferences and community standards in affecting these outcomes has also garnered attention.

More recently, the focus has shifted toward various aspects of same-sex partnership and marriage, including their impacts on opposite-sex marriage rates, fertility, and employment; effects of taxation on same-sex partners' labor supply and household bargaining; and even mental health and sexually transmitted diseases. All these considerations are important in understanding the position of this minority group in American society and generally. There is no doubt legalization has had and will have major implications for how individuals in this minority are treated in the labor market and other markets. The essential question, however, is this: How does legalizing same-sex marriage alter a couple's well-being both in and beyond the labor market? The push for legalization presumably stems from its proponents' beliefs that, more than legal or unsanctioned same-sex partnerships, it will directly improve the well-being of this minority.

With the complete legalization of same-sex marriage in the United States in *Obergefell v. Hodges* and with the legal sanctioning of the view that marriage choice is a civil right in *United States v. Windsor*, federal policy has placed same-sex marriage on the same legal footing as opposite-sex marriage. While this change is recent, the legalization of same-sex partnerships (including at the state level in California in 1999) and same-sex marriage (including in Massachusetts in 2004) has generated a substantial number of same-sex partnerships and marriages that are or at least could have been legally sanctioned. This increasingly lengthy history allows the study of how such partnerships have fared over time under an increasingly tolerant legal system. In particular, we can examine how benefits that couples receive from legalized same-sex marriage differ from those they receive from legalized same-sex domestic partnership and how benefits from the latter differ from those received when even partnerships are not legally sanctioned. Thus we consider in a new context the idea that marriage is a commitment device that protects and induces couples' investments in their relationships.

Marital surplus—the excess value of a marriage beyond a partner's expected value when staying single—can be viewed as any extra income or increased efficiency in using

time (in household production or leisure) produced by the couple's prior investment in their relationship. Presumably, marital surplus is greater the longer the couple has been together and the more effort the partners have expended developing their relationship (i.e., investing in activities that raise the surplus). But while the concept has been used often, its extent has not been examined directly, only inferred from the changes in behavior that it might engender.

Using data from the American Community Survey (which since 2013 has contained information on whether a married couple is of the same sex or not), we chart how the marital surplus varies with the length of a couple's relationship and with the legal protections, if any, under which it operates. Our idea is that marital surplus is measurable as the excess of income over what would be expected given the partners' choices about how much to work and their past and current earnings ability. A successful partnership allows both parties to enhance their income-generating capacities by specializing in various household tasks, making choices about how to spend nonmarket time in ways that enhance their incomes, and engaging in activities together that enhance their happiness and offer them the ability to develop their human capital in ways that are not predictable based on their observable characteristics. Presumably, these investments are made early in a relationship that is expected to be long-lasting and will taper off as the relationship lengthens.

We find that among same-sex partners, unlike opposite-sex partners, there is almost no relation between the duration of their partnership and the excess of their family income conditional on their demographic characteristics. The same is true for their likelihood of home ownership. If more of their time together was spent with the option of a legalized alternative arrangement, that still does not increase income or home ownership.

However, access to additional time in a legally sanctioned same-sex marriage increases the excess of household income over its predicted value, identified as a marital surplus; and it also increases the likelihood of home ownership. Stated differently, taking two otherwise observationally identical same-sex couples who have been partnered for the same length of time, the couple whose partnership spent more time under the institution of legalized same-sex marriage has a higher family income and a greater probability of owning a home. The findings are consistent with the role of increased certainty regarding the length of a relationship, leading to increased commitment to the relationship and growing incentives to invest in activities that raise the benefits from it.

While much of the discussion about the benefits of legalizing same-sex marriage has dealt with access to partners' health insurance or issues of inheritance, the fundamental ability to develop a relationship is a basic economic benefit from legalization. It does not arise when alternative partnerships are legalized; only with legalized marriage do the same benefits accrue to same-sex partners that have been available to opposite-sex partners since Western legal systems were established. Our results, coupled with prior evidence that legalization does not reduce marriage rates among opposite-sex couples and does not lower fertility, suggest that legalizing same-sex marriage increased the well-being of same-sex couples without reducing the well-being of opposite-sex couples. Legalization appears to enhance welfare generally.

NOTE:

This research brief is based on Daniel S. Hamermesh and Scott Delhommer, "Same-Sex Couples and the Marital Surplus: The Importance of the Legal Environment," NBER Working Paper no. 26875, March 2020, <http://www.nber.org/papers/w26875>.