

Submission to Statistics New Zealand

on

**2006 Census of Population and Dwellings:
Preliminary views on content**

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NEW ZEALAND AIDS FOUNDATION
TE TUUAAPAPA MATE AARAIKORE O AOTEAROA

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Executive summary

Same-sex cohabiting couples

- Legislative amendments equalising the position of same-sex couples in law, community interest, and academic and public sector demand for the characteristics of cohabiting same-sex couples requires quality information on this population for planning, intervention and funding.
- Although the New Zealand Census has reported information on this population in the past, the indirect and ambiguous collection method, and pursuant doubts over the quality of data, requires the census forms to be improved.
- Statistics Canada has trialled new ways of eliciting information on same-sex cohabiting couples, and made alterations to the form for the 2001 Canadian Census. We support the Canadian amendment and recommend a similar approach for the New Zealand Census.

Sexual orientation

- Anti-discrimination legislation, increasing societal acceptance of homosexuality, and a lack of information on the gay, lesbian and bisexual (glb) population has created a significant demand for basic data on sexual orientation from central and local government, the community sector, and academic researchers.
- Data on sexual orientation is not currently collected in the New Zealand Census. It is one of only two prohibited grounds of discrimination in the Human Rights Act 1993 and Bill of Rights Act 1990 on which information is not being collected at present (the other ground being political belief).
- The recent Human Rights Amendment 2002 requires Government actions to be consistent with the anti-discrimination provisions in the Human Rights Act 1993 and the Bill of Rights Act 1990. This is likely to place obligations on Statistics New Zealand with regard to sexual orientation and other protected grounds.
- Quality comparative data on sexual orientation is difficult to obtain for a number of methodological reasons.
- Most importantly, as the census does not collect information on sexual orientation, the absence of a demographic benchmark significantly impairs the research and health promotion process for the glb population. Sampling has been too costly, the generalisability of findings outside the sample cannot be assessed, and thus the quality of evidence is unknown.
- On many issues, there has been a complete lack of data on sexual orientation. This, combined with reduced confidence in the accuracy of population estimates that are reported, means that the ability to identify disparities between heterosexual and non-heterosexual populations is limited, and progress on social, health and economic indicators over time cannot be properly determined.

- This is potentially disastrous for a population that continues to experience societal discrimination. On many issues that census supplies data on, there is an absolute void of information for the gay, lesbian and bisexual population.
- Sexual orientation is a sensitive topic to some people, and considerable attention will need to be given to question phrasing and respondent reaction.
- Most barriers to including a question on sexual orientation mentioned to date can be overcome or minimised through wider discussion, trialling and awareness raising. Some other difficulties do apply to sexual orientation but also apply to other questions that are retained in census.
- Although Statistics Canada has explicitly included a question on same-sex couples in the Canadian Census, they have so far decided against including a question on sexual orientation. However, it is important to note that the way data is elicited in the Canadian Census is different from the New Zealand Census form.
- It is highly probable that factors that were relevant in Statistics Canada's recommendation against the inclusion of sexual orientation do not apply in the New Zealand context.
- Sexual orientation ought to be treated as a standard characteristic for the collection of information on the New Zealand population.

Disability

- Statistics New Zealand has described the data provided by the 1996 and 2001 Census on disability as having limited usefulness. Like sexual orientation, disability is a ground protected under the Human Rights Act 1993, the Bill of Rights Act 1990, and subsequent amendments, and Statistics New Zealand has obligations to ask about disability.
- It might be possible to identify ways in which a disability question could provide more useful information, if for example there was close consultation with disability advocacy groups and/or if the question was altered in a way that provided quality data to the disability sector.

Recommendations

- To add a separate category “my same-sex partner” to the 2006 household living arrangements census question (q.19 in the 2001 Census Individual Form, and q.4 in the 2001 Census Dwelling Form), as Statistics Canada has done;
- To add a question on sexual orientation to the 2006 Census Individual Form;
- To use the definition of sexual orientation in the Human Rights Act 1993 and Bill of Rights Act 1990 (as amended) as a basis for developing a question on sexual orientation for use in the 2006 Census;
- To fund, trial and evaluate the response from both homosexual/bisexual and heterosexual New Zealanders to the proposed question on sexual orientation;
- To explore ways of improving understanding and acceptability of a new question on sexual orientation among heterosexual and homosexual/bisexual New Zealanders;
- To retain the current question on disability in the 2006 Census, or explore other ways of asking a question on disability so that the information it provides is useful to those working in the disability sector.

“Unfortunately, there exists no reliable data, other than the census, suitable for calculating even the most rudimentary statistics on the location of the gay and lesbian population”

Black, Gates, Sanders & Taylor (2000). “Demographics of the gay and lesbian population in the United States: Evidence from available systematic sources”. *Demography* 37, p.149.

NOTE: In this submission, reference is made to work conducted by Statistics Canada and currently in the process of being written up: “Same-sex relationships and sexual orientation in Canada: Data, concepts and methodological issues – Draft April 19 2003” (Turcotte, Renaud and Cunningham, 2003).

On request, Pierre Turcotte, (Chief, Social Reporting, Housing, Family and Social Statistics Division) provided NZAF with this paper, which was presented at the Population Association of America Meeting, Minneapolis, May 2003, in confidence.

In view of the considerable work on sexual orientation conducted by Statistics Canada, we have felt it important to quote certain text directly from this draft paper. Quotations directly taken from the draft document must however be treated as confidential until the final paper is published by Statistics Canada and the quotations and opinions verified with the final version. For this reason we have also not attached the draft paper as an Appendix. We recommend that Statistics New Zealand request a copy of this paper directly from the authors.

Same-sex cohabiting couples

Over time, the emergence and public acceptance of new living arrangements and family types has required the census to adjust the questions it asks in response to the information needs of the public sector and communities. One such living arrangement is the cohabitation of same-sex couples. After the decriminalisation of male homosexuality in 1986 and the passage of the Human Rights Act 1993 and the Bill of Rights Act 1990 (as amended), social attitudes towards same-sex couples changed significantly by the late 1990s. In 2001 the Property (Relationships) Amendment Act was passed, which for the first time treated the status of same-sex and opposite-sex de facto relationships as equal in law. In 2002 Parliament passed the Human Rights Amendment, which removed Government exemptions to compliance with the Human Rights Act in its decision-making. The Social Services Select Committee is also soon to consider the Families Commission Bill, which “aims to promote the interests of the full range of families and the better understanding of family issues and needs.”¹ Amendments creating equality in the area of immigration have also been enacted, and the Ministry of Social Development has proposed a “Rainbow Desk” which would assist the Government on sexual orientation issues.

This combination of legislative progressiveness, the evolution of family structures and public acceptance of these, and the consequent demands for information about such family types provides strong grounds for the collection of quality information on same-sex cohabiting couples.

Census data on cohabiting same-sex relationships is available from four countries: New Zealand, the United States, Canada and Australia (see Box A). Rates of same-sex cohabiting couples increased in all countries that recorded the information over the previous two census periods; in New Zealand by 56%. Still, Statistics New Zealand has referred to these figures as likely to be an undercount.²

Box A: Cohabiting same-sex couples in census, as a proportion of all couples: NZ and other countries

Year	New Zealand	United States	Canada	Australia
1990		0.3% ^b		
1996	0.4% ^a		-	0.3% ^d
2000		1.0% ^c		
2001	0.6% ^b		0.5% ^b	0.5% ^e

^a Statistics New Zealand (1998).

^b Turcotte, Renaud & Cunnigham (2003, draft April 19).

^c Smith & Gates (2001).

^d Australian Bureau of Statistics.

^e Birrell & Rapson (2002).

¹ www.clerk.parliament.govt.nz/Programme/Committees/Submissions/ssfamcom.htm

² Statistics New Zealand (1998:18). Badgett and Rogers (2003) and Black et al. (2000) have estimated how low an undercount might be in the U.S. Census.

Although the New Zealand Census currently collects data on cohabiting same-sex couples, there are two significant difficulties in the way this is done at present. These are the method by which individuals are allocated to this category and the disproportionate effect errors can have when this population has a low prevalence. As discussed below, under the current census system both data processing errors and respondent error might contribute to “non-trivial” enumeration errors, thus affecting the data quality relating to same-sex couples.

Respondent and processing errors

Same-sex couples are identified via a question asking individuals to mark “all the people who live in the same household as you” (Box B). If both partners mark the category “my partner or de facto, boyfriend or girlfriend” on the census Individual Form, answers can then be crosschecked with an individual’s sex (male or female) to identify same-sex cohabiting couples. Further information on the census Dwelling Form can also be used for additional verification.

Box B: NZ Census question on living arrangements – 2001 Census Individual Form

19. Mark as many spaces as you need to show all the people who live in the same household as you.

- my legal husband or wife
- my partner or de facto, boyfriend or girlfriend
- my son(s) and/or daughter(s)
- my mother and/or father
- my sister(s) and/or brother(s)
- my flatmate(s)
- other. Please state e.g MY GRANDMOTHER, MY MOTHER-IN-LAW, MY PARTNER'S FATHER etc or BOARDER etc

or

- none of the above – I live alone

A difficulty with this system is that there is no instruction or category on the census form that explicitly relates to a same-sex partnership. The accompanying census Help Notes instruct that same-sex couples should mark the “my partner or de facto, boyfriend or girlfriend” category, however it is unknown how many people actually read these notes. Many individuals in same-sex couples may therefore not be aware they can indicate their relationship to the census.³ Also, mis-coding of sex by respondents (e.g. a female in a heterosexual couple mistakenly marking “male” as their own sex) can lead to miscategorisation of some heterosexual couples as same-sex. Data processing of the census forms by Statistics NZ itself can also lead to errors in recording relationship types, and when the proportion of couples who are same-sex is very small, even a tiny rate of miscoding of the majority category (opposite-sex couples) can have disproportionately large effects on the minority.⁴ All of the above examples can shed doubt on the validity of same-sex cohabiting couple data as it is currently collected.

In lieu of these issues, prior to 2001 Statistics Canada trialled three variations of question format and wording regarding the identification of same-sex couples to investigate optimal collection methods. The options consisted of (i) a *write-in* method, whereby “same-sex” was listed as an example of what could be written in under the final “other-specify” category (in NZ, this would be the “other- please state” category); (ii) an *indirect* method, whereby the help notes directly beside the question urged those with a same-sex partner to use the category of “common-law partner” (similar to current NZ Census practice urging such individuals into the “my partner or de facto, boyfriend or girlfriend” category, but with the help note immediately beside the question rather than in a separate Help section detached from it); (iii) an explicit method, whereby there was a separate category for “same-sex partner”, distinct from “common-law partner” (a similar situation in NZ would see the introduction of a new category below “my partner or de facto, boyfriend or girlfriend” that read “my same-sex partner”).⁵

Results of this testing indicated that the *indirect* and *explicit* methods were the most popular among respondents in same-sex cohabiting relationships. The *indirect* method however produced the least proportion of partnerships that were considered valid (i.e. were actually same-sex cohabiting couples), at a rate of 84%, while the *explicit* method produced the highest at 95%.⁶

Eventually, Canadian legislative changes such as the Modernization of Benefits and Obligations Act 2000 that equalised the status of opposite-sex and same-sex partnerships meant that the 2001 Canadian Census adopted the *explicit* method but adjusted it so that *both* categories referred to “common-law partner” while having suffixes of “opposite-sex” and “same-sex” attached.⁷

³ Furthermore, same-sex relationships only achieved recognition in law in April 2001, one month after the 2001 Census. People in same-sex relationships in the 1996 and 2001 Census may therefore not have marked the appropriate response category, in the belief that Statistics New Zealand would not recognise their relationship at that time, or would have deemed it an error by the respondent.

⁴ Black et al. (2000) have estimated the effect of such errors on the accuracy of same-sex couple enumeration using both census and other survey data, as has Turcotte, Renaud & Cunningham (2003, draft April 19).

⁵ Turcotte, Renaud & Cunningham (2003, draft April 19).

⁶ Ibid.

⁷ Ibid.

The New Zealand Census should insert a separate category of “my same-sex partner” in living arrangements questions

We submit that a separate category of “my same-sex partner” be added to the list of options under the living arrangements questions in the Census Individual Form and Dwelling Form. We submit that this is required in order to reflect:

- the changing social and legal recognition of same-sex partnerships;
- the urgent need for information on such relationships from both the public sector, the academic sector and communities;
- the possibility that under the current system for identifying same-sex relationships in the NZ Census, data may be of insufficient quality.

Testing of new options by Statistics Canada not only revealed that those in same-sex couples preferred the explicit method but, importantly, that:

“ the general public was also mainly supportive; most either welcomed the initiative or at least were not opposed to the new concepts (in part because they didn't apply to them)”.⁸

Statistics Canada concluded that:

“The 2001 Canadian Census provided the first estimates of same-sex partnerships. The release of these estimates has attracted considerable media attention, mostly factual and favourable to the initiative. The results have been widely discussed and the data are likely to be used extensively by policy makers and researchers in the upcoming years. The current planning assumption is to continue to collect information on same-sex couples in the 2006 Census.”⁹

Same-sex cohabiting couple data not to infer data on sexual orientation

The data on same-sex cohabiting couples is not a substitute for data on sexual orientation - the number of people classified as being in a same-sex cohabiting couple cannot be used to estimate the proportion of people who are gay, lesbian or bisexual (glb) in New Zealand. This is because it does not account for glb individuals who are not currently partnered, nor those who are partnered but do not live together. It is possible that both the partnering and cohabitation rates of same-sex and opposite sex couples may be different, preventing statistical inferences from being drawn about the proportion of the New Zealand population who are glb from the proportion of cohabiting couples who are same-sex compared to those that are opposite-sex.¹⁰ Similarly, the demographic and other characteristics of those in same-sex couples can not be assumed to be the same as glb individuals not currently cohabiting with a partner.

⁸ Ibid.

⁹ Ibid.

¹⁰ This could be attempted if the actual rate of partnering and cohabitation of the glb population relative to the heterosexual population was known, but as we don't have probability data that estimates these figures reliably for the glb population, this is not possible. Rissel et al. (2003b) report that 75% of heterosexual-identified males and 49% of homosexual-identified males in a recent national Australian probability study report being currently partnered, but no data on comparative cohabitation rates from this study have yet been published.

Recommendations

- To add a separate category “my same-sex partner” to the 2006 household living arrangements census question (q.19 in the 2001 Census Individual Form, and q.4 in the 2001 Census Dwelling Form), as Statistics Canada has done.

Sexual orientation

In the last decade, there have been major changes in New Zealand legislation regarding sexual orientation and a growing acceptance of homosexuality in New Zealand society. Gay, lesbian and bisexual (glb) communities have recently actively lobbied for more information about themselves to be collected by the census,¹¹ and there is an urgent need for better quality demographic data on this population for those involved in central and local government decision making as well as to assist researchers involved in health and other academic areas. Together, these factors strongly argue for the inclusion of a question on sexual orientation in the 2006 census.

Further, we submit that the difficulties that have been identified with posing a sexual orientation question either do not apply to the New Zealand Census, can be overcome or minimised through wider discussion, trialling and awareness raising, or do apply to sexual orientation but also apply to a similar degree to other questions that are included in census.

It should be noted that NZAF's position advocated in this submission differs from that expressed in previous submissions, in which we have urged a cautious approach. In light of the arguments presented below, we now firmly believe that sexual orientation ought to be included in the 2006 Census.

New Zealand's social, political and legislative context

Social and political context

In the time since the Homosexual Law Reform Bill was passed in 1986 there has been increasing societal openness and acceptance when discussing the issues facing gay, lesbian and bisexual New Zealanders. Currently there is one transgendered and two openly gay Members of Parliament, and leading politicians from both main political parties including two recent Prime Ministers have attended the gay and lesbian HERO festival in Auckland. A recent Otago University birth cohort study identified that only 17-20% of males and females respectively considered that sex between two women was always or mostly wrong, and only 22-36% considered that sex between two men was always or mostly wrong (see Box C).¹² These rates were almost half of those found in studies from the US and UK conducted in the 1990's,¹² and roughly equivalent to those found recently in Australia.¹³ New Zealander's views on various forms of non-marital sex have also been described as "moderate".¹⁴ Therefore it could be claimed that the majority of New Zealanders demonstrate a broad-minded approach to sexual orientation, and one that goes beyond mere toleration.

¹¹ Van Wetering (2002); Dempsey (2003); Durkin (2003a); Durkin (2003b); Malone (2003).

¹² Dickson, Paul, Herbison (2003).

¹³ Rissel et al. (2003a).

¹⁴ Widmer, Treas and Newcomb (1998).

Box C: CASE STUDY “Attitudes to homosexuality in New Zealand - results from a Dunedin Birth Cohort study”

Opinions about same-sex relationships reported at age 26 (%)

	Sex between two men		Sex between two women	
	M	F	M	F
“Always wrong, mostly wrong”	36	22	17	20
“Sometimes wrong”	4	4	6	4
“Rarely, wrong, not wrong at all”	38	53	54	56
“Depends”	12	12	16	13
“Don’t know”	8	7	5	5

Source: Dickson, Paul & Herbison (2003), Table 3. Percentages in some categories have been aggregated and all have been rounded to nearest whole number.

Human Rights Act 1993 (and amendments), Property (Relationships) Amendment Act 2001

Increasing social and political acceptance of homosexuality has been matched by legal recognition. In July 2003, exactly 10 years have passed since the Human Rights Act and (the amended) Bill of Rights Act made discrimination on the basis of sexual orientation illegal in a wide variety of circumstances. Significantly, the Human Rights Amendment in 2002 removed the previous Government exemption regarding compliance to anti-discrimination law in statutes, regulations and actions. This is likely to place obligations on Statistics New Zealand with regard to sexual orientation and other protected grounds.

Quite apart from the interest from glb individuals themselves for basic demographic information on their own communities, these legislative developments create a clear need for accurate information on the gay, lesbian and bisexual population. Quite simply, without quality demographic data on this population it is impossible to accurately ascertain progress on anti-discrimination goals for example (see below). In this respect, sexual orientation is one of only two prohibited grounds of discrimination in the Human Rights Act 1993 and Bill of Rights Act 1990 that census does not directly collect information on (the other ground being political belief, see Box D, page 14).

Why is a question on sexual orientation needed in the census?

Information sources on gay, lesbian and bisexual populations in New Zealand

“As the only collection of social statistics on the whole population in New Zealand at a point in time, the census provides a unique source of information about small geographic areas and small population groups...[t]his ability to provide information about small areas and small population groups is one key strength of the census.”

Statistics New Zealand (2003), *2006 Census of Population and Dwellings: Preliminary Views on Content*, p.10.

A central problem when conducting research on sexual orientation has been acquiring representative random probability samples, as well as the lack of a demographics benchmark. Generally speaking, a considered estimate of the male population demonstrating a predominantly homosexual sexual orientation is between 4-6%, and for the female population 2-3%, with rates reported from studies varying depending on the criteria used, the methodology employed and the prevailing social and legal climate in the country studied.¹⁵ Furthermore, individuals with a homosexual sexual orientation tend to cluster disproportionately in large urban areas, and, within these, micro-cluster inside particular suburbs.¹⁶ This small population prevalence combined with geographic clustering has had several important effects on the type of information available on this population:

- Low *numbers* of participants with homosexual sexual orientation in random probability surveys (as distinct from low proportions) increases the level of uncertainty of estimates by widening confidence bands, thereby hindering hypothesis testing and determination of statistical associations;¹⁷
- *Costs* associated with probability sampling such a low-prevalence population have been high and proved an obstacle to research;¹⁸
- *Non-response and sampling errors* are likely to be higher in random probability surveys for this population;¹⁹
- The difficulties in generating a sample through random probability surveys has meant that the *type of information* collected on this population has usually been limited to “sexuality”, or a limited range of “health” issues. Generally it has not provided data on broader areas of social and economic interest in the same way as has been available for other populations;²⁰
- The *representativeness* of survey samples of glb populations in terms of important stratification variables such as residence, age, education, and income is impossible to determine without baseline census demographic data;²¹
- Consequently, researchers have turned to non-random methods of data collection for the glb population. This “*convenience-type*” research (e.g. conducted at gay community gatherings) has the ability to draw in larger samples and yield richer information, but on the other hand is also often considered poorer quality data due to sampling biases and the limitations therefore placed on the generaliseability of findings.²²
- Convenience-style research is also prone to mis-use against the glb population, as the biased samples in these studies have been used to misrepresent the social position of glb individuals (see Box E).

¹⁵ NZAF Advice to Ministry of Social Policy, Dec 2000 (Appendix A). For recent research see also Smith et al. (2003) and Johnson et al. (2001).

¹⁶ Hughes, A. & Saxton, P. unpublished manuscript “Geographic micro-clustering of men who have sex with men in New Zealand: Data from census and a national survey (available from NZAF).

¹⁷ Meyer (2001, Appendix B).

¹⁸ Blair (1999); Sudman (1985), Sudman, Sirken & Cowan (1988).

¹⁹ Catania et al. (1990); Bancroft (1997).

²⁰ Meyer (2001).

²¹ Black et al. (2000).

²² Meyer (2001); Plumb (2001).

Box D: Human Rights Act and grounds covered in census questions

Human Rights Act 1993	Census 2001
<p>21. Prohibited grounds of discrimination – (1) For the purposes of this Act, the prohibited grounds of discrimination are –</p> <ul style="list-style-type: none"> (a) Sex, which includes pregnancy and childbirth: (b) Marital status, which means the status of being – <ul style="list-style-type: none"> (i) Single; or (ii) Married; or (iii) Married but separated; or (iv) A party to a marriage now dissolved; or (v) Widowed; or (vi) Living in a relationship in a nature of marriage: (c) Religious belief: (d) Ethical belief, which means the lack of a religious belief, whether in respect of a particular religion or religions or all religions: (e) Colour: (f) Race: (g) Ethnic or national origins, which includes nationality or citizenship: (h) Disability, which means – <ul style="list-style-type: none"> (i) Physical disability or impairment: (ii) Physical illness: (iii) Psychiatric illness: (iv) Intellectual or psychological disability or impairment: (v) Any other loss or abnormality of psychological, physiological, or anatomical structure or function: (vi) Reliance of a guide dog, wheelchair, or other remedial means: (vii) The presence in the body of organisms capable of causing illness: (i) Age, which means, - <ul style="list-style-type: none"> (i) For the purposes of sections 22 to 41 and section 70 of this Act and in relation to any different treatment based on age that occurs in the period beginning with the 1st day of February 1994 and ending with the close of the 31st day of January 1999, any age commencing with the age of 16 years and ending with the date on which persons of the age of the person whose age is in issue qualify for national superannuation under section 3 of the Social Welfare (Transitional Provisions) Act 1990 (irrespective of whether or not the particular person qualifies for national superannuation at the age or any other age): (ii) For the purposes of sections 22 to 41 and section 70 of this Act and in relation to any different treatment based on age that occurs on or after the 1st day of February 1999, any age commencing with the age of 16 years: (iii) For the purposes of any other provision of Part II of this Act, any age commencing with the age of 16 years: (i) Political opinion, which includes the lack of a particular political opinion or any political opinion: (j) Employment status, which means – <ul style="list-style-type: none"> (i) Being unemployed; or (ii) Being a recipient of a benefit or compensation under the Social Security Act 1964 or the Accident Rehabilitation and Compensation Insurance Act 1992: (k) Family status, which means – <ul style="list-style-type: none"> (i) Having the responsibility for part-time care or full-time care of children or other dependants; or (ii) Having no responsibility for the care of children or other dependants; or (iii) Being married to, or being in a relationship in the nature of a marriage with, a particular person; or (iv) Being a relative of a particular person: (l) Sexual orientation, which means a heterosexual, homosexual, lesbian, or bisexual orientation. <p>(2) Each of the grounds specified in subsection (l) of this section is a prohibited ground of discrimination, for the purposes of this Act, if –</p> <ul style="list-style-type: none"> (a) It pertains to a person or to a relative or associate of a person; and (b) It either – <ul style="list-style-type: none"> (i) Currently exists or has in the past existed; or (ii) Is suspected or assumed or believed to exist or to have existed by the person alleged to have discriminated. 	<p>q.3 q.21</p> <p>q.18 q.18</p> <p>q.11 q.11 q.9 qs.14-15</p> <p>q.4</p> <p>Not asked</p> <p>qs.27-35</p> <p>qs.19, 21, & q.4 on Dwelling Form</p> <p>Not asked</p>

Box E: CASE STUDY “Myth of gay and lesbian income inflation”^c

Because of the difficulties inherent in collecting a random sample of gay men, much early research on this population was conducted via gay magazine readership polls or convenience-type surveys. These methods clearly generate biased samples – normally of highly educated and higher earning gay men – yet the paucity of alternative data sources has seen findings from such research used both by gay advocates (in order to highlight consumer power and thereby attract gay-friendly products and services) and also those with negative human rights agendas (who posit gay men as a high-spending social elite).

In a 1997 opinion piece to the Sunday Star-Times, Bruce Logan (now writing for the Maxim Institute) argued that

“...[t]he normalising of homosexuality and lesbianism is not a human rights issue because it is not about a repressed minority receiving a raw deal...[t]hey generally have higher incomes than the average New Zealander, they are better educated, they go on more holidays and have greater individuals spending power. They display none of the characteristics of a repressed minority.”^a

Logan went on to argue that calls for full equality for glb individuals were illegitimate. As it has been previously suggested, comments like these that result from inappropriate use of data:

“cast msm (men who have sex with men) into frames of privilege, imply that msm do not suffer discrimination, and remove the responsibility for msm’s health status away from society. This serves to reinforce negative public attitudes and antagonises political drives for equality, at a time when the achievement of better health status of msm is crucial.”^b

To investigate these claims about income more rigourously, three studies have examined data from the U.S. General Social Survey (GSS) and the 1990 U.S. Census. Comparing the heterosexual and non-heterosexual income findings from the 1989-91 GSS, Badgett found that in fact the gay men earned 28% less than their heterosexual counterparts, although there appeared to be no difference between the female samples.^c Black et al. confirmed the finding for men using an extended GSS sample, but also found that lesbian women earned more than heterosexual women.^d Black et al. later used the same-sex cohabiting couples data from the 1990 U.S. Census and confirmed their earlier findings for partnered gay men and lesbian women.^e One explanation put forward for the higher earnings of partnered lesbian women compared to partnered heterosexual women was that the absence of a male partner creates an incentive for both female partners to receive higher-remunerated jobs, in order to compensate for the fact that men on average earn more than women. This example demonstrates how poor quality information on the glb population affects drives for anti-discrimination protections.

^a Logan (1997:C5).

^b Worth et al. (1997:4).

^c Badgett (1995).

^d Black et al. (1998).

^e Black et al. (2000).

In New Zealand, only the NZ Partner Relations Survey conducted in 1991 has provided random probability data on homosexuality.²³ Out of 2,361 adults, 2% of men and 2% of women reported any same-sex sexual contact. This equated to only 24 men however and no subsequent analysis of this group's characteristics was undertaken because of the low number of participants.²⁴ The country's only nationwide quantitative study of gay men in 1996 – Project Male Call/Waea Mai, Tane Ma – used a self-selection methodology following an exhaustive publicity campaign and has provided a wealth of information on a sample of 1852 men.²⁵ Yet the focus in this study was limited to sexual behaviour and HIV, and did not investigate issues outside this narrow brief. Because surveying the gay male population necessitated an unconventional recruitment strategy, this study's findings had also been open to criticism regarding the representativeness of the sample and therefore the accuracy of the data reported early on.²⁶ There are examples of smaller scale research in New Zealand that have produced quality data on sexual orientation,²⁷ but generally this field of investigation has been limited by factors mentioned above:

- lack of interest or expertise regarding sexual orientation on the part of researchers;
- low numbers of participants in studies that do measure sexual orientation;
- a narrow focus on health-related (and specifically sexual behaviour or mental health) topics; and
- high costs associated with gathering a sample large enough for meaningful analysis.

“Catch-22” situation

“The data produced in the census is essential to support the government's social, economic and regional programmes and, in particular, its reliance on population-based funding and commitment to community capacity building and development.”

Statistics New Zealand (2003), *2006 Census of Population and Dwellings: Preliminary Views on Content*, p.10.

The availability and quality of information sources on sexual orientation is both directly and indirectly related to the well-being of the gay, lesbian and bisexual population. Lesbian researcher Marj Plumb has argued that the standard of evidence most common in gay, lesbian and bisexual research (convenience-based or qualitatively-derived) has been treated by other scientists as “unreliable, biased, and politically motivated”.²⁸ As she points out:

²³ Paul et al. (1995).

²⁴ The exception to this is a finding reported in Davis & Lay-Yee (1996) relating to male same-sex contact and reporting a history of STDs.

²⁵ The full series of 10 reports from the Male Call/Waea Mai, Tane Ma project can be accessed from the New Zealand AIDS Foundation's Head Office.

²⁶ We were subsequently able to argue that the Male Call data were of high quality, by comparing the geographic clustering of men in relationships in Male Call with the same-sex cohabiting data from the 1996 Census and finding high levels of congruence. By using the census as an indirect method for corroborating Male Call data, this highlighted both i) the importance of having census information in order to assess other survey samples; and ii) the incompleteness and limitations of what census could currently provide (in the end, and for the reasons outlined on page 9, same-sex cohabiters are not the same population as non-cohabiting non-coupled gay men, and this latter group are not identifiable in census statistics).

²⁷ Aside from qualitative studies which are not used to derive population estimates, most other NZ research demonstrating a high quality of evidence are from birth cohort studies, e.g: Dickson, Paul, Herbison (2003); Skegg et al. (2003); Fergusson, Horwood, Beautrais (1999).

²⁸ In a special edition of the American Journal of Public Health dedicated to gay, lesbian and bisexual health. See Plumb (2001, Appendix C).

“For decades, health providers, researchers, and lesbian health activists concerned about the medical establishment’s lack of attention to lesbian health issues heard a constant refrain from research funders, medical journal editors, and public health authorities: “Give us published research on these issues and we will listen to you”. The classic catch-22 of this response has frustrated the lesbian health community: Without funding we cannot do quality research, without quality research we cannot get published in medical journals, without being published in medical journals we cannot convince health experts that a health need exists, without proving to health experts that a health need exists we cannot get funding for research, prevention, or programs.”²⁹



A lack of definitive data has an effect at all levels of the health promotion and policy development process for the glb population. In New Zealand, quality information on the glb population is scarce, to the point of being non-existent. This makes it more difficult for glb communities to argue for targeted programs, adequate resourcing, or research projects, and for local and central government to fund them.

Why census?

“Survey takers...rely on information from the census to target their sample selection to areas of interest, usually using variables such as socio-economic status, income, employment, age, sex and ethnicity. They also adjust their survey results to census benchmarks, in particular, age, sex and ethnicity.”
Statistics New Zealand (2003), *2006 Census of Population and Dwellings: Preliminary Views on Content*, p.11.

Simply put, the census is the only definitive source of basic demographic information for a population group, including the gay, lesbian and bisexual population. Such information would be used to:

- *Enumerate* the number of people with a glb sexual orientation, both in terms of overall population and in specific categories of interest (e.g. low income), in order to help plan services and allocate funding;
- Identify *geographic areas* with greater glb populations in order to improve sampling efficiency and reduce costs in other surveys;
- Provide *demographic benchmarks* which are essential in order to apply weightings to other survey data and/or assess the representativeness of other survey samples;



Without definitive demographic parameters for a sub-population (e.g. age, education, ethnicity, income, place of residence), it is impossible to determine the reliability of other population characteristics derived from survey research (is the sample biased? – and if so, how has this affected the findings?). And without reliable data, it is impossible to accurately evaluate the impact of general health, social and economic policies on the population, nor the impact of targeted health promotion programmes.

This is potentially catastrophic for groups that face discrimination such as the gay, lesbian and bisexual population, as these groups are likely to experience greater need for interventions across a range of issues compared to the general population.³⁰ As stated earlier, only one other group protected under a ground of the Human

²⁹ Ibid p.873.

³⁰ For a comprehensive review of (health) issues facing the glb population in the U.S. for example, see Dean et al. (2000) and Solarz (1999).

Rights Act 1993 and Bill of Rights Act 1990 (amended) has been denied this information from the NZ census (political belief).

In addition, practical applications for central and local government include:

- *Identifying differences in the prevalence of glb individuals by District Health Board and Territorial Authority*, in order to help allocate funds for community services and health care resource allocation (for example, HIV prevention resources).
- *Enumerating glb individuals on a particular social welfare benefit*, in order to monitor progress over time (compared to other groups), evaluate potential obstacles to service delivery, and identify which Work and Income service delivery centres are cited in geographic areas with potential higher demand from this population;
- *Assessing differences in occupation / industry by sexual orientation*, in order to investigate barriers to entry in certain professions;

As an example, NZAF has been specifically asked by the Ministry of Social Development (then the Ministry of Social Policy) to provide advice on the actual number of people in same-sex cohabiting relationships in New Zealand who were on a state benefit.³¹

Appropriateness of using the New Zealand Census: Comparison with Canada and confidentiality concerns

One of the central features distinguishing the census from other surveys is that it is compulsory to complete. The agency collecting it (Statistics New Zealand) is also a government department rather than a market research company or academic institution. While this leads to its main strength (97.8% coverage of the New Zealand population in 2001) it also means that some topics may be deemed too “sensitive” to be asked, as the collection of quality (accurate) census data relies on respondents not feeling that their privacy and confidentiality is being compromised.

One issue that has been given significant weight when considering whether to include a question on sexual orientation in the New Zealand Census is the experience of Statistics Canada.³² Statistics Canada recently (from 2001) embarked on a series of qualitative tests asking both gay and non-gay Canadians how they felt about including a question on sexual orientation in both the census and prominent national health surveys.

Initial tests indicated that the reaction was quite positive. However, further investigation suggested that participants preferred being asked about sexual orientation in the context of a health survey, since the application of findings from health research was more obvious to them.³³

We submit that two important observations of the Canadian experience limit the relevance of this finding to the New Zealand context.

³¹ See Appendix A. At the time, the lack of legal recognition of same-sex relationships meant it was possible for a same-sex couple to collect higher benefits since they weren't assessed on their partner's income.

³² Statistics New Zealand (2003: 20).

³³ Turcotte, Renaud & Cunnigham (2003, draft April 19).

Confidentiality with respect to householders

First, and foremost, in Canada every person in a household must complete the census using a single household form. Thus a major concern during the Canadian testing was that a person's sexual orientation would be revealed to other householders (for example parents or flatmates, to whom the respondent's sexual orientation may not yet have been disclosed). This also led to fears that incorrect information might be supplied in the case of "proxy" reporting, or when one person fills in census information on behalf of all other householders.³⁴

In New Zealand however, each person completes their own *Individual Form*, which is separate from the household *Dwelling Form*. Thus fears about disclosure to householders should be minimised. *This is a crucial difference from the Canadian experience.*

Confidentiality by the state and use of the data on sexual orientation

Second, the fact that the state would be inquiring about sexual orientation ought justifiably to be scrutinised by the public – as should the compulsory collection of any personal information – especially by those groups who have experienced discrimination such as glb individuals. However New Zealand has had anti-discrimination legislation in place earlier than Canada with respect to sexual orientation, and thus the public has had longer to become accustomed to the protections that were enacted and are now in place. In fact, we know that state anti-discrimination provisions have real effects, and the longer history of anti-discrimination protections in New Zealand will almost certainly translate into comparatively greater levels of support for the state collecting information on sexual orientation via the census.

We can also see no reason why information on the glb population ought to be restricted to "health" issues. Although evidence suggests that glb populations experience worse health outcomes on some health issues compared to heterosexual individuals, laws against discrimination on the grounds of sexual orientation were enacted precisely because inequalities were demonstrated in other non-health areas of social and economic life. Clearly, if the range of information collected in census is useful for other populations, then it will also be useful for the glb population.

This might also explain why some glb participants during the Canadian testing felt uncomfortable with divulging sexual orientation in non-health related contexts. Until it can be shown that such information can be used for positive purposes, and will not be used to stigmatise a population, members of that community will justifiably be cautious.³⁵ We submit that parallels can therefore be drawn here with the experience of Maori in the evolution of the research process in New Zealand, where there has been a degree of mistrust in the collection and treatment of statistics on ethnicity.³⁶ Rather than perpetuating the information void by limiting statistics to "health", we also submit that the solution to this problem lies in an incremental process of experiment and evaluation guided by informed ethics, so that glb communities can build confidence in the state's role in other areas of data collection.

³⁴ Ibid.

³⁵ In the past for example, results from psychology-based and medical research had posited glb individuals as "pathologic", as negative behavioural outcomes were deigned to be due to deviant lifestyles rather than as a consequence of societal homophobia. Contemporary professional institutions now thoroughly distance themselves from these earlier models.

³⁶ Durie (1999: 123-140).

Further, while our own experience as users of glb research has alerted us to the problems with the current state of information as discussed above (see “Why is a question on sexual orientation needed in the census?”), this may not be apparent to many other glb individuals not engaged in the research or public sectors. Thus it may be important to include the points raised in this submission when having wider discussions on the implications of not having sexual orientation in the census, so that individuals can properly weigh up the options when asked.

Acceptability of the sexual orientation question: the gay, lesbian and bisexual population

Glb individuals are most likely to be concerned about responding to a question on sexual orientation for reasons of privacy and confidentiality, as mentioned above.³⁷ However, it is important to note that despite such concerns, and despite the significantly less private Canadian census form compared to the New Zealand form, glb participants who took part in the sexual orientation question testing in that country stated their view:

“that Statistics Canada had to start somewhere, and eventually, as people became more comfortable with the presence of questions on sexual orientation, the quality of the data would improve”.³⁸

We also note that the New Zealand statistics on same-sex cohabiting couples increased from 3,255 couples in 1996 to 5,070 couples in 2001, an increase of 56%. This is consistent with increasing comfort and familiarity with reporting sexual orientation-related information to the census over time, in conjunction with decreasing negative societal attitudes towards homosexuality.³⁹

We submit that any opposition to the question among glb individuals could be further reduced by:

- Promoting the fact that names recorded on the census Individual Form are only used by the census enumerator (collector) to ensure all people present in the household on census night have also been recorded in the Dwelling Form, and vice versa. The collector does not check responses to specific questions;
- Highlighting the fact that names are not recorded in the census electronic files and all census employees are bound by strict confidentiality agreements as set out in the Statistics Act 1975;
- Publicising the current option of using secure envelopes to return census Individual Forms, and increasing their availability;
- Including a response option of “object to answering this question” in the sexual orientation question, as occurs with the question on religion;
- Reminding glb individuals that the Human Rights Act 1993 makes it unlawful to discriminate on the basis of sexual orientation in the provision of goods and services;

³⁷ Turcotte, Renaud & Cunningham (2003, draft April 19).

³⁸ Ibid.

³⁹ See Grulich et al. (2003) for a discussion of the relationship between societal attitudes and recent findings regarding rates of homosexuality.

Acceptability of the sexual orientation question: the general population

As described earlier, New Zealand society generally has a broad-minded attitude towards people with a minority sexual orientation. However, some misunderstanding about the meaning of sexual orientation is bound to occur - when 95% of the population shares the same orientation the topic is likely to appear invisible to most people. This may consequently make it seem irrelevant to many people (although certainly not for the 5% who are in the minority).

Again, a parallel argument exists for ethnicity in this respect. Some “white” New Zealanders may feel that “ethnicity” is something they themselves don’t possess – it is only minorities that do. Some may even object to the ethnicity question being asked in the census, or to the response categories offered to them, as they believe it implies a “divided” New Zealand.⁴⁰

The reality is of course that everyone does have an ethnicity, and that many people in a minority ethnicity claim that their experience of the world is different because of it. These experiences can be seen in different values, family structures, and in some cases unequal access to resources, and thus census recognises the need to measure ethnicity so that differences can be identified and progress followed. *Exactly* the same reasoning applies to sexual orientation.

In other ways too, the inclusion of sexual orientation would be similar to the introduction to the census of “new” religions or “new” forms of cohabitation, especially those that were in some way stigmatised. For example, there is evidence in Australia and New Zealand that even heterosexual de facto relationships have been less well divulged in previous censuses than legal marriage.⁴¹ Presumably de facto relationships were socially unacceptable to many people at the time (the early 1980s), but census introduced the question, and in 2003 it is considered a perfectly normal living arrangement.

Statistics Canada report that the general population in addition to the glb population were “receptive” to the inclusion of sexual orientation in Statistics Canada’s surveys, so long as the context is perceived as relevant.⁴² We submit that in relation to sexual orientation, the availability of census information is highly relevant, and efforts should be made to encourage the glb population to better understand the many ways in which it would be useful.

Practical issues

What question to ask?

The majority of theorists and researchers broadly differentiate sexuality into three dimensions: sexual orientation, sexual identity and sexual behaviour. Of the three, sexual orientation and sexual identity rise as the likely candidates for inclusion as a question in census. Simply put, sexual orientation describes whether a person is attracted to the opposite or the same sex (and is therefore likely to form partnerships with this sex), and sexual identity is how these attractions are understood by the individual and communicated to others via labels or descriptors.

⁴⁰ The series of Statistics New Zealand reports in the *Review of the Measurement of Ethnicity* discusses many of these challenges. See for example Allan (2001:11).

⁴¹ Carmichael (1996); Santow & Bracher (1994).

⁴² Turcotte, Renaud & Cunningham (2003, draft April 19).

The Human Rights Act 1993 includes sexual orientation as one of the prohibited grounds of discrimination, and provides the definition below:

Section 21 (1) (m): “sexual orientation, which means a heterosexual, homosexual, lesbian or bisexual orientation.”

A wording for a question on sexual orientation in the New Zealand Census, with accompanying explanatory notes, might read something like Box F. We submit it would also be desirable to include a category of “object to answering this question”, as occurs with the question on religion, as well as a category of “don’t know”.

Box F: Possible wording of sexual orientation question for 2006 Census

Q. x	What is your sexual orientation?
<input type="radio"/>	heterosexual
<input type="radio"/>	homosexual (gay or lesbian)
<input type="radio"/>	bisexual
<input type="radio"/>	don't know
<input type="radio"/>	object to answering this question

Census Help Note:

Question x:

If you are a man and you are attracted to women, tick “heterosexual”.

If you are a woman and you are attracted to men, tick “heterosexual”.

If you are a man and you are attracted to other men, tick “homosexual (gay or lesbian)”.

If you are a woman and you are attracted to other women, tick “homosexual (gay or lesbian)”.

If you are a man and are attracted to *both* women and men, or if you are a woman and are attracted to *both* men and women, tick “bisexual”.

The Human Rights Act is useful in that it provides a legal framework for the concepts used in census data collection and reporting. Utilising an exact or amended version of the section above would mean that the census data would be consistent with New Zealand legal definitions for anti-discrimination in the prohibited areas (including employment, accommodation, provision of goods and services, and access to public places). Given that the inclusion of sexual orientation in the Human Rights Act and Bill of Rights Act arose out of experiences of inequality for the glb population, and the census is the benchmark source for identifying the needs of (minority) communities, the Human Rights Act definition of sexual orientation appeals as the foundation from which to develop the census question.

Trialling of question wording and the explanatory notes among both heterosexual and homosexual/bisexual New Zealanders would clearly be necessary. We submit

however that the wording of a question must be a separate consideration to the prior determination of whether or not sexual orientation ought to be included in the census.

Conceptual difficulties

As stated above, it is possible there will not be complete consensus on the phrasing of a question from the glb population, because some people have different understandings about what the term sexual orientation means. However we submit that these issues are not unique to sexual orientation. As reported in the Statistics NZ document *2006 Census of Population and Dwellings: Preliminary views on content*,⁴³ many census questions currently used can be understood by respondents in various ways, and also have limitations placed on the usefulness of the data generated. For example:

- Ethnicity: “The recent Review of the Measurement of Ethnicity (RME) indicates that the concept of ethnicity is not well understood by respondents, users and producers of ethnicity data” (p.25);⁴⁴
- Income: “[t]he whole area of income analysis has become more complex, and issues such as poverty measurement, income dispersion, and income sharing have become more important. The broad bands of the income question are not ideal for complex analysis and limit the usefulness of the income data” (p.31);
- Education and training: “An emerging data need is the desire to know about people’s skills as opposed to their qualifications. However, ideas around concepts, definitions and measurement of skills are still in the very early stages and qualifications are typically being used as a proxy in the interim...” (p.27);
- Labour market: “A continuing trend in the labour market area is the growth in non-standard work – for example part-time work, casual and temporary work, contracting, multiple job holding, length of tenure or shift work....information about part-time work and multiple job holding can be provided by the census, but the capacity of the census to provide additional information in this area is limited by the amount of space available and its self-administered nature” (p.29);
- Families and households: “In broad terms, the major issue surrounding this topic is that the statistics from the census do not reflect the complex realities of contemporary families” (p.33).

In response to these difficulties of concept definition, breadth, depth, respondent burden, simplicity etc..., the statistics derived from census questions are often used as proxies for actual information needs,⁴⁵ or are also supplemented with data from other surveys.⁴⁶

Although a question on sexual orientation is not without its own limitations, we submit that it is unreasonable to demand a higher level of simplicity, clarity and user cooperation than is presently accepted for other established census questions.

⁴³ Statistics New Zealand (2003).

⁴⁴ See also Allan (2001).

⁴⁵ Ibid p.27.

⁴⁶ Ibid p.29.

Response rate

There may be concern from both Statistics New Zealand and the glb population that response rates to a question on sexual orientation will be low, thus affecting data quality. However, we submit that while response rates may not be as high as most other census questions (at least initially), consideration should be given to:

- The fact that response rates for the income question have fallen in recent years, to 89% in 2001, yet it is still included;⁴⁷
- The likelihood that as familiarity with the sexual orientation question increases with each census, response rates will increase (as has happened with same-sex cohabiting couples, rates of which increased 56% between 1996 and 2001);
- The undoubted ability of Statistics NZ to define sexual orientation clearly in the census help notes;
- The priority information needs of the glb population itself: it is arguably more important to identify the ~5% of the New Zealand population with a minority sexual orientation than achieve a very high response rate from the general public initially.

Trialling of a sexual orientation question will need to occur before likely response rates can be estimated. In evaluating the results from a trial, the issues that are identified in sections above (“Acceptability of the sexual orientation question: the gay, lesbian and bisexual population” and “Acceptability of the sexual orientation question: the general population”) will need to be factored in.

Recommendations

- To add a question on sexual orientation to the 2006 Census Individual Form;
- To use the definition of sexual orientation in the Human Rights Act 1993 and Bill of Rights Act 1990 (as amended) as a basis for developing a question on sexual orientation for use in the 2006 Census;
- To fund, trial and evaluate the response from both homosexual/bisexual and heterosexual New Zealanders to the proposed question on sexual orientation;
- To explore ways of improving understanding and acceptability of a new question on sexual orientation among heterosexual and homosexual/bisexual New Zealanders;

⁴⁷ Ibid p.31.

Disability

Statistics New Zealand has recommended the removal of the question on disability for the 2006 Census. The disability question has been used to select samples for post-censal disability surveys, which are a component of the information collection objectives outlined in the *New Zealand Disability Strategy - Making a World of Difference*.⁴⁸

Disability is also a prohibited ground of discrimination listed in the Human Rights Act 1993. Elsewhere in this submission we have made reference to the Human Rights Amendment 2002, and commented that this creates new requirements for Government to comply with the Human Rights Act in its decision-making. We believe that Statistics New Zealand has obligations to ask about disability in the census if the information obtained from this question is useful to developing services for people with disabilities.

The *2006 Census of Population and Dwellings: Preliminary Views on Content* reports that beyond aiding the sampling of post-censal surveys on disability, the information gathered on disability has limited use because of the lack of detail able to be obtained and the fact that the term “disability” does not have a consistent understanding among respondents. It occurs to us that in the past a similar reason has been used to argue against the inclusion of sexual orientation information. In this submission we have demonstrated that in fact sexual orientation will provide useful information, given the right question phrasing and explanation and given a community of advocates, researchers and public sector officials that understand how to interpret and apply sexual orientation data to their field of work. We therefore submit that it might be possible to identify other ways in which a disability question could provide useful information, if for example there was close consultation with disability advocacy groups and/or if the question was altered in a way that provided quality data to the disability sector.

We submit that it would seem extremely biased to exclude disability if it provides data that is not less useful than that provided in the religion question, for example (since both are grounds covered under the Human Rights Act 1993 and subsequent amendments, and religion is recommended for inclusion in 2006), or if other wording of the disability question and/or applications of the data were not fully explored.

We submit that the disability question should be retained for the 2006 Census.

Recommendations

- To retain the current question on disability in the 2006 Census, or explore other ways of asking a question on disability so that the information it provides is useful to those working in the disability sector.

⁴⁸ Ministry of Health (2002).

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Appendix A

NZAF Advice to Ministry of Social Policy, Dec 2000.

Appendix B

Meyer (2001).

Appendix C

Plumb (2001).