How does the legal and social policy context in which lesbian and gay Americans live influence their day-to-day experience? The current historical moment is an intriguing time to consider this question. At the time of this writing, many important legal and policy changes that affect sexual minorities are occurring in the United States. After many years of lesbian and gay Americans’ enduring hostility from the legal system (Maggiore, 1992; Murdoch & Price, 2001; Rubinstein, 1996), their struggle for equal rights under the law seems to be gathering momentum in some jurisdictions, even as it suffers setbacks in others. As a result, lesbian and gay lives are changing, and an unusual opportunity to observe the impact of legal and policy change upon human behavior is before us (Patterson, 2004).

This chapter begins with an overview of the legal and policy contexts in which lesbian and gay Americans live today and then explores some of the ways in which issues of couples, parents, and families are influenced by these contexts. Throughout the chapter, the primary focus is on lesbian and gay couples and families in the contemporary United States, and the main
concern will be to take note of the ways in which changing legal and policy environments may affect their experiences. At this time, there is a tremendous amount of variability in both environments and experiences, and so the key theme here is diversity.

LEGAL AND SOCIAL POLICY CONTEXTS OF LESBIAN AND GAY FAMILY ISSUES

The legal and ideological landscapes in which lesbian and gay Americans live are shifting in many significant ways. It is helpful to recognize that legal changes have occurred together with major shifts in public attitudes about homosexuality during recent years. In the early 1980s—only 20 years ago—a minority (34%) of Americans surveyed in Gallup polls said that homosexuality should be considered an acceptable alternative lifestyle. By 2003, most Americans (54%) considered homosexuality to be acceptable (Herek, 2003). The trend toward greater tolerance is also evident in public opinion about employment discrimination. In the late 1970s, 56% of Americans favored equal rights in job opportunities, but by 2001, a full 85% favored such equal rights (Herek, 2003). Whether changes in public opinion have caused policy changes or vice versa, these shifts in public opinion have certainly occurred over the same time period as recent legal and policy changes.

After many years of legal hostility toward lesbian and gay Americans, a number of important inroads have been made in recent years (Murdoch & Price, 2001). Some of these have occurred at the federal level and affect all Americans. Others have occurred at state or local levels and have a direct impact only upon those living in a particular jurisdiction. Other policy changes have been made in business or educational settings and affect different numbers of people, depending upon the size of the organizations in question. The result is a patchwork of legal and policy environments that vary dramatically from one part of the country to another (National Gay and Lesbian Task Force, 2005b).

Most important among recent legal changes is the U.S. Supreme Court ruling Lawrence v. Texas (2003), which struck down laws criminalizing oral or anal sexual practices between consenting adults (i.e., the so-called sodomy laws). Although sodomy laws were rarely enforced, their enforcement was often targeted specifically at gay men, and the laws were also used to justify various kinds of discrimination against both lesbians and gay men. For example, sodomy laws have been invoked to justify job discrimination (Badgett, 2001, 2003) and to justify discrimination against lesbian and gay parents in the context of child-custody proceedings (Swisher & Cook, 2001). With the Court’s decision to strike down these laws, consensual sexual behavior of lesbian and gay couples is now accorded the same fundamental privacy
status as that of other Americans, and the criminalization of such behavior has finally ended. The demise of sodomy laws across the country represents an important step toward recognition of lesbian and gay Americans as equal citizens.

Another significant group of changes that has occurred in some states involves legal recognition for the relationships of same-sex couples. Today, mainstream news sources are full of discussion about marriage, civil unions, and domestic partnerships for same-sex couples (e.g., Sullivan, 1997). As a result, it can be difficult to remember that, as recently as 10 years ago, no state offered legal recognition of any kind for the couple relationships of lesbian and gay Americans. Even in the current climate, however, most lesbian and gay Americans do not live in jurisdictions that provide any form of legal recognition for same-sex couples. At the same time, many changes are taking place, and the legal landscape across the country is in flux (Patterson, Fulcher, & Wainright, 2002).

Notable among recent legal changes involving recognition of same-sex couples is a decision by the Supreme Judicial Court of Massachusetts, which found that same-sex couples must be allowed to marry (Goodridge v. Department of Public Health, 2003). The decision was issued in November 2003, and legalization of same-sex civil marriages occurred for the first time when the ruling went into effect in May 2004 (Belluck, 2004). The degree to which same-sex marriages undertaken in Massachusetts will or will not be recognized in other states is not yet known.

A different approach to legal recognition for same-sex couples can be found in Vermont, which as of 2000, began to offer same-sex couples the right to obtain civil unions (Baker v. State, 1999; Goldberg, 2000a, 2000b; Moats, 2004). Civil unions allow couples who enter into them to obtain the same rights and responsibilities under state law as marriages; they do not, however, carry any federal rights or responsibilities. Thus, although civil unions represent an extremely important form of legal recognition for same-sex couples, and although they carry many important rights and protections, they are not identical in these respects to civil marriage. Nevertheless, many same-sex couples have undertaken civil unions in Vermont and have been accorded various forms of legal recognition for their relationships as a result (Solomon, Rothblum, & Balsam, 2004). Vermont thus became the first state in the United States to recognize same-sex couples under state law (Baker v. State, 1999; Goldberg, 2000a, 2000b).

Yet another approach to provision of certain legal rights and responsibilities for same-sex couples is to allow legal and other recognition of domestic partnerships. In September 2003, when former Governor Gray Davis signed a sweeping domestic-partnership bill, California became the second state to eliminate most forms of discrimination against same-sex couples under state law (Jones & Vogel, 2003). When the law went into effect in January 2005, it conferred nearly all the rights, benefits, and responsibilities accorded
to married spouses under state law (Jones & Vogel, 2003). These include health-related rights and protections (e.g., access to employer-provided health and retirement benefits for partner and children), increased financial and emotional security (e.g., exemption from taxation of gifts, inheritance rights), and many protections for children (e.g., streamlined second-parent adoption and couple adoption processes). A similar bill was passed in New Jersey, in January 2004 (Mansnerus, 2004), and went into effect there in July 2004. The implementation of these domestic-partner laws is no doubt already transforming the experiences of same-sex couples in these states in many ways.

These and other kinds of recognition for same-sex couples form the leading edge of legal and policy change in the United States today. In addition to these alterations in state and federal law, there have been many changes in local laws and in employment settings that are relevant to lesbian and gay couples. For instance, 16 states and the District of Columbia now have in place laws, and 11 more states have executive orders, that prohibit workplace discrimination based on sexual orientation (National Gay and Lesbian Task Force, 2005b). In addition, many cities and counties have instituted nondiscrimination policies that include sexual orientation. Numerous employers have adopted nondiscrimination policies and offer domestic-partner benefits, including 228 of the Forbes 500 companies and 280 colleges and universities in the United States (Human Rights Campaign, 2005b, 2005c). Such changes vary dramatically in their nature, with some proving to be more meaningful than others, but the trend for increasing recognition of equal employment rights is clear (Badgett, 2001).

One result of recent changes is that what was once a unitary experience of discrimination and oppression for same-sex couples in the United States has now been transformed into many very different experiences. A same-sex couple in Vermont who have undertaken a civil union—and are recognized as a couple for purposes of health insurance, homeowners insurance, and automobile insurance coverage—are likely to be open about their couple status and to be recognized as a couple by friends, neighbors, and family members. Same-sex couples in Wyoming, on the other hand, do not have the option of a marriage, civil union, or domestic partnership, do not receive the legal or economic benefits that accompany marriage or domestic partnership, may feel the need to hide their sexual identity and relationship status from many if not most of the important people in their environment, and hence may also encounter various problems with friends, neighbors, and family members. In short, given the uneven pace of change in different parts of the country, lesbian and gay couples who live in different jurisdictions are likely to live in very different circumstances.

The legal and policy situation with regard to the issues of lesbian and gay parents is also highly variable across the United States today, with some states providing more favorable environments than others (Patterson,
Fulcher, & Wainwright, 2002). Automatic legal recognition of parent–child bonds for all children born into a union—taken for granted by married heterosexual couples and their children—may be available to same-sex couples and their children in Massachusetts, but such inherent recognition is not yet available in any other state. In some states, lesbian and gay parents can use second-parent adoptions to create legal ties between their children and both parents in a same-sex couple (Connolly, 2001; Patterson, 1995a). In other states (e.g., Florida), nonheterosexual adults are explicitly barred from adoptive parenthood under the law (Patterson et al., 2002).

Looking at law and policy relevant to adoption and foster care, most states do not discriminate against prospective adoptive or foster parents on the basis of sexual orientation (Patterson et al., 2002). Only four states have laws or administrative policies that restrict or prohibit foster or adoptive parenting by lesbian and gay adults (National Gay and Lesbian Task Force, 2005a, 2005c). In the other 46 states and in the District of Columbia, state laws do not discriminate against lesbian or gay individuals who wish to become foster or adoptive parents. Results of a recent survey of adoption agencies across the country revealed that many are open to working with lesbian and gay prospective adoptive parents (Brodzinsky, Patterson, & Vaziri, 2002).

Second-parent adoption is a legal procedure that allows a same-sex coparent to adopt his or her partner's child, so as to create legal ties between the child and both parents (Patterson et al., 2002; Patterson & Redding, 1996). As of this writing, 8 states and the District of Columbia have appellate-level decisions on the books that allow second-parent adoptions, and at least 15 more states have seen favorable rulings on second-parent adoptions from lower courts (Human Rights Campaign, 2005a). Only four states—Colorado, Nebraska, Ohio, and Wisconsin—have appellate rulings that do not allow second-parent adoptions (National Gay and Lesbian Task Force, 2005c). Almost half of the states have reported no rulings on this issue, with the result being that in most jurisdictions, children of lesbian and gay parents are without the legal ties to both parents that are taken for granted in other families.

Another important area of family law concerns custody and visitation arrangements, especially after the separation or divorce of parenting couples. Opposite-sex couples who divorce after one person declares a nonheterosexual identity may turn to the courts to adjudicate custody and visitation plans for their minor children. For many years, courts across the country were hostile to the interests of lesbian and gay parents and their children, even going so far in some cases as to hold them unfit as parents as a result of their sexual orientation (Maggiore, 1992; Swisher & Cook, 2001). In recent years, such blatant discrimination has become less common, although egregious decisions do still occur (Howard, 2002). Most common now is the so-called nexus standard, holding that a parent's sexual orientation should be presumed irrelevant to custody proceedings unless it
can be shown to have had a negative effect upon the children (Patterson et al., 2002).

Overall, though undeniably improved over recent years, the legal and policy landscape for lesbian and gay parents and their children still varies widely from one jurisdiction to another. For example, in Vermont, a same-sex couple in a civil union with children may also complete a second-parent adoption and in this way achieve many of the benefits and protections afforded to married heterosexual couples and their children. In Colorado, however, and in a number of other states, neither civil unions nor second-parent adoptions are available to same-sex couples and their children, and hence their family relationships go without protection from the law.

These issues are highlighted by a still-ongoing case involving child custody and visitation. Janet Miller-Jenkins and Lisa Miller-Jenkins, a lesbian couple who had lived together in Virginia since 1998, traveled to Vermont in 2000 to enter into a civil union. After they returned to Virginia, Lisa conceived and gave birth to a baby, Isabella, whom the couple began raising as their daughter. Taking Isabella with them, Lisa and Janet moved to Vermont in 2002. In 2003, Lisa filed to dissolve the civil union in Vermont. Janet successfully petitioned the Vermont court for full visitation rights with Isabella. Not wishing to comply with the Vermont court ruling, Lisa moved with Isabella back to Virginia. Now calling herself a “former lesbian,” Lisa successfully petitioned a Virginia court to overturn the Vermont visitation decision. Calling Janet “no more than a friend” to Lisa and to Isabella, the Virginia judge disallowed visitation rights that had been stipulated by the Vermont court (Kalita, 2004). The case is currently on appeal in both states. Meanwhile, the case highlights the very different situations of lesbian and gay parents and their children in different jurisdictions.

LESBIAN AND GAY INDIVIDUALS AND THEIR FAMILIES OF ORIGIN

Against this backdrop of stigma and discrimination, lesbian and gay people’s issues as members of extended families are likely to be complex (D’Augelli & Patterson, 2001; Patterson & D’Augelli, 1998). In addition to the usual issues of young adults that involve renegotiation of family roles as they transition into adult work, couple relationships, and parenthood, lesbian and gay young adults often face additional concerns. The establishment of work and career patterns, the creation of sexual and romantic connections, and the transition to parenthood—all normative tasks of early adulthood—may well pose special concerns for lesbian and gay young adults, particularly in their relationships with members of their extended families.

Consider first the young adult’s employment concerns (Badgett, 2001, 2003). One issue is the existence of specific discriminatory policies, such as
the U.S. military's infamous "don't ask, don't tell" policy (Herek, Jobe, & Carney, 1996). Considering that the military services are the nation's largest single employer, this policy alone places significant limitations upon the employment options available to openly lesbian or gay adults. Antigay prejudice and discrimination are believed to be particularly common in some lines of work (e.g., professional sports), so openly lesbian or gay adults may see their options in these areas as limited by attitudes toward sexual orientation (Badgett, 2001, 2003). Consider also the fact that family businesses may be controlled by relatives whose attitudes about homosexuality can vary across the spectrum of opinion. Other things being equal, lesbian women and gay men are unlikely to seek out work situations in which they will work for people with negative attitudes about homosexuality.

How will these issues be discussed with members of an extended family? Depending upon the extent of disclosure of nonheterosexual identities, these discussions may be open and clear, on the one hand, or limited and difficult, on the other. Those who do not feel safe disclosing their identities to members of their extended families are also going to experience difficulty explaining why their career choices are more limited than those of their heterosexual siblings. One result may often be an emotional distancing of lesbian and gay young adults from members of the extended family to whom they have not disclosed their nonheterosexual identities (Savin-Williams, 2003).

If a lesbian or gay man has kept her or his sexual identity secret from some or all members of her or his extended family, then this will almost certainly decrease the degree to which it is possible to share information about sexual and romantic dimensions of her or his life (D'Augelli & Patterson, 2001; Savin-Williams, 2003). Even if lesbian and gay family members have disclosed their sexual identities to members of their extended families, they still may encounter reluctance on the part of family members to entertain any real discussion of sexual or even romantic interests. Older family members or those who harbor especially negative attitudes may find it particularly difficult to acknowledge same-sex couple relationships. Again, one result may be the emotional distancing of lesbian and gay young adults from members of the extended family who feel unable to acknowledge the sexual or romantic interests in their lives (Savin-Williams, 2003).

Another process that necessitates renegotiation of roles in families involves the young adult's transition to parenthood, and this process may be especially challenging for lesbian and gay individuals and couples (Patterson, 1994, 1996). If nonheterosexual identities remain undisclosed in the context of transitions to parenthood, problems in family communication are almost certain to arise. Even when nonheterosexual identities are acknowledged by all members of an extended family, however, heterosexual family members may express surprise or disapproval at the thought of a lesbian or gay family member wishing to become a parent (Patterson, 1996). Especially since the legal and policy contexts in most jurisdictions fail to
provide legal recognition for same-sex parents' relationships with each other and with children, members of the extended family may find themselves entertaining many questions that would not be raised for heterosexual siblings. Indeed, in many situations, prospective grandparents may be puzzled about the extent to which they should view themselves as grandparents at all (Patterson, 1996). All these and many related issues are likely to provide challenges as families seek to renegotiate roles and relationships upon the birth of a child.

Depending upon the family's response, challenges of these kinds can bring widely different outcomes (Patterson, 1996). The failure to acknowledge and tolerate a family member's homosexuality can result in distancing and other failures of communication and can in this way work against family cohesion. On the other hand, when families successfully respond to such challenges by acknowledging and including nonheterosexual family members, their partners, and children, families may become more cohesive. When a family is flexible enough to meet these kinds of challenges, real benefits may ensue for the entire family (Martin, 1998; Patterson, 1996).

These processes are deeply affected by the legal and policy contexts in which they take place. In jurisdictions where it is possible to do so, family members may have attended (and may become aware of the legal force of) a couple's marriage or civil union. The members of a couple's extended family may also recognize the impact of second-parent adoptions that legalize the bonds between children and both of their same-sex parents. In a state such as Vermont, these and other legal and policy conditions may aid in the extended family's ability to acknowledge and even embrace the nonheterosexual family member and his or her partner and children. In other states, where none of these options is open to same-sex couples, families have fewer supports as they seek to accommodate nonheterosexual family members. Thus, to the extent that legal and policy environments are influential, the experiences of lesbian and gay couples and families in different jurisdictions are likely to diverge.

PSYCHOSOCIAL ISSUES FOR COUPLES

In the context of an extremely diverse and rapidly changing patchwork of law and policy, lesbian and gay couples must somehow negotiate the various issues posed by their daily lives. Of course, all couples, whether same-sex or opposite-sex, must navigate issues of work, sexuality, and power, and all must decide how to build and maintain their social networks of friends and family members. In addition, however, special issues arise for same-sex couples (Patterson, 2000; Peplau & Spalding, 2003), and it is on these issues that the subsequent discussion focuses. Instead of attempting an exhaustive treatment, the discussion focuses on selected issues that exemplify differences
in the experience of same-sex and opposite-sex couples, as well as the differences among same-sex couples living in different jurisdictions.

A central issue for lesbian and gay couples concerns the question of how open to be with regard to sexual identities. How safe is it, in various settings, for members of a couple to be open about their lesbian or gay identities as individuals or as members of a couple? Different environments may provide objectively different kinds of incentives and disincentives for disclosure. Individuals in some employment settings may be subject to job discrimination or even loss of employment if they are open about their sexual orientation (Badgett, 2001, 2003). In other employment settings, it may feel much safer to disclose nonheterosexual identities. Likewise, family, neighborhood, and community environments vary widely in their treatment of lesbian or gay individuals (D'Augelli & Garnets, 1995). The costs and benefits of disclosure may therefore differ markedly from one setting to the next.

If members of a couple see costs and benefits of disclosure in the same terms, and if their respective work and social environments afford the same patterns of incentives and disincentives for openness, then they are likely to reach similar decisions about disclosure (Patterson, 2000; Patterson et al., 2002). It is, however, often the case that members of a couple experience different environments in this respect. For instance, one person's parents may be tolerant whereas the other's parents cannot accept nonheterosexual identities. One person’s employment setting may welcome diversity whereas the other’s work environment may reject those with nonheterosexual identities. In such cases, partners may disagree about the appropriate degree of openness with regard to their sexual identities and their couple status.

When there is disagreement within a couple, negotiation of issues surrounding disclosure of lesbian or gay identities is likely to be a difficult and anxiety-provoking issue (Martin, 1993, 1998; Patterson, 1994). Particularly if existing child-custody or visitation arrangements are placed at risk if a parent decides to disclose his or her nonheterosexual identity (e.g., in locales where lesbian and gay parents are disadvantaged by discriminatory legal precedents), then this can be an especially emotion-laden issue. As more and more environments become safer, and as more and more lesbian and gay individuals opt for full disclosure, problems of this sort are likely to decrease in importance. Until that time, however, many couples must grapple with issues about when, where, and whether to come out.

Another issue worth highlighting is that of division of labor (Patterson, 2000; Peplau & Spalding, 2003). How does a couple divide the paid and unpaid labor involved in their lives? And how does this differ for same-sex and opposite-sex couples? It is well-known that most opposite-sex couples tend to adopt specialized divisions of labor, in which husbands devote themselves more to paid employment and wives spend more time in unpaid household labor and child care. In dual-earner families, the pattern is often less pronounced, but even among two-career heterosexual couples, patterns
of specialization can generally be observed. The divisions of labor adopted by same-sex couples, however, appear to be quite different (Patterson, Sutfin, & Fulcher, 2004).

Same-sex couples are much more likely than heterosexual couples to adopt egalitarian patterns, with both members of the couple participating equally in both paid and unpaid labor (Chan, Brooks, Raboy, & Patterson, 1998; Kurdek, 1995; Patterson, 1995b; Patterson et al., 2004). For example, in a recent study of lesbian and heterosexual couples, all of whom were rearing young children, lesbian mothers each spent about 35 hours per week, on average, in paid employment, and they reported sharing childcare evenly (Patterson et al., 2004). In contrast, heterosexual husbands averaged 45 or more hours per week in paid employment, and heterosexual wives averaged about 15 hours per week in paid employment but were primarily responsible for childcare (Patterson et al., 2004). A striking aspect of the results was that, when hours of paid employment for the two members of a couple were summed, they reached about 70 hours per week for both family types; family incomes were likewise similar across family type. In other words, given about the same amount of overall labor to divide, lesbian couples were more likely than heterosexual couples to do so in an egalitarian fashion. This result is consistent with a wide array of data from studies conducted both in the United States and abroad, and similar findings have been reported for gay as well as lesbian couples (Kurdek, 1995; Patterson, 2000, 2002a; Peplau & Spalding, 2003).

Why do same-sex couples seem so much more likely than opposite-sex couples to adopt egalitarian divisions of labor? At least one possible factor may be the legal and policy environments in which the couples live (Patterson et al., 2004). Given their relative lack of access to legal protections, health insurance, and other financial benefits for a nonemployed partner, same-sex couples may favor egalitarian divisions of labor because these help to protect both partners in the event that they someday terminate their relationship. Due to lack of protections, same-sex partners who forego paid employment in order to devote themselves to the unpaid labor involved in home and family maintenance become more vulnerable economically than do heterosexual partners who divide labor in a similar way.

If the economic vulnerabilities of same-sex couples are an important factor in determining their division of labor, then the practice might be expected to shift when law and policies change (Patterson, 2004). For instance, if marriages and civil unions become generally available and domestic-partner benefits become widespread, then some of the economic vulnerabilities of a stay-at-home partner might be reduced. Will the opportunity for same-sex couples to undertake civil marriages result in their adoption of more “traditional” (i.e., specialized) divisions of labor? Or will other factors such as ideological commitments dominate such decision-making processes? There can be little doubt that legal and policy contexts, just as they do for opposite-sex couples,
provide the background against which decisions about division of labor are made by same-sex couples. We do not know, however, how decisive these factors have been for decision-making about division of labor among lesbian and gay couples (Patterson, 2004; Patterson et al., 2004).

PSYCHOSOCIAL ISSUES FOR PARENTS

Just as legal and policy contexts affect decisions made by couples, so they also provide the background against which lesbian and gay parents make decisions relevant to their children. Issues that couples must grapple with about whether, when, and how to become parents are resolved in the context of existing law and policy (Patterson, 1994; Patterson et al., 2002). Lesbian couples who are expecting to give birth have been known to rush across state lines during labor in order for the child to be born in a state with favorable legal precedents. Lesbian couples have been known to move their home across county or state lines in order to complete a second-parent adoption. Lesbian and gay couples routinely seek out neighborhoods and schools that they believe will provide safe environments in which to rear and educate their children (Casper & Schultz, 1999). On the other hand, in matters that concern adoption, foster care, custody, and visitation, lesbian and gay parents have many times run afoul of discriminatory legal policies and precedents (Patterson et al., 2002; Patterson & Redding, 1996). As parents, lesbian and gay individuals and couples must take law and policy into account as they attempt to create, maintain, and protect their families.

One important area in which law and policy must be considered concerns becoming a parent (Buell, 2001; Patterson, 1994). In addition to all the usual concerns of prospective parents (e.g., will we able to support a child? will we be good parents?), lesbian and gay prospective parents must consider many additional questions that focus on legal and policy questions. For example, lesbian couples who wish to have a child via donor insemination may discover that not every clinic or sperm bank is willing to work with them, though many are (Chan, Raboy, & Patterson, 1998; Patterson, 1994). A recent study of the screening practices of assisted reproductive technology programs in the United States (Gurmankin, Caplan, & Braverman, 2005) found that 82% were willing to work with lesbian couples seeking donor insemination and 44% were willing to work with gay couples seeking to make surrogacy arrangements.

In a similar vein, gay couples who wish to adopt a child may discover that not every adoption agency is willing to work with gay men, though many are (Patterson, 1995). In a national survey of agencies in the United States (Brodzinsky, Patterson, & Vaziri, 2002), 63% of respondents indicated willingness to work with lesbian and gay applicants, and more than a third reported having completed a recent adoption placement with a lesbian or
gay adult. On the other hand, in Florida, lesbian and gay adults are barred from becoming adoptive parents (Buell, 2001). Thus, in adoption, as in other pathways to parenthood, decisions are framed by specific aspects of the varied legal and policy environments in which lesbian and gay couples live (Patterson, 1994, 2000).

Even after becoming parents, lesbian and gay couples may find many of their choices constrained in unwelcome ways by the legal and policy situation in the area where they live (Patterson, 1994). In making decisions about parental employment options, for example, couples may find that health insurance coverage for children is available through one but not another partner’s employer and may thus be forced to make decisions about division of labor that are different than those that they would make on other grounds. Even though children may in fact live with two same-sex parents, the case may be in some areas that only one of the adults is accorded parental status in law. In many jurisdictions, the possibility of a second-parent adoption may be more of a remote hope than a realistic possibility (Connolly, 2001). The parent who has been excluded from legal standing may also be barred from decision-making about medical or educational matters for children, and the family’s decisions about allocation of many tasks may be constrained by these and other forms of legal and policy discrimination. Especially in jurisdictions that grant little or no recognition to family relationships in families headed by same-sex couples, these and related problems can generate considerable stress in otherwise well-functioning families (Martin, 1998).

One specific form that such challenges can take, especially in jurisdictions that do not allow second-parent adoptions, involves boundary issues (Martin, 1993, 1998; Patterson, 1996, 2000). When one parent does and the other parent does not have parental rights and responsibilities in the eyes of the law, it can also raise questions in the minds of school and medical personnel, friends, neighbors, and members of the extended family about whether both partners are “real” parents. For example, taking up the law’s failure to legitimize familial links, extended family members can find themselves questioning the depth and extent of parent–child bonds or may fail to recognize them altogether. When this happens, couples may have to exert remarkable efforts to clarify the situation and demand recognition for important family relationships (Johnson & O’Connor, 2001; Martin, 1998).

CONCLUSION

The legal and social policy contexts of lesbian and gay Americans’ lives vary enormously from one jurisdiction to another. Real progress against many forms of discrimination has occurred in recent years. At the national level, decriminalization of private consensual sexual behavior between same-sex partners—that is, the demise of the sodomy laws—is an important
development. In states such as Vermont, Massachusetts, California, and New Jersey, significant changes in the degree of legal recognition for same-sex couples have occurred. On the other hand, it is still true that most lesbian and gay Americans live in jurisdictions that do not recognize their couple relationships, that may not recognize their parent–child relationships, and that do not protect them from employment discrimination based on sexual orientation. True equality under the law still eludes lesbian and gay citizens in every corner of the United States.

The contexts of legalized discrimination that most lesbian and gay individuals inhabit result in many special challenges. Issues arise for young adults negotiating relationships with members of extended families, for couples, and for parents. Considered as a group, these issues suggest important directions for research, advocacy, and practice.

RESEARCH DIRECTIONS

Research on the lives of lesbian and gay adults is needed to document the many ways in which experiences are affected by institutionalized legal discrimination. The study of gay-related stress is already well underway (e.g., Meyer, 2003; Smith & Ingram, 2004). Research should also explore subjective experiences and symptoms in relation to characteristics of diverse legal and policy environments. Some efforts have been made to link experiences of discrimination with important behavioral and mental health outcomes, but more such research is needed (Diaz & Ayala, 2001; Meyer, 2003).

In view of rapid changes in legal and social policy environments that are occurring in some jurisdictions, social scientists are also faced with unusual opportunities to study the impact of such change upon human behavior. For example, how are relationships affected when legal recognition for them becomes available? There are first-person descriptions about the impact of second parent adoptions, and a few researchers have begun to study same-sex couples who have undertaken civil unions in Vermont (Solomon et al., 2004), but there is much still to do in this area.

DIRECTIONS FOR ADVOCACY

It is clear that many changes in law and policy are needed before lesbian and gay Americans can achieve equality under the law. There is a tremendous opportunity for advocacy in this area, and the agenda is a lengthy one. In the limited space available here, it is possible to focus briefly on only a few specific issues.

One important recommendation is the legalization of same-sex marriage throughout the United States (Patterson, 2002a, 2002b). Legal marriages
for same-sex couples would offer many benefits, both for society at large and for the individuals, couples, and families involved. For partners and children, improved access to health insurance through two places of employment instead of only one would be an immediate benefit. Beyond this, many other tangible and intangible benefits would ensue. These would involve Social Security and inheritance benefits on the one hand and feelings of security and protection from stigma and discrimination on the other. Some of the benefits of marriage could also be achieved through legal recognition of domestic-partnership agreements or civil unions for same-sex couples, as in California or Vermont.

Another direction for advocacy is the legalization of adoption and foster care by lesbian and gay adults, including second-parent adoption, in all the states. In some states (e.g., Florida), this would involve repeal of existing antigay statutes. In other states, necessary changes would be less dramatic. Children and their families would benefit from legal and policy environments that do not discriminate on the basis of sexual orientation (Patterson et al., 2002).

Another important legal protection needed by lesbian and gay Americans is the assurance of equal employment rights (Badgett, 2003). Passage of the federal Employment Non-Discrimination Act (ENDA) would protect lesbian and gay Americans from employment discrimination based on sexual orientation (Human Rights Campaign, 2005a). Although ENDA makes exceptions for military and religious groups, as well as for small businesses, it nevertheless would provide far greater protection than is currently available, and its effects would be felt nationwide.

DIRECTIONS FOR CLINICAL PRACTICE

A number of recommendations can also be offered from the standpoint of clinical practice. Many important points are contained in the American Psychological Association's "Guidelines for Psychotherapy With Lesbian, Gay, and Bisexual Clients" (Division 44/Committee on Lesbian, Gay, and Bisexual Concerns Joint Task Force, 2000), and practitioners should begin by becoming familiar with this document. In addition to these guidelines, a few more ideas can be offered.

First, it is essential to be aware of the diversity that characterizes experiences of lesbian and gay individuals, as a function of the fit between their identities and their legal environments. Even if they live in the same neighborhood, a lesbian woman who is parenting children in the context of a long-term couple relationship is likely to have very different issues than a young gay man who has no children and who is not currently involved in a romantic relationship. The very same people may have different experi-
nces if they move from one jurisdiction to another, or if laws and policies in their jurisdiction change. Each person’s individual experiences should be examined in light of the relevant legal and policy contexts, and these are likely to show considerable diversity.

It is worth considering also that class and ethnicity are likely to interact with legal and policy concerns. For example, a recent analysis of data from the 2000 U.S. Census suggests that same-sex couples who are Black are much more likely than those who are White to be parents of minor children (Dang & Frazer, 2004). In fact, 61% of Black female couples and 46% of Black male couples reported children under 18 years of age living in their households, whereas only 38% of White female couples and only 24% of White male couples reported this (Dang & Frazer, 2004). Thus, variations in law that disadvantage parents and their children can be expected to have more impact on Black than on White lesbian and gay parented families.

Second, as is evident from the first point, it is valuable for clinicians to become aware of legal and policy realities in their own area, insofar as these circumstances may be relevant to clients’ experiences. Do local laws provide for domestic-partner registration, civil unions, or legal marriage? Do laws and policies permit adoption, foster care, and second-parent adoption by nonheterosexual prospective parents? Does the state or locality have laws prohibiting employment discrimination on the basis of sexual orientation? Lesbian and gay clients’ struggles with financial and emotional issues associated with couple relationships, parenting, and the like will be understood properly only if their legal and policy contexts are considered.

Third, it can also be useful to assess clients’ own levels of knowledge about relevant legal and policy issues. If clients are not well informed about a particular issue, practitioners can help by offering accurate information. In this way, practitioners can serve educational functions by directing clients’ attention to relevant aspects of their environments. Clients are likely to feel more comfortable with practitioners who can demonstrate knowledge of laws and policies that are important to them.

Researchers, advocates, and practitioners can all play a role in creating a supportive environment for all Americans, regardless of sexual orientation (Kuehl, 2003). By studying the consequences of legalized discrimination, researchers can expose injustice when it occurs, and in this way, help to bring about its demise. By helping clients to adapt and by supporting them in their efforts to create needed changes, practitioners can assist their lesbian and gay clients’ efforts to live meaningful lives against a backdrop of legalized discrimination. By pushing for better laws and policies, advocates can create a better environment for all. Working together, we can look forward to a day when lesbian and gay Americans will be equal citizens under the law.
REFERENCES


