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Same-sex Couples and Immigration in the United States



by Craig J. Konnoth and Gary J. Gates

November 2011

Executive Summary

This report uses Census Bureau data to provide a portrait of same-sex couples affected by United States immigration policy. Using data from the American Community Survey (ACS) it presents demographic profiles of three different types of same-sex couples: binational couples in which one partner is a U.S. citizen and one is not; dual non-citizen couples; and couples that include a naturalized U.S. citizen. Binational couples and non-citizen couples in which only one partner is a permanent resident would gain protections and rights if U.S. immigration law were changed to treat same-sex couples as their different-sex counterparts are treated.

As of 2010, nearly **79,200 same-sex couples living in the United States include at least one partner who is currently not a U.S citizen or was naturalized as a citizen.** Of the nearly 650,000 same-sex couples in the US:

- 4.4% or **28,574 are binational couples** (one partner is a U.S. citizen and one is not)
- 1.8% or **11,442 are dual non-citizen couples**
- 6.1% or **39,176 are dual citizen couples with at least one naturalized partner**

Under U.S. immigration policy, a citizen may obtain permanent residence for their non-citizen different-sex spouse, and expedited citizenship for a resident, different-sex spouse. Permanent residents may also petition for permanent resident status for their different-sex spouses. However, these options are not extended to same-sex couples, even if they are married or are in civil unions or registered domestic partnerships. **Currently none of the estimated 40,000 binational and dual non-citizen same-sex couples in US are eligible to use the immigration mechanisms available to different-sex spouses.**

More than half of binational same-sex couples (53%) are categorically barred from pursuing permanent residency as a couple in either partner's country of origin. For couples in which both partners share a common home country, it may be possible for some to return to their country of birth together if one partner cannot remain in the U.S. legally. About 16% of binational same-sex couples include a non-citizen and a naturalized U.S. citizen who were both born in the same country and 30% include a non-citizen partner who was born in a country that offers immigration rights to same-sex couples. These couples may be able to gain joint residency in the non-citizen's home country. While returning to home countries may be theoretically possible for some couples, issues of employment, child-rearing, and care of elderly parents may mean that leaving the U.S. is not actually a viable option, even if one partner's home country would allow them to immigrate together.

Analyses show that same-sex binational couples are present in all parts of the U.S. and represent a diverse group of individuals from around the world. Many are raising families and are contributing to the economic vitality of the country. Additional findings from the analyses include:

- **California ranks first in the total number of binational same-sex couples.** A quarter of them (7,115) live in the state. California is followed by New York (3,695), Florida (2,545), Texas (1,607), and Illinois (1,596).
- **Mexico is the country of birth for a quarter of non-citizens in binational same-sex couples.** Canada, the second highest country of origin, is home to 8% of the non-citizen partners, followed by the United Kingdom at 6%.
- **More than two-thirds of binational same-sex couples (69%) are male.**
- **A third of binational couples (33%) are inter-racial/ethnic.**
- **Forty-five percent of non-citizens in binational same-sex couples are Latino or Latina, while 14% are Asian/Pacific Islander.** Just over a third (36%) are White. Among citizens in same-sex binational couples, a third (33%) are Latino or Latina while 54% are White and 7% are Asian/Pacific Islander. African-Americans comprise just 3% of both groups.

- **A quarter of male binational couples and 39% of female binational couples are raising an estimated 17,000 children.** Rates of childrearing are even higher among non-citizen same-sex couples. More than half (52%) of male non-citizen couples and nearly two-thirds (64%) of non-citizen female couples are raising more than 7,700 children.
- **Citizens in binational same-sex couples have higher median income levels than their non-citizen partners.** However, the non-citizen partners in binational couples have median incomes that are substantially higher than non-citizens with non-citizen partners.
- **Almost two-thirds of binational same-sex couples own their home.** They are more than twice as likely to be home owners as dual non-citizen same-sex couples (30%).
- **The vast majority of same-sex partners in binational couples speak English “well” or “very well”.** Among citizens in binational couples, 93% report a very good command of English compared to 81% of their non-citizen partners.
- **More than 40% of citizens and non-citizens in same-sex binational couples have a college degree.**
- **Non-citizens in binational same-sex couples evidence low rates of unemployment at just 2%.** Nearly 8% of citizens in binational same-sex couples say they are unemployed.

Introduction

Under existing United States law, a citizen may petition and obtain permanent residence for their non-citizen, different-sex spouse, and expedited citizenship for a resident, different-sex spouse.¹ Permanent residents (often referred to as “green card” holders) may also petition for permanent resident status for their spouses.² However, U.S. immigration law does not recognize the marriages of same-sex couples, nor is there any recognition of non-marital relationship statuses that exist in several states, like civil unions, civil partnerships, or registered domestic partnerships. This policy creates a variety of challenges for same-sex couples that include a U.S. citizen and a non-citizen, or non-citizen couples in which only one partner is a permanent resident. Some of these couples could be forced to separate if the non-citizen or non-permanent resident partner is not able to legally remain in the country.

The Uniting American Families Act of 2011 (UAFAs), introduced in both the U.S. House of Representatives and in the Senate, would allow U.S. citizens and permanent residents in same-sex relationships to sponsor foreign partners for residency in the United States. The proposed legislation would insert “or permanent partner” after “spouse” in sections of the Immigration and

Naturalization Act (INA) that establish the rules by which a U.S. citizen or permanent legal resident can sponsor a spouse for permanent residency. Permanent partners would be subject to the same restrictions, requirements of proof, and enforcement mechanisms as different-sex married couples. Only couples who are unable to enter a marriage that is recognized under the INA would be eligible to qualify as a permanent partner under the proposed legislation. Thus, most unmarried different-sex couples would not qualify as “permanent partners” under UAFAs.

The 2010 U.S. Census reported that there are nearly 650,000 cohabiting same-sex couples living in the United States. These analyses provide a portrait of the portion of these same-sex couples who have been or could be affected by U.S. immigration policy. The analyses offer information for policymakers as they consider changes in U.S. immigration law that would effect same-sex couples.

This report presents a demographic profile of three different types of same-sex couples: binational couples in which one partner is a U.S. citizen and one is not; dual non-citizen couples; and couples that include a naturalized U.S. citizen. All of the binational couples described in this report would obtain protections under UAFAs. However, only those non-citizen couples in which only one partner is a permanent resident would benefit from UAFAs.³

¹ U.S. Citizenship and Immigration Services, I Am a U.S. Citizen: How Do I . . . Help my Relative Become a U.S. Permanent Resident, available at

<http://www.uscis.gov/USCIS/Resources/A1en.pdf>; U.S. Citizenship and Immigration Services, A Guide to Naturalization, available at <http://www.uscis.gov/files/article/M-476.pdf>.

² I Am a Permanent Resident: How Do I . . . Help my Relative Become a U.S. Permanent Resident, available at <http://www.uscis.gov/USCIS/Resources/B1en.pdf>.

³ Since Census Bureau data do not provide information regarding permanent resident status, we cannot identify the exact number of non-citizen couples who will be affected.

Data and Methodology

The American Community Survey (ACS), administered by the U.S. Census Bureau, represents the only large national data source from which to ascertain detailed characteristics of same-sex couples in the United States (the 2010 Decennial Census includes only information about sex, race/ethnicity, age, and home ownership). The ACS is an annual survey of nearly two million households. Since 2005, the Census Bureau has released a Public Use Microdata Sample (PUMS) of ACS data representing 1% of the U.S. household population. These analyses use the PUMS data from the 2005 through 2009 ACS to construct a dataset with 11,693 same-sex female couples and 11,830 same-sex male couples.

It is important to note that the ACS does not ask any questions about sexual orientation or behavior. Same-sex couples in the ACS samples are identified based on responses to two questions, the “relationship to Person 1” and the sex of all household members. Same-sex couples are those where a person aged 15 or older is identified as the “husband/wife” or “unmarried partner” of Person 1 and both persons are of the same sex. The Census Bureau recodes any same-sex “husband” or “wife” as an “unmarried partner.” Unfortunately, the PUMS data do not contain information that permits explicit identification of same-sex spouses who were changed to unmarried partners.

Gates and Steinberger document a serious measurement issue that affects the accuracy of the same-sex couple data in the ACS.⁴ This issue involves a classic “false positive” problem common in attempts to enumerate relatively small populations within a large survey. Small errors within a larger population that misclassify some respondents into the smaller population can create a very large contamination within the smaller population. Census Bureau procedures routinely edit raw data to attempt to correct common errors and create consistency and improve accuracy of data released to the public. Unfortunately, some of these corrections regarding same-sex couples create a false positive measurement problem.

The measurement problem relates to the editing of all same-sex “husbands” and “wives” to same-sex “unmarried partners.” As a result of this procedure, any different-sex married couples who miscode the sex of one of the spouses are coded as same-sex unmarried partner couples. Gates and Steinberger (2011) suggest that in the 2005 through 2009 ACS data, from 15 to 30% of identified same-sex couples may actually be miscoded different-sex married couples. They also offer an adjustment procedure that allows researchers to identify same-sex couples who likely originally identified their relationship as “husband” or “wife.” Their analyses suggest that perhaps 80% of this group is comprised of misclassified different-sex couples.

The present analyses adopt this adjustment procedure and remove from the data couples who likely identified as spouses. While this minimizes the possibility that a large portion of the sample is comprised of miscoded different-sex couples, it also effectively removes true same-sex spousal couples. This could affect some of the findings if the characteristics of same-sex spouses differ from those who consider themselves to be unmarried partners.

Analyses

As of 2010, nearly 79,200 same-sex couples living in the United States included at least one partner who is currently not a U.S. citizen or was naturalized as a citizen. Of the nearly 650,000 same-sex couples in the U.S.:

- 4.4% or 28,574 are binational couples (one partner is a U.S. citizen and one is not)
- 1.8% or 11,442 are dual non-citizen couples
- 6.1% or 39,176 are dual citizen couples with at least one naturalized partner

Binational couples can include both native-born and naturalized American citizens. Among those couples, 23% of the American citizen partners are naturalized citizens. Among dual citizen couples that include a naturalized citizen, 17% include two naturalized citizens.

The analyses to follow will show that these couples live throughout the United States, were born in countries throughout the world, are racially and ethnically diverse, are raising many children, and are economically self-sufficient.

⁴ Gary J. Gates & Michael D. Steinberger, Same-Sex Unmarried Partner Couples in the American Community Survey: The Role of Misreporting, Miscoding and Misallocation (forthcoming 2011).

Geographic Characteristics

States

California ranks first in the total number same-sex couples in which at least one partner is not a citizen or one partner is a naturalized citizen. A quarter of the binational couples, 26% of non-citizen couples, and 28% of dual citizen couples with at least one naturalized partner live in the state (see Table 1). The top ten states for each group are home to well over three-quarters of the couples within each group. Of note, the top five states for all couples—California, New York, Florida, Texas, and Illinois—are the same in each group, though the ranking differs slightly.

Regions

The Pacific region is home to the largest proportion of same-sex couples within each of the groups (see Table 2). Notably, the Mid-Atlantic Region has a smaller number of non-citizen couples than the South Atlantic region, especially when compared to the distribution of binational couples and those that include a naturalized citizen.

Country of birth

Mexico is the country of birth for a quarter of non-citizens in binational same-sex partnerships (see Table 3). Canada, the second highest country of origin, is home to 8% of the non-citizen partners, followed by the United Kingdom at 6%. Among those in non-citizen same-sex couples, Mexico is the country of birth for nearly six in ten (58%), followed by El Salvador (5%), Guatemala (3%), Cuba (2%), and Honduras (2%).

Table 1: State distribution of same-sex couples by citizenship status of partners, American Community Survey, 2005-2009.

Binational			Dual non-citizen			Dual citizen, at least one partner naturalized		
California	25%	7,115	California	26%	2,989	California	28%	11,142
New York	13%	3,695	Florida	12%	1,352	New York	13%	5,223
Florida	9%	2,545	Texas	10%	1,088	Florida	10%	3,986
Texas	6%	1,607	New York	8%	914	Texas	6%	2,448
Illinois	6%	1,596	Illinois	6%	643	Illinois	4%	1,643
Massachusetts	4%	1,215	Arizona	5%	539	New Jersey	3%	1,347
New Jersey	4%	1,197	New Jersey	3%	366	Georgia	3%	1,033
Washington	3%	717	Colorado	3%	332	Washington	3%	1,002
Pennsylvania	2%	679	Georgia	3%	330	Massachusetts	3%	998
Colorado	2%	637	Virginia	3%	315	Pennsylvania	2%	928
Other states	26%	7,571	Other states	21%	2,575	Other states	25%	9,427

Table 2: Regional distribution of same-sex couples by citizenship status of partners, American Community Survey, 2005-2009.

	Binational		Dual non-citizen		Dual citizen, at least one partner naturalized	
	%	Count	%	Count	%	Count
New England: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	8%	2,349	4%	406	5%	2,090
Middle Atlantic: New Jersey, New York, Pennsylvania	19%	5,571	12%	1,355	19%	7,499
East North Central: Indiana, Illinois, Michigan, Ohio, Wisconsin	9%	2,473	8%	941	8%	3,099
West North Central: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota	2%	652	3%	322	3%	1,081
South Atlantic: Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia	18%	5,098	23%	2,663	18%	7,157
East South Central: Alabama, Kentucky, Mississippi, Tennessee	1%	239	1%	139	1%	343
West South Central: Arkansas, Louisiana, Oklahoma, Texas	7%	1,979	10%	1,161	7%	2,818
Mountain: Arizona, Arizona, Colorado, Idaho, New Mexico, Montana, Utah, Nevada, Wyoming	7%	1,872	11%	1,257	5%	1,973
Pacific: Alaska, California, Hawaii, Oregon, Washington	29%	8,341	28%	3,198	33%	13,116

Table 3: Country of birth distribution of same-sex couples by citizenship status of partners, American Community Survey, 2005-2009.

Non-citizens						Naturalized citizens		
Binational couples			Dual non-citizen couples			Dual citizen couples		
Mexico	25%	7,272	Mexico	58%	6,681	Mexico	13%	5,005
Canada	8%	2,276	El Salvador	5%	618	Philippines	9%	3,619
United Kingdom	6%	1,851	Guatemala	3%	340	Cuba	8%	3,102
Philippines	5%	1,322	Cuba	2%	278	Canada	5%	1,955
Germany	3%	930	Honduras	2%	261	Vietnam	4%	1,586
Brazil	3%	842	China	2%	242	United Kingdom	4%	1,435
Colombia	2%	676	Canada	2%	214	Germany	3%	1,360
Cuba	2%	603	India	2%	176	El Salvador	3%	1,085
Dominican Republic	2%	496	Brazil	1%	163	China	3%	1,057
Vietnam	2%	492	Haiti	1%	151	Korea	3%	1,044
Other	41%	11,816	Other	20%	2,318	Other	46%	17,928

Immigration policies in country of birth

Current U.S. immigration does not provide a path to permanent residency or citizenship based on the marriages or partnerships of non-citizens in same-sex relationships with U.S. citizens or permanent residents. Couples who cannot find a way to stay together in the United States via employment visas or other limited alternatives may be able to move to the home country of the non-US partner. Currently, 25 countries recognize same-sex couples for immigration purposes: Argentina, Australia, Belgium, Brazil, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greenland, Hungary, Iceland, Israel, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Romania, South Africa, Spain, Sweden, Switzerland, and the United Kingdom.⁵

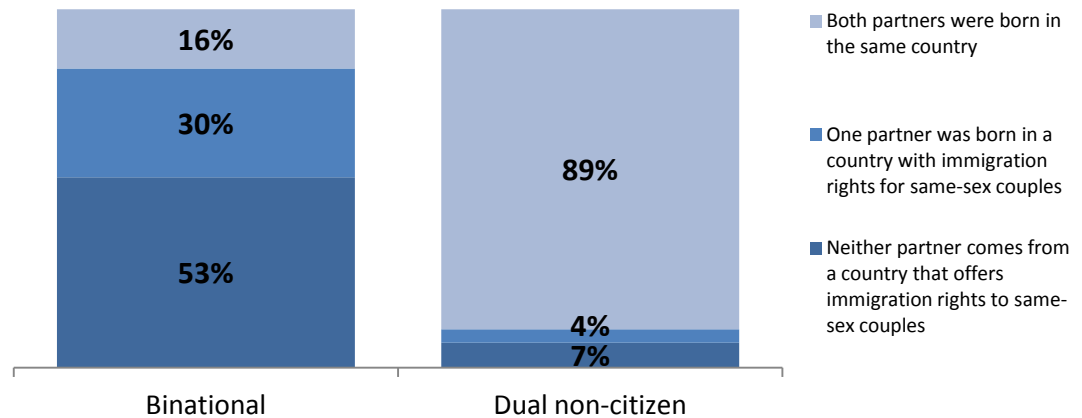
More than half of binational same-sex couples (53%) are categorically barred from pursuing permanent residency as a couple in either partner's country of origin (see Figure 1). In these couples, the non-citizen partner comes from a country, like the U.S., that does not offer any immigration rights to same-sex couples. Similarly, in 7% of dual non-citizen couples, neither partner comes from a country that offers such immigration rights.

For couples in which both partners share a common home country, it may be possible for some to return to their country of birth together if one partner cannot remain in the U.S. legally. Most dual non-citizen same-sex couples (89%) include partners who were born in the same country and 16% of binational same-sex couples include a non-citizen and a naturalized U.S. citizen who were both born in the same country.

⁵ Press Release, *Leahy Introduces Bill To Bring Equality To Lawful Partners In Immigration Law*, Apr. 14, 2011

http://leahy.senate.gov/press/press_releases/release/?id=1ab23875-4703-466a-ba35-846d7d20d985

Figure 1. Immigration policies in country of birth for individuals in binational and dual non-citizen same-sex couples
American Community Survey, 2005-2009



Some binational same-sex couples (30%) and dual non-citizen couples (4%) include a non-citizen partner who was born in a country that offers immigration rights to same-sex couples. These couples may be able to gain joint residency in the non-citizen's home country.

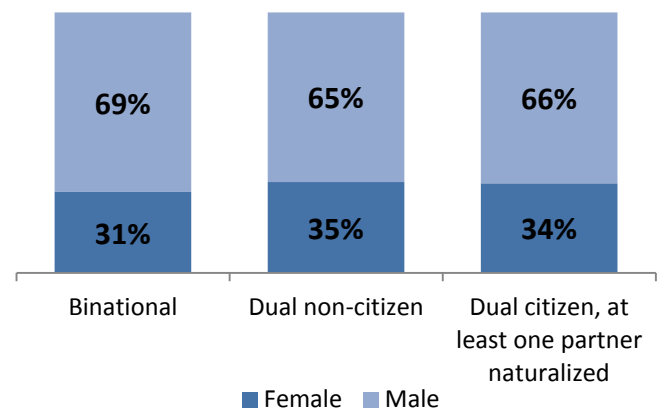
While returning to home countries may be theoretically possible for some couples, issues of employment, child-rearing, and care of elderly parents may mean that leaving the U.S. is not actually a viable option, even if one partner's home country would allow them to immigrate together.

Demographic Characteristics

Sex

More than two-thirds of binational same-sex couples (69%) are male (see Figure 2). Dual non-citizen same-sex couples and dual citizen couples with a naturalized partner are also predominantly male, (65% and 66%, respectively). Immigrants to the U.S. are also majority male, but not by as large of a margin (54%).

Figure 2. Sex by same-sex couple type
American Community Survey, 2005-2009



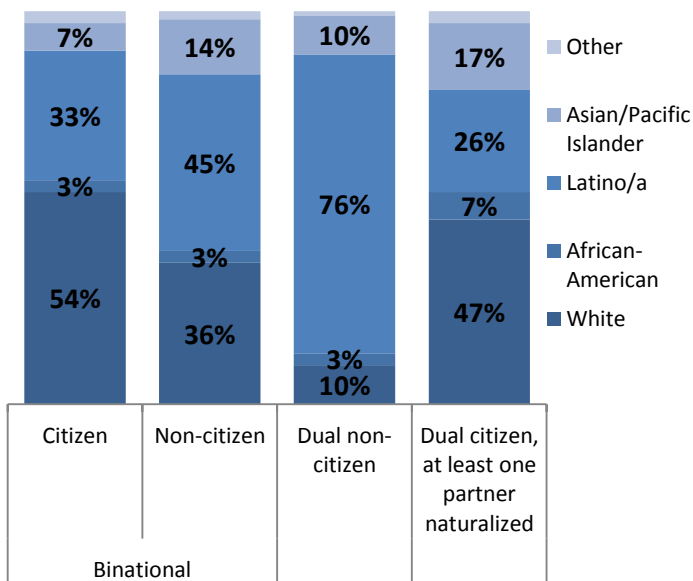
Age

Non-citizens in both binational and non-citizen same-sex couples are generally younger than either their native-born or naturalized counterparts (see Table 4). In binational couples, non-citizens have an average age of 39 compared to 41.3 among the citizens in binational couples. Individuals in dual non-citizen couples are even younger with an average age of 36.6. Among dual citizen couples where both partners are native born, the average age is 43.1.

Table 4: Average age and age differences among same-sex couples by citizenship status of partners, American Community Survey, 2005-2009.

Type of Same-Sex Couple	Average age	Average age difference, in years
Binational Couple, citizen partner	41	8
Binational Couple, non-citizen partner	39	
Noncitizen couples	37	7
Naturalized Couples	46	8

Figure 3. Race and ethnicity, by same-sex couple type American Community Survey, 2005-2009



Race and ethnicity

Latinos, Latinas, Asians, and Pacific Islanders constitute the largest racial and ethnic minority groups within same-sex couples that include non-citizens or naturalized citizens. The majority of non-citizens in binational same-sex couples are non-White (see Figure 3). An estimated 45% are Latino or Latina, while 14% are Asian/Pacific Islander. Just over a third (36%) are White. Among citizens in same-sex binational couples, a third (33%) are Latino or Latina while 54% are White and 7% are Asian/Pacific Islander. African-Americans comprise just 3% of both groups. More than three-quarters (76%) of partners in dual non-citizen couples are Latino or Latina. Just one in ten (10%) are White and 10% are Asian/Pacific Islander. Among dual citizen couples that include a naturalized citizen, nearly half (47%) are White, more than a quarter (26%) are Latino or Latina, and 17% are Asian/Pacific Islander.

Many binational same-sex couples and dual-citizen same-sex couples with a naturalized partner include partners of different racial/ethnic groups. A third of binational couples (33%) are inter-racial/ethnic, as are 42% of dual-citizen couples that include a naturalized partner. By contrast, only 3% of non-citizen couples are inter-racial/ethnic.

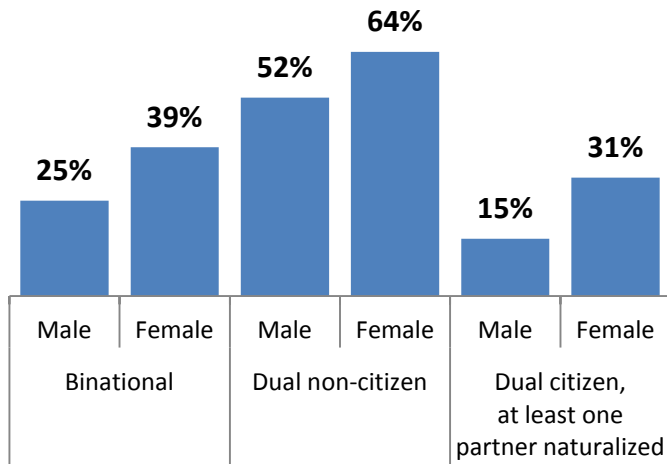
Childrearing

Many binational and dual non-citizen same-sex couples are raising children (see Figure 4). More than half of dual non-citizen couples (58%) are raising children. Of that group, 52% of male non-citizen couples are raising children along with nearly two-thirds (64%) of female couples. That amounts to more than 7,700 children being raised by dual non-citizen same-sex couples.

Nearly a third (32%) of binational same-sex couples are raising children. A quarter of male binational couples and 39% of female binational couples are raising children. In total, binational same-sex couples are raising nearly 17,000 children.

Child-rearing levels among dual citizen same-sex couples with at least one naturalized partner are substantially lower (23%). This includes 15% of male couples and 31% of female couples. They are raising more than 16,000 children.

Figure 4. Childrearing by sex and same-sex couple type
American Community Survey, 2005-2009



Among male binational same-sex couples, the citizen partners have an annual median individual income that exceeds that of their non-citizen partners by more than \$10,000 (\$45,816 v. \$35,158, respectively). Among female binational couples (who have median incomes below that of their male counterparts), the median income of the citizen partners exceeds that of the non-citizen partners by just \$2,000 (\$37,088 v. \$31,020, respectively).

Men in non-citizen couples have a median income of less than \$20,000, more than 40% lower than male non-citizens in binational couples. At just over \$16,500, women in non-citizen couples report median earnings that are only about half of the median earnings of female non-citizens in binational couples. Partners in naturalized same-sex couples have the highest median individual incomes, over \$50,000 for male same-sex couples and \$40,000 for female same-sex couples.

Economic Self-sufficiency

Individual Income

Citizens in binational couples have higher median income levels than their non-citizen partners (see Figure 5). However, the non-citizen partners in binational couples have median incomes that are substantially higher than non-citizens with non-citizen partners. Partners in citizen couples with a naturalized partner have higher median incomes than those in all other couple types.

Household Income

Patterns regarding annual household income are similar to those observed for individual income (see Figure 6). Binational couples have higher household incomes than non-citizen couples but lower incomes than dual citizen couples that include at least one naturalized citizen.

Male binational couples have a median household income of nearly \$91,000, almost double that of non-citizen male couples at just \$46,000. Male

Figure 5. Median individual income by sex and same-sex couple type
American Community Survey, 2005-2009

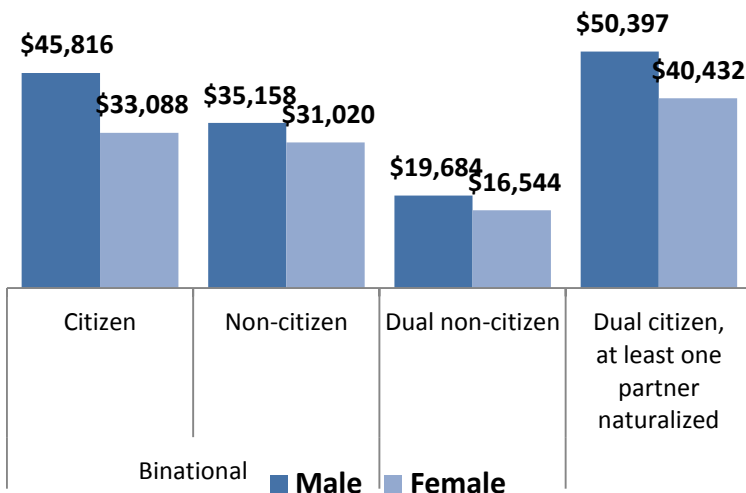
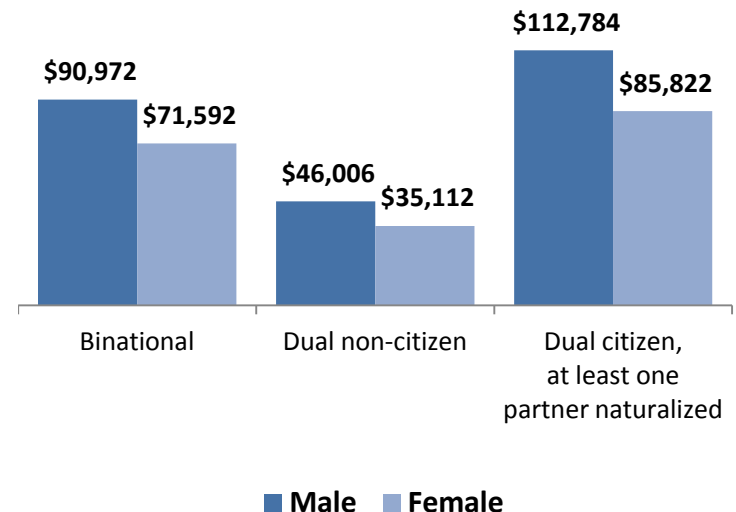


Figure 6. Median household income by sex and same-sex couple type
American Community Survey, 2005-2009

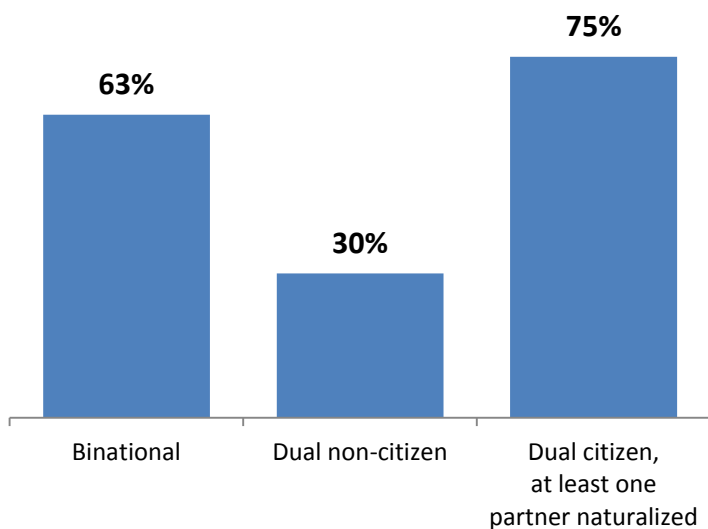


couples that include at least one naturalized partner have median household incomes of nearly \$113,000. The median household income of female binational couples is more than \$71,500, more than double that of female dual non-citizen couples at just over \$35,000. At nearly \$86,000, female couples that include at least one naturalized partner have the highest median household income among the various couple types.

Home Ownership

Almost two-thirds of binational same-sex couples own their home (see Figure 7). They are more than twice as likely to be home owners as dual non-citizen same-sex couples (30%). Three-quarters of same-sex couples that include a naturalized partner own their home.

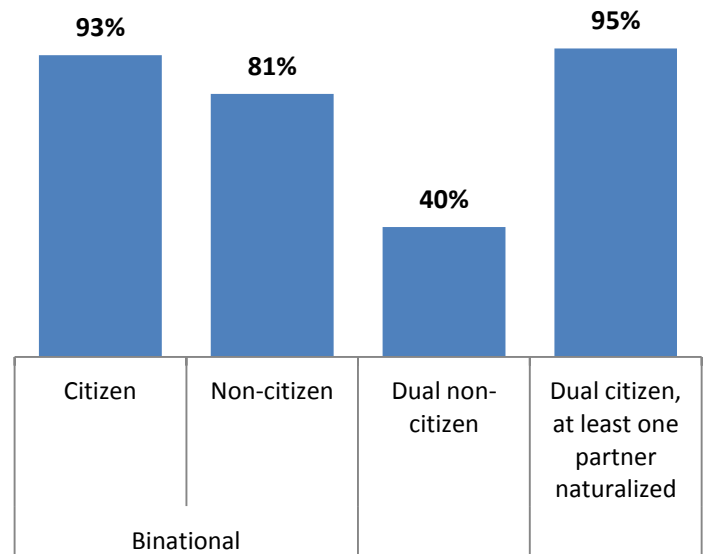
Figure 7. Home ownership by same-sex couple type
American Community Survey, 2005-2009



English Speaking Ability

The vast majority of same-sex partners in binational couples speak English “well” or “very well” (see Figure 8). Among citizens in binational couples, 93% report a very good command of the English language, compared to 81% of their non-citizen partners. However, only 40% of members of same-sex couples where both individuals are non-citizens report speaking English “well”. The English speaking ability of citizens in binational same-sex couples is comparable to that of individuals in couples with a naturalized partner at 95%.

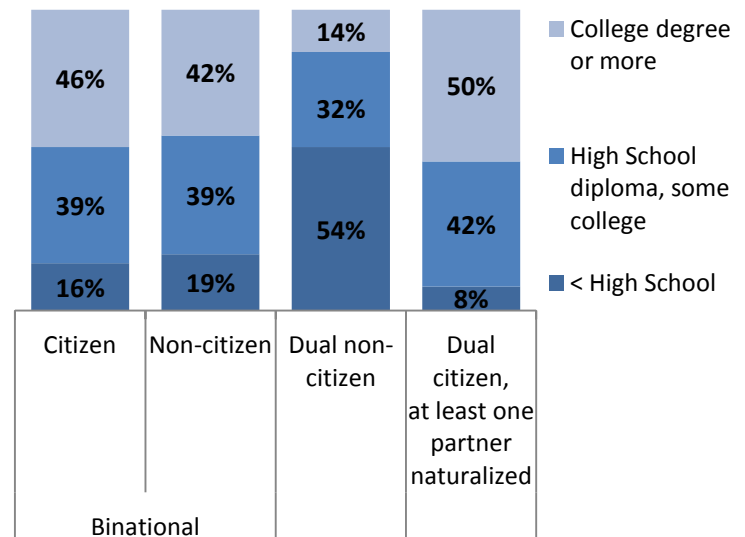
Figure 8. Speak English “well” or “very well” by same-sex couple type
American Community Survey, 2005-2009



Educational Attainment

Despite rather substantial income differences, citizens and non-citizens in same-sex binational couples show very similar levels of educational attainment (see Figure 9). In both cases, more than 40% have a college degree (46% of citizen partners and 42% of non-citizen partners). Half of individuals in same-sex couples that include a naturalized citizen have a college degree. In contrast, more than half of individuals in dual non-citizen same-sex couples (54%) have not attained a high school diploma.

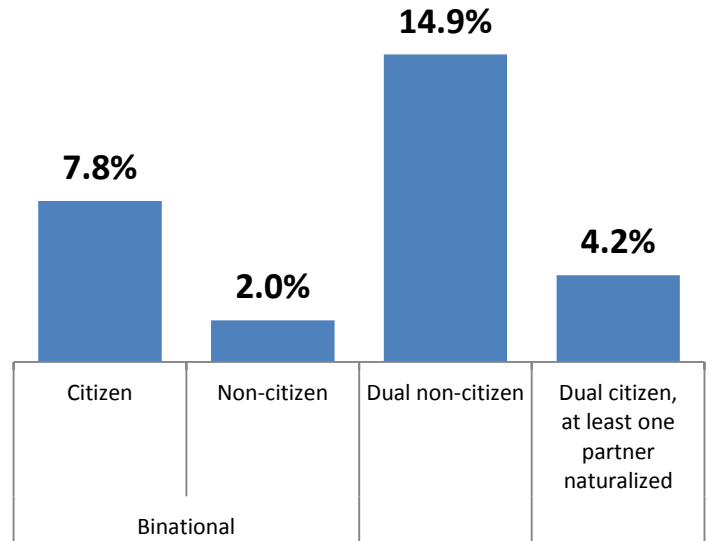
Figure 9. Educational attainment by same-sex couple type
American Community Survey, 2005-2009



Unemployment Rates

Because of the possible effects of the recession on employment, the present analyses consider unemployment rate data from 2009 only. Non-citizens in binational same-sex couples evidence the lowest rates of unemployment among individuals in all couple types, at just 2% (see Figure 10). Nearly 8% of citizens in binational same-sex couples say they are unemployed. Non-citizens in dual non-citizen same-sex couples evidence the highest rates of unemployment at nearly 15%. Among those in same-sex couples that include a naturalized partner, just 4% are unemployed.

**Figure 10. Unemployed (among those in the labor force) by same-sex couple type
American Community Survey, 2009**



About the authors

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