Pacs: the chaotic emergence of the category in social surveys

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This analysis examines how French social surveys carried out after the adoption of the law, at the end of 1999, of a new registered partnership both for heterosexual and same-sex couple in France, known as “Pacs”, integrate this item - as a part of the variable questioning the people on their “current legal matrimonial statute” - in the questionnaire and the analyses. This work is carried out starting from examples drawn from project of the 2004 census and various social surveys conducted after the date of adoption of the law. A special place will be devoted to the integration and the treatment of the category in the statistical activity of INSEE whose results are used as reference to the whole of the quantitative production of social knowledge.

With few exceptions, the survey questionnaire is less a theory of social action than it is a tool of social reflection; it reflects the state of researchers’ knowledge and the questions about society that can be imagined at the time of its design. In practice, this scientific instrument is built on consensus and validates itself by continued use while being successively refined by integrating changes that reflect the evolution of social norms and societal problems. Its evolution is slow, its innovations are halting; although inappropriate to the study’s original intent, some questions become routinized and are retained for comparison to the others precedent sources that are considered reliable. So, the questionnaire is often a curious mixture of well-founded questions, obsolete questions, well-tried questions and exploratory questions, that does not invalidate the entire procedure; when the questionnaire is itself questioned, it is for other reasons such as the concepts and techniques are standard, or because it prematurely establishes links between behaviours and social classifications.

In this observational study on the way in which the legal definition of Pacs ("Pacte civil de solidarité," or "Civil solidarity pact") is or isn’t taken into account in social investigations, I consider the questionnaire as a document in which are crystallized the scientific representations of the time and the social issues which researchers must undertake, and dynamics and know-how internal to the discipline.

1. Legal marital status

Before examining how the Pacs has been integrated into the statutes regarding legal marital status¹, it is necessary to note that, at the present time, researchers focus more and more on de facto than de jure living arrangements (Schiltz, Jaspard, 2003). While in the past the "legal marital status" was an ubiquitous socio-demographic question, today it is possible to find examples of questionnaires where this question is not asked at all: for example, the study of non-French-speaking users of housing and food assistance that was conducted by Ined in 2002 contains only one "yes/no" question about existence of a living

¹ CNRS
² In standard usage, it is a matter of knowing if the person is 'single', 'married', 'widowed', 'divorced', or 'separated' but the legal status of this last category is ambiguous; there exist a possible legal recognition of separation but not in case of an informal decision.

partner while the preceding survey in 1998 on the French-speaking users of the same services asked the legal marital status.

The tendency is even more obvious at the level of analysis and in published results. It is now usual for *de facto* relationships in social investigations to have completely eclipsed the legal status. In actual practice, legal marital status tends to disappear from lists of the relevant variables used for analysis - that is, the list of the most explanatory variables of personal attitudes and behaviours. The single, couple, and family lifestyles - no matter what its legal status - obliterates the question of actual legal marital status. This substitution has occurred in a progressive fashion. The current evolution of questionnaires - especially when deciding which variables to investigate - clearly selects for the importance of the presence or absence of affective bonds and organization of daily life to the detriment of its legal status. In actual practices of surveys’ analyses, coexist, even within the same analysis, multiple examples of different composition of affective ties with or without shared daily life.

In an article on the influence of men’s height on finding a partner, Nicolas Herpin (2003), using data from the Insee’ survey EPCV (“Enquête permanente sur les conditions de vie des ménages”: a continuous survey of household living conditions) carried out in May 2001, concluded that small men are less successful in living in a couple without even using the variable “legal marital status” in his analysis. Other variables have more explanatory power than legal condition, as: 1) presence or absence of a stable relationship; 2) people “living alone or not”; 3) isolated people “not in a relationship and living alone,” “in a relationship,” or “not in a relationship but living with one’s family”.

In this respect, from survey to survey, the extreme volatility of construction of different kind of relationship in connection with multiplication of possible interpretations of affective lifestyles reflects the non-stable customs of research in this field. In a general presentation, demographic characteristics of the respondents of the 2000 Enveff survey were compared with those of the 1999 employment survey (Jaspard et al., 2003). In this comparative work, the effect of the variable “legal marital status” is overshadowed by another variable describing actual lifestyle, which contain the following categories: “married and living together”, “single or widowed in a cohabiting union”, “divorced or separated in a cohabiting union”, “other divorced and separated”, “living with parents”, “other, including living alone.” In the same study one founds other presentations, in addition to the official status, the *de facto* living arrangement is presented with the following categories: “married and living together”, “single in a cohabiting union”, “divorced, separated, or widowed in a cohabiting union”, “single and never in a union”, “single and not currently in a union”, “divorced, separated, or widowed and not currently in a union.”

It is possible that the evolution of quantitative research procedures is only a reflection of the weakening of the role of the legislation in the actual experience of affective links (de Singly, 1993). Consequently, there is a gap between the progressive lack of interest in research regarding “legal marital status” and a growing interest in the introduction of an addition of a new category for this variable. This shortfall is becoming more acute because it underlies a fight for legal recognition and equal rights of minority groups strongly in favour of a legal status of their affective bonds. Thus, it is not surprising that the assimilation of this new legal category in social investigations runs counter to the tendency of routine social science interpretation which more and more ignores “legal marital status” as the relevant explanatory variable.

Since the question remains open, it is now important to examine how the PaCS, despite all, is taking into account as a category of “legal marital status.”

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2 “Do you share the same street address with a partner?: yes/no”

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226 Same-sex couples, same-sex partnerships, and homosexual marriages A Focus on cross-national differentials
2. The origins of the PaCS: the role of the gay press surveys

Beside the data collection activities among the general public there also exists, in France, a series of quantitative surveys repeated since 1985 on the gay male population. Since the second "gay press" survey in 1986, among a list of other items, the question of the legal recognition of gay unions was raised under the category "gay marriage or gay concubinage" (Pollak, Schiltz, 1991).

"Do you expect the government attach importance to the following issues concerning the social situation of homosexuals?" (Percentages below represent the responses only from those who assessed the goal as 'very important')

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</thead>
<tbody>
<tr>
<td>The fight against AIDS</td>
<td>93%</td>
<td>71%</td>
<td>89%</td>
<td>91%</td>
<td>89%</td>
<td>88%</td>
<td>88%</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Job discrimination</td>
<td>-</td>
<td>65%</td>
<td>76%</td>
<td>76%</td>
<td>75%</td>
<td>75%</td>
<td>71%</td>
<td>77%</td>
<td>82%</td>
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<tr>
<td>Contract of civil union</td>
<td>52%</td>
<td>40%</td>
<td>57%</td>
<td>60%</td>
<td>60%</td>
<td>68%</td>
<td>66%</td>
<td>77%</td>
<td>76%</td>
</tr>
<tr>
<td>Inheritance</td>
<td>-</td>
<td>32%</td>
<td>62%</td>
<td>65%</td>
<td>65%</td>
<td>69%</td>
<td>67%</td>
<td>72%</td>
<td>72%</td>
</tr>
<tr>
<td>Child custody after divorce</td>
<td>49%</td>
<td>23%</td>
<td>41%</td>
<td>37%</td>
<td>42%</td>
<td>36%</td>
<td>34%</td>
<td>39%</td>
<td>-</td>
</tr>
<tr>
<td>Child adoption</td>
<td>49%</td>
<td>28%</td>
<td>35%</td>
<td>31%</td>
<td>32%</td>
<td>33%</td>
<td>31%</td>
<td>-</td>
<td>32%</td>
</tr>
<tr>
<td>Lowering age of consent</td>
<td>24%</td>
<td>15%</td>
<td>15%</td>
<td>17%</td>
<td>14%</td>
<td>17%</td>
<td>12%</td>
<td>-</td>
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</tbody>
</table>

In 1986, with the exception of nearly unanimous agreement with demands for policies to be enacted to battle AIDS and job discrimination, the gay community embraced the other legal rights goals with more hesitancy. At that time, the respondents were split evenly in their acceptance of a contract of civil union; in 1987, only one-third looked favourably on the possibility of inheritance between partners. It is only at the start of the 90's that a majority began to form in favour of these two demands (Schiltz, 1998).

In 1997, while on the political front the fight for equality intensified, in the "gay press" survey, claim for same-sex partnership was only one of many goals and among survey respondents the proportion according high importance to this social agenda remained stable: three-quarters of respondents being favourable to it. At that time, as the possibility of such recognition became clearer, a question investigating the living arrangements of respondents with their steady partner asking if they wished "to benefit from a partnership contract giving you some of the same rights accorded to married heterosexual couples"; 73% of men involved in a relationship at the time of the survey

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3 It is in the context of the mobilization among the community and gay press against AIDS that M. Pollak began a series of surveys intended to determine how gay men adapted to the risk of HIV.

4 One can observe in this the evolution of wording from 1986 when the terms were "gay marriage" and "gay concubinage"; to 1987-1990, when the term "marriage" was dropped and the question only mentions "gay concubinage". After 1993, following ongoing legislative proposals, the questionnaire successively mentions "contracts of a civil union," and "legal recognition of homosexual couples." The law was ultimately passed under the name of PaCS ("Pacte Civil de Solidarité"), leading to the usage of "pacsé" or "pacsée" for the individuals in the union (for an history of the claim see Borrillo, 1998).

5 This question reflects the claim, at the time in the gay community for decriminalizing homosexual relations between an adult and a minor under the age of 18 (purpose of a demonstration in 1981) since at that time the age of consent had been set at 15 for heterosexuals (Borrillo, Lascoume, 2001).

6 Note that "adoption of children" remained, at least until 1997, a relatively unsupported goal.

7 These percentages were higher among those men who declared themselves to be in a stable relationship.

8 Alice Michel, who made these tabulations at my request, kindly provided the survey data for EPG 1997 and 2000 collected by L’Institut de Veille Sanitaire under the direction of Philippe Adam to me.
declared themselves ready to take advantage of such a contract with their current partner, while 13% said that they would not be interested in it. After this long gestational period, the legal recognition of homosexual couples was achieved at the end of 1999 with the passage of the law that instituted the Civil solidarity pact between two different or same sex persons. During the summer of 2000, one more “gay press” survey was conducted with 4753 gay men. Although the PaCS was by that point legalized, the category was not fully included as part of the variable “current legal status” that followed the classic divisions “single”, “married”, “divorced”, “widowed”; because it was so recently authorized, it was premature only to count the current numbers of registrations. In order to evaluate the overall situation of gay men, the survey took into account in addition to “signed contracts”, the intention of men involved in a stable relationship at the time of the survey regarding the new law: a specific question asked these men about their current situation as well as their intention regarding the PaCS.

Your situation regarding the PaCS:
1. You have signed a PaCS with your current partner: 12%
2. You seriously consider a PaCS with your current partner in the coming year: 15%
3. Your current partner does not intend to sign a PaCS with you: 4%
4. You do not intend to sign a PaCS with your current partner: 17%
5. You have not yet decided whether to sign a PaCS: 40%
More than one answer: 8%
No response: 4%

At this point, shortly after the PaCS law has been enacted, respondents are almost equally divided between the undecided, (i.e., those who have not decided, who have given more than one answer, or who have not answered at all) and those who expressed an opinion (52% vs. 48%); note that when we add those who have already signed a PaCS (12%) with those who intend to do so (15%), the proportion (21%) is not much more than those who for various reasons have no intention to legalize their union. After this brief digression on the history of the goals and aims of the principal players of the plan, I will now examine the way in which this new legal category characterizing the situation of both heterosexual and same-sex couples has been integrated into practices of quantitative sociology based on the examples of some large surveys taken in France from 2000 until now.

3. The setting of the PaCS as a category
In the 1999 census, the “legal marital status” was recorded through the usual categories of the time (single, married, divorced, widowed) while the PaCS category was omitted since the census was conducted several months before the PaCS law was passed in November 1999. Consequently, it is only for large social French surveys conducted since 2000 that we can investigate whether the PaCS category has been included.

3.1 The absence of the PaCS category in future census
In spite of repeated demands from social researchers, the project of questionnaire of reformed census, forecast to be operational in 2004, will not include the new category arguing that the Civil Solidarity Pact is an uncertain commitment; people dealing with such contract are a priori considered as “single” and as such recorded in this category. The “legal matrimonial status” in four categories will remain unchanged. The only conceive opening concerns a new question on living in a couple (Hérans et al., 2001).

3.2 Chronicle of a disappearance in others surveys
The Enveff survey (a telephone survey conducted during March-July 2000 among a sample of 7000 women representative of the French female population aged 20-59 living in

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9 Without any information about living arrangements of individuals.
10 For the new census; there exist a questionnaire scenario that include the category “legally separated” that may be accepted for the new census design questionnaire if tests show its relevance.
mainland France) includes, among its questions, the PaCS as a category of possible legal marital statuses for women. One finds that about six months after the law was passed, 1.5% of the respondents declared a union of this type (Jaspard et al., 2003). An additional question on the affective situation of the women allows to test the consistency of the answers provided in response to the question on legal marital status\textsuperscript{11}. The comparison of both questions highlights the high-level of consistency of the answers by women who declared having legalized their relationship by the PaCS.

Among the 102 respondents who were in a PaCS, 97 answered that they were living with a boyfriend, 2 with a girlfriend, and 3 with a “husband,” meaning the partner with whom they had entered into a PACS. All these women described themselves as being in a steady relationship.

However, in spite of the consistency of answers, interpreting this category is a problem since the behaviour of those people in a PaCS cannot be directly compared to those in more usual legal marital categories. In many respects, characteristics of the women in a PaCS are comparable to those of married women but in other respects, regarding in particular their degree of exposure to violence, the main topic of the survey, the situation of these women is closer to that of single women and women living in informal unions. Consequently, in the encoding, women in this category have been combined with single women, but this decision was never explained nor mentioned in the presentation of the results. Numerically too week and too recent, in this survey, the PaCS category wasn’t the subject of separate analysis. In the absence of standard procedures to process and analyse the data, this category, though legitimated by law, has simply disappeared from statistical analyses and published results.

As we will see below, such a procedure in consistent with common practices in the Insée Institution without the research team was informed of such decision.

3.3 The difficult linkage of the PaCS with results from the census and other large Insée surveys

The detailed description of how this category was included in the variable “legal marital status” and how it was analysed in the Vespa survey (a survey conducted in 2003 among a representative sample of 3000 HIV positive individuals living in metropolitan France who had been aware of their contamination for more than six months) is also illustrative. The survey closely followed the standard procedures of data collection developed by Insée with the explicit goal of directly comparing the socio-demographic characteristics of a population highly stigmatised\textsuperscript{12} with those of the general population. For reasons of comparability, the questionnaire, directly based on the census form, records information pertaining to every individual living with the person being interviewed rather than on existence of family or affective links with or without cohabitation. The following comments and recommendations helped the interviewer complete the household schedule: the interviewer was asked to ask information about the first cohabiting “spouse” or “partner in informal union” of the interviewee then, if needed, the second one\textsuperscript{13}. Soon this choice proved to be a source of problems because of the very specific characteristics of the target population of the survey. Some situations which are very unusual in the general population are common in this sample: many members of these

\textsuperscript{11} “Do you currently have a relationship whether or not you live with your partner? Yes, with husband; yes, with boyfriend; yes, with girlfriend; no, not currently but in the past; no, never.”

\textsuperscript{12} Because the epidemic was concentrated within very specific groups in the population, the survey sample mainly included individuals from the following risk groups: homosexuals, intravenous drug users, and immigrants from countries where HIV/AIDS is widespread, such as sub-Saharan Africa. These groups, often discriminated against, suffer from a grave and highly publicized disease.

\textsuperscript{13} “Use the first line for the first “spouse” or “partner in informal union” of a couple (and the second one for the other “spouse” or “partner”) or if not one “spouse” or “partner” of the adults living in the housing unit.” Note, by the way, that the table is designed to record a circumstance that is illegal in France since polygamy is illegal.
selected groups have affective and family ties with individuals who do not share the same living quarters\textsuperscript{14}.

In addition to the conjugal and family ties partially documented through the question on household members and their relationship to the interviewee, another question records the legal marital status of the interviewee into six categories: to the four standard categories are added, as in numerous surveys, the category "separated," which documents a transitional state, and last but not least the now legally recognized PacS status. Also, given the specificities of the lifestyle of the groups included in the sample, the Insée table is supplemented by a series of questions specific to the survey regarding conjugal and family ties with non-cohabiting individuals. The analysis of the survey, which was conducted three years after the law was passed, showed that the total proportion of people in a PacS is slightly higher than 3%, keeping in mind that the groups in the sample are as heterogeneous as they are unequal in their access to PacS; behaviour varies widely depending on the population subgroup. When looking at sexual orientation declared by the interviewee or at the sexual composition of the current couple most of the PacS documented in the survey are found among male homosexuals (6%), especially among those in a steady relationship (10%), and what is more among those in a steady relationship who are currently co-habiting with their partner (21%). By contrast, immigrants tend not to contract in a PacS for cultural and legal reasons as most of them come from countries where this type of partnership does not exist: immigrants have less than half the rate of contracting a PacS than French individuals (1.5% vs. 3.7%)\textsuperscript{15}.

From the beginning explorations of the data, the comparison with the 1999 census results faced a problem due to the two additional categories added to the "legal marital status" variable ("separated," and "PacS"). A message sent to a statistician at Insée who contributed to the design of the socio-demographic section of the questionnaire garnered the official following reply:

"The distribution of the marital status into the six categories is not available at Insée. Typically in its household surveys, Insée asks about legal marital status (single, married, widowed, divorced). A "pacisé" who lives with his partner is still considered single.\textsuperscript{16}"

Similarly to the processing of the data in the Enveff survey, and three years after the law was passed, the PacS category is still not regarded as an independent category of analysis and is combined with "single" status demonstrating in this way how little importance is accorded to this contract by official statistical functions.

Conclusion

In his latest work, P. Bourdieu (2001) defends the idea that scientific procedures are not only built on logic and experimental method, but also on practical expertise that are fed at least as much by experience, the understanding of how to handle problems, and methods adapted to supplement explicit rules. Therefore, the competence of the researcher relies on the solidly based knowledge of usual patterns, of the routine procedures partly determined by the instruments being used. Tacitly, each research questionnaire places itself into previous practices and available interpretations that are, in a way, a digest of the scientific concepts of the time. This

\textsuperscript{14} According to the results of a number of surveys conducted among homosexuals, half of those in a stable relationship do not co-habit with their partner, and the information is unclear for migrants, some of them have left children in their country of origin and those children are not included in the current household.

\textsuperscript{15} The homosexual proportion among immigrants remains significant: among the seven immigrant respondents in a PacS, three described themselves as homosexual.

\textsuperscript{16} For information : if at the time of the survey a separated individual is still married, then his legal marital status is married (even if he live alone); otherwise, his legal marital status is single (whether or not he is in a "concubinage" or in a PacS). Consequently, when a design survey ask for "separated" it is not possible to aggregate people in the category with people in any other category in order to compare results with data from census or others Insée surveys.
synthesis of formal knowledge, know-how, and accumulated experience heavily influences the practices of the researchers. In order to be comparable with other sources and because of the importance of the economic investment in these large operations of data collection, a social questionnaire is an instrument that is delicate to modify; its evolution can only be slow and partial and strongly depends on the general direction of the main state institutions in charge of the French statistical observations as Insee.

The reluctant integration of the PaCS category in the practice of social investigations in France can only be understood if one thinks of the questionnaire as an instrument in which is incorporated the social vision of the scientific community (Giami, Schiltz, 1996). This vision is constructed historically. It is built on observations, practices, and successive re-interpretations which cumulate and stabilize, for a time, in a list of socio-demographic variables sanctioned by use. This standard procedure is a composite of politically and socially instituted problems, of findings from analyses of previous data that were selected from among a list of customary variables, those that are the most explanatory for the subjects under study.

The time it takes for a social demand, recently legalized, to be assimilated into the practices of quantitative social science is reflective of the difficulty in changing a system of implicit rules shared by the scientific community. The internal dynamic of research which, since the 1970s, acknowledges that a person’s family history is not only marked by the legal acts of marriage, widowhood, or divorce, but also by successive periods of solitary life and formal or informal partnerships, runs counter to take into account the new legal category. This latency period is reinforced by the chronology: the gold standard of statistics in France, Insée, in the 1999 census (reference for all other social surveys in France) was perform before the legal recognition of this new category of “legal marital status”. Since that time the new category is generally included in the questionnaire but for various reasons, omitted from analysis - because of the constraint to be compared with data reputed as the most reliable and - because of the lack of common knowledge about this social group. This deficiency may continue until the time when enough specific knowledge has been accumulated around the category unless social, political or scientific circumstances accelerate it by imposing it as a possible or more as an inevitable category.

In contrast to the rigid rules of statistical theory, the consistencies in conceptualisation and analysis of social questionnaires - instruments that are becoming more and more complex - cannot be transmitted by a set of formal rules. They are mainly based on knowledge built on experience and accumulation of collective and individual common practices. This way of doing things explains the slow assimilation of innovations and new categories into social surveys, which are often accused of following rather than leading social changes.

Bibliographie


17 For instance, “concubinage”, a legal status that preceded PaCS in France, and was a cohabitational status that applied to a male-female couple but very rarely taken into account in the surveys as a possible “legal matrimonial status”.

18 For instance, the difficult emergence of lesbian studies. B. Lhomond (Lhomond, Michaels, 2000) has been persistently gathering widely dispersed data on women who have had sexual relations with other women. This information is unanalysed because the sample sizes are small since this subpopulation is rare and has never been the subject of specific social campaigns, by contrast with gay men who have been affected by the HIV epidemic.


