

State-Sponsored Discrimination
The Marriage of Politics, Religion, and Morality

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We live in an increasingly self-righteous society that prides itself on the principles of freedom, independence, liberty, and equality. Yet America is not a nation without baggage. On the contrary, our proverbial closets are full of skeletons. And rather than find a way to clean them out and remedy the problems that still exist, it seems that we are happier to continue cramming them inside and locking that old closet door as tightly as we can. Worst of all, perhaps, is the fact that we teach our children that it is perfectly acceptable to live this way.

The formative years of American youth are filled with innumerable history lessons outlining the horrors of the past: our founders' struggle against the tyranny of theocracy, the years of oppression our own government forced on racial minorities, the war waged in the name of women's rights, international wrongs such as the Holocaust that we, that is America, so courageously crusaded against. As young students our minds are filled with the woes of discrimination and oppression and then they are indoctrinated with those key principles of liberty and equality so expressly woven into our constitution. Simply put, American education is filled with tales outlining how honorable this nation is while the injustice that still courses through the very lifeblood of the country is allowed to go unquestioned.

What the history books of childhood education do not provide however, and what most current events courses refuse to impart, is the reality that America the Righteous is really America the Hypocritical. Students are schooled in the civil rights movement of the mid-twentieth century while another civil rights movement is in progress all across this great land. An entire faction of the population continues to struggle for the rights that its members feel would make them equal; rights that are protected for a large majority of the population and recognized beyond state borders. The movement in question is that of the modern American homosexual, who sadly is still subject to discrimination of pre-integration and Nazi Germany-like proportions.

In only one of the fifty United States is it legal for a homosexual couple to enjoy the rights and privileges of an actual marriage, and while Massachusetts does provide equal protection under the laws for its citizens both homo- and heterosexual, it apparently does not reflect the sentiments of the rest of the nation. Following the 2004 election, eleven different states took firm stances against any potential right for gays and lesbians to marry by passing state constitutional amendments that define marriage as an institution exclusively for heterosexual couples (Coles, 2004). The singular problem with these constitutional amendments lies in the document from which all governance is handed down. The Fourteenth Amendment to the U.S. Constitution states in its first section that:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws (Ivers, 2002).

In accordance with the Fourteenth Amendment, gays and lesbians and groups that have aligned to support them, the American Civil Liberties Union and the Human Rights Campaign for example, argue that by denying homosexuals the right to marry, the federal government and all states with marriage bans disregard the federal Constitution's commitment to protect citizens from unlawful legislation while violating the Equal Protection Clause. Their claim is more easily understood in this manner: by banning gay marriage via legislation or amendment, homosexuals everywhere are being deprived of their basic liberty on the premise of their sexual orientation.

When the Constitution asserts "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States" it removes any power of the states to discriminate in their application of the law (Ivers, 2002). Marriage is a privilege granted to heterosexuals under the law, as are all of the legal entitlements that are associated with matrimony. And when the Constitution emphasizes that its citizens are entitled to "equal protection of the laws" it must unquestionably mean all of its citizens, sexual orientation be damned (Ivers, 2004). Surely it is not possible for America, the great bastion of tolerance and equality, the crusader of the oppressed, to think differently of people in a legal sense because they happen to love someone of the same gender. The awful reality is just that, unfortunately.

The following graph, provided by the American Civil Liberties Union, illustrates how widespread the bans on gay marriage are at the present in America.

second class citizens in the time of miscegenation laws and the decades that came before. What is frightening is the fact that we are not the first nation to openly discriminate against homosexuals, grant them a less-than-equal station in our society, or subjugate them to prejudice among our laws. In early twentieth century Nazi Germany, there was absolutely no question that gays and lesbians were inferior in quite the same way that Jews, gypsies, and any other non-Aryans were substandard members of the population. The Nazis so despised homosexuals that in the summer of 1934, the members of the German SA who were known to be gay were assassinated in the Röhm putsch, better known as the “night of long knives” (Proctor, 1988).

The Germans did not stop with their storm troopers, either. They were notorious for rounding up known gays and lesbians and sending them to concentration camps, marking them similarly to the way they marked the Jews with pink triangles rather than yellow Stars of David (Proctor, 1988). This measure was to ensure that the Aryan race was not infected with homosexuality and the afflictions associated with it (Proctor, 1988). Homosexuality was considered a “moral pathology” at this time, and well respected scholars and doctors encouraged the suppression of “such sick perversions in the body of our people” (Proctor, 1988).

It should not seem illogical to draw a distinct parallel between the Nazi theories, attitudes, and actions toward homosexuality. There are few differences between the Third Reich’s actions and the way we socially segregate and legally exclude gays and lesbians from typical American life. Consider this: one of the most prevalent anti-gay sentiments in America today is that of the white nationalist as well as the white Christian, who condemns homosexuals and homosexuality on the basis that the lifestyle

“contributes to disease, is immoral and unnatural, and adds nothing to the procreation of white children” (Swain, 2002). The Nazis sought to cleanse their Aryan race and ensure the advancement of their particular brand of morality, and thus subjugated gays and lesbians for threatening their goals. The leading reason George W. Bush was re-elected this month was because of his moral values that so strongly capture the sentiment of the white religious right in this country and his support of a Constitutional amendment to ban gay marriage that was killed in Congress earlier this year (The Religious Left, 2004).

Bob Edgar of the National Council of Churches has a message for the religious moralists who are now working to indoctrinate the entire nation much as the Nazis did in Germany seventy-five years ago. Edgar, a minister, argues that sexual orientation and identity is a private matter for each individual in which the church has no business interfering (The Religious Left, 2004). “When Jesus met the woman at the well,” Edgar is quoted as saying, “he didn’t ask her sexual orientation. He loved her” (The Religious Left, 2004).

That is not to say that the church has any business interfering in matters of the state. It is just an unfortunate fact of the times we live in that morality and religious beliefs influence the way a majority of American feel that laws should be made and interpreted, just as morality influenced the Nazis in their decision to punish gays and lesbians for being homosexual. On an even tone with the Third Reich, the white nationalists in our own country today would like nothing more than to eradicate homosexuals altogether as they fear homosexuality in whites had limited white birthrates to the point that minority populations will soon surpass the white population (Swain, 2004).

Even if the moral and religious values are taken out of the equation, people still have reasons for supporting bans against gay marriage that are not in synch with the Constitution. The most popular are the following:

Marriage is said to be reserved for male-female couples because (1) marriage is and always has been defined as the relationship between a “husband” and a “wife,” making same-sex marriages impossible; (2) the purpose of marriage is procreation, which is impossible for same-sex couples; or (3) expanding access would somehow devalue marriage and would discourage heterosexual couples from marrying (Badgett, 2001).

No one has contributed a significant legal argument for discouraging gays and lesbians from marrying or prohibiting them from doing so. It seems the only arguments anyone can provide are those that draw on principles from morality and religion, or those concerned with the “value” of marriage and procreation. How then, can this nation and its states continue to deny homosexual couples the equal protections of legal marriage?

The answer to that question rests in another inquiry we have yet to satisfy. There is still much speculation as to the origins of homosexuality as a core mechanism in an individual’s personality. Determining whether homosexuality is a lifestyle choice or a genetic predisposition will eventually settle the debate over marriage if legislators and judges do not come to their own legal conclusions before science can prove or disprove these hypotheses.

In Nazi Germany, homosexuality was defined by a series of abnormal physical characteristics such as abnormal tooth development and other “bodily deformities” (Proctor, 1988). These purported signs of homosexuality allowed the Third Reich to classify gays and lesbians as having a “genetically determined ‘diseased form of degeneracy’” (Proctor, 1988). In short, they classified homosexuality as a disease and used their alleged biological evidence to deny this group their human rights.

Today, the religious and the moralists overwhelmingly support the idea that homosexuality is a behavioral choice. They cite countless biblical passages and moral theories supporting man's free will to choose, their argument hinging on such ideas as each of us is not born a robber, or a murderer, or a rapist (Marzioli, 1996). These lawless individuals, they say, choose their deviant behavior, just as they believe that homosexuals choose to defy the "norm" and pursue their amoral lifestyles (Marzioli, 1996). This argument may be slowly unraveling at the hand of science, however, as new evidence suggests that homosexuality is anything but a choice.

In 1993, the first genetic link between male homosexuality and the X-chromosome was discovered (Peters, 2001). Scientifically speaking, a region of the "long arm" of the X-chromosome, identified as Xq28, is home to a gene that has a high correlating relationship with gay men (Peters, 2001). This suggests that homosexuality, at least among men, is genetically inherited from the mother. If proven to be an absolute truth, this scientific find could lend some heft to the argument that homosexuality among women is also genetic. Research has yet to yield any scientific findings that would link a woman's genetic material to her being a lesbian (Peters, 2001).

So what do we make of this biological discovery? Take this excerpt from Dr. Ted Peters' article on the gay gene:

Time magazine projected an ethical and political forecast [in response to the findings]: "If homosexuals are deemed to have a foreordained nature, many of the arguments now used to block equal rights would lose force." *Time* cited a gay attorney who says, "I can't imagine rational people, presented with the evidence that homosexuality is biological and not a choice, would continue to discriminate" (Peters, 2001).

Those, I fear, are extremely high hopes for a society that already condemns homosexuality and discriminates against the gay and lesbian community based on projected morality and religious preference.

Rather than accept homosexuality as a predisposition, I believe our country would push gays and lesbians even further away from social equity. This genetic proof, if it is eventually deemed as such, would be all the fuel for a fire the anti-gay rights movement needs to segregate gays and lesbians from the general populace and eliminate any possibility of extending them equal rights and protections once and for all. At first, our society would have a difficult time accepting homosexuality as a genetic inheritance, but it would take very little time for a radical moral or religious conservative to classify homosexuality as a genetic disease. The next logical step would be to treat this diseased part of our population as we would any other diseased member, with medication, counseling, and an onslaught of health care intervention both physical and mental. Homosexuality would become an epidemic, just as it was in Nazi Germany less than a century ago. And then what is to stop us from taking that final step and eliminating gays and lesbians once and for all? As one state Senator of Florida so eloquently addressed the gay populace of the Sunshine State, “we are really tired of you. We wish you’d go back in the closet” (ACLU Asks U.S. Supreme Court to Hear Appeal, 2004).

The desire for marriage among homosexuals may at first appear as a need for some measure of formal social label for the long term relationships many same-sex individuals find themselves in. That is a very shallow approach to the movement for marriage equality. The real battle being fought here is for the rights bestowed the lawfully married, such as spousal health benefits, hospital visitation, medical decision

making, the option to adopt children, and inheritance (Lucas, 2004). More than anything, homosexuals want the right to a normal family life despite that old stereotype that they commonly reject family, live through several unstable relationships, and alienate their relatives (Badgett, 2001). These archaic stereotypes just perpetuate the cycle of deprivation and fuel the fire for marriage equality opponents and anti-gay rights activists.

There is no easy answer or remedy to placate both sides of this argument. In Constitutional terms, basic rights are being violated, and liberties are being openly deprived by these amendments and statutes that ban gay marriage. As a nation, America has the opportunity to correct one more of its injustices that may someday be imprinted into the minds of its youth through vigorous discussion in history classrooms. Unfortunately, it has become a precarious situation that could, under the right circumstances and with all the right elements, become the worst case scenario for all homosexuals in our country.

I suggest that the state, that is to say the federal government, separate itself from marriage completely. Marriage, after all, is just a word. It is a term that eleven states narrowly defined this month, and one that encompasses a sacrament of many faiths. The state has a Constitutional obligation to offer civil unions with full legal protections and equalities to every couple in this nation, be they homosexual or heterosexual. Marriage, however, should be saved for the church and its parishioners to administer and celebrate. If specific churches are willing to offer a religiously ordained marriage to homosexuals, fine. If not, that is the choice of each independent church or denomination, and as such, should be respected by each of us. In my opinion, it is the only way for the religious right to save the sanctity of marriage they so fervently wish to deny homosexuals, while

protecting the liberties and equality of every United States citizen, regardless of his or her sexual orientation.

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