

Discrimination of Gays and Lesbians: A Social Justice Perspective

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ABSTRACT. The existence of discrimination against America's gay and lesbian citizens is widely supported in the research literature of many disciplines. This article provides a specific analysis of this discrimination and demonstrates the stark contrast between the discrimination of gays and lesbians in American society and the social justice concepts of equality and fairness. The works of Rawls, and later the works of Nussbaum, provide the theoretical framework highlighting the factors related to this discrimination and inequality. In the concluding section, specific implications for future policy development are presented that are designed to ensure that gays and lesbians are not further discriminated against. Areas examined include civil unions, gay marriages, adoptions, hate crime legislation and cessation of the U.S. military's "Don't Ask, Don't Tell, Don't Pursue" policy, advocating for inclusion of open gays and lesbians in military positions and command-ership. *[Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <<http://www.HaworthPress.com>> © 2004 by The Haworth Press, Inc. All rights reserved.]*

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DISCRIMINATION AGAINST GAYS AND LESBIANS IN AMERICAN SOCIETY

Discrimination and inequality faced by gays and lesbians in the United States is widespread, and the social movement to end such discriminatory practices has been recognized by many modern theorists researching queer theory (Kirsch, 2000). While some segments of American society may not identify with the modern gay rights movement, these issues are intertwined with the principles of equality and fairness (National Center for Human Rights Education, 2003).

The extensive existence of discrimination, hate crimes, violence, oppression and heterosexist hatred against homosexuals is widely supported in the research literature (Herek, 2002; Ellis, Kitzinger, & Wilkinson, 2002; Pierce, 2001; Conley, Devine, Rabow, & Evett, 2002; Irwin, 2002; Wetzel, 2001). The gay civil rights movement has as its agenda, the cessation of practices and cultural norms that inflict harm on homosexuals, visible directly in hate crimes aimed at inflicting violence on gays and lesbians and labeling of gay civil rights as special rights to undermine advances, or indirectly as in avoidance of taxation benefits afforded to married heterosexual couples through illegalization of gay marriages (Pierce, 2001).

Most researchers and authors in queer theory believe the gay civil rights movement began in 1969 with the Stonewall riots (Wetzel, 2001; Morrow, 2001; Poindexter, 1997; Weiss & Schiller, 1988). In his book *Stonewall*, Martin Duberman reveals that on the morning of June 28, 1969, at a little after 1 a.m., the police arrived to carry out a routine raid on the bar. The crowd fought back and the five days of rioting that followed forever changed the face of lesbian and gay life (Duberman, 1993). This event was perhaps most significant to gay and lesbian culture because it was the first time gays and lesbians rose up against police oppression and became actively resistant to institutionalized antigay violence (Morrow, 2001). Stonewall was a defining moment in gay and lesbian history that marked a significant change in the way homosexuals defined themselves. A sense of empowerment was born in the resistance that took place that morning. Before this historic event, gays and lesbians felt a sense of isolation.

Accurate information about this population was not available. Research on sexual orientation and the psychological health of lesbians and gays was in its infancy and opportunities for social supports and social interaction among homosexuals were limited (Morrow, 2001, p. 153).

Pervasive and commonplace in American culture, the exact etiologic source for discrimination against gays and lesbians is multifaceted (Herek, 2002). Research has shown a strong correlation between Christianity, male gender, belief in the “free choice” model of homosexuality (the thinking that gays and lesbians choose their sexual orientation) and other variables that create a hostile environment. In addition, other factors contribute to a discriminatory climate including a lack of association with gays, accurate information about gays and lesbians, lower educational levels and high regard for traditional family ideologies and structures with homo-negative attitudes and discriminatory practices (Crawford, McLeod, Zamboni, & Jordan 2000; Swigonski, 2001; Lim, 2002; Rivers, 2002). In summary, Crawford et al. (2000) stated:

In general, individuals who are most likely to hold negative attitudes toward gays and lesbians and gay and lesbian parenting are theistic, highly traditional men who believe homosexuality is a life-style choice, who know few if any gay or lesbian people personally, and who are surrounded by other people who share their views of homosexuality. (Crawford, McLeod, Zamboni, & Jordan 2000, pp. 394-401)

While some segments of American society hold personal prejudices against gays and lesbians, it is essential to examine how these prejudices correlate to discriminatory practices within state and federal judiciary systems and public policy drafting. Private consensual sexual acts between members of the same sex have been criminalized in some states through sodomy statutes; and the criminalization of these practices has had a negative impact on gay parenting issues in the nation’s court system (Patterson & Redding, 1996).

Discrimination is also evident in the regulations of some states in relation to adoption. For example, adoption of children by either single gay and lesbian individuals or gay and lesbian couples is illegal in the state of Florida. In contrast, there are no limitations to adoptions by heterosexual individuals or couples who qualify. Ironically, professionals within the welfare system are not without discriminatory bias. Studies have shown the presence of discriminatory practices and beliefs by social workers and child welfare specialists working in states where adop-

tion by gays and lesbians is not illegal (Crawford et al., 1999; Ryan, 2000). While there has been evidence of direct discrimination in the child welfare system and adoption services, there has also been empirically supported evidence of discrimination and inequalities in state and federal laws that relate to custody and parental rights (Cullum, 1993). In a legal context, the term “family” carries an ambiguous and ill-termed definition that has resulted in laws and regulations that fail to acknowledge gay parents. This has resulted in unfair and unequal treatment of homosexuals who attempt adoption, in comparison with heterosexuals.

Irwin (2002) has also found evidence in his research that harassment and homophobic treatment of gays and lesbians working in education are widespread. In a research study comprised of 900 gay men, lesbians and transgender individuals working as teachers and educators, 59 percent of participants reported “the existence of discrimination in both current and previous workplaces” (Irwin, 2002, p. 69).

Perhaps some of the etiology for hatred and homophobia towards gays is rooted in psychological science itself. Freud’s psychoanalytic theory, which dominated psychological literature well into the 1960s, claimed that homosexuals were in arrested development, representing a fixation in the Oedipal stage of psychosexual development. This led to the widely viewed belief that homosexuality was pathological and was the result of dysfunctional parent-child relationships (Morrow, 2001):

Based on this social construction of homosexuality as abnormal, many lesbians and gays living in the first half of the twentieth century dared not disclose their sexual orientation for fear of being institutionalized as mentally ill. (Morrow, 2001, p. 154)

Historically, homosexuals have been the targets of unjust discriminatory practices that singled them out in a uniquely predatory fashion. In New York City in 1953 the House Un-American Activities Committee, in conjunction with McCarthy, targeted lesbians and gays labeling them as threats to the stability of the country (Morrow, 2001). In his book, *The Gay Metropolis*, Kaiser states that the Un-American Activities Committee was involved in the deformation of homosexuals circulating rumors about congressional investigators threatening to “. . . blackmail American homosexuals if they refused to discuss their previous ties to the communist party” (Kaiser, 1997, p. 72).

After World War II, the U.S. military began discharging gays and lesbians and prevented them from serving. “Lesbians and gays terminated from military service were given undesirable discharges which

precluded their receiving future military benefits and marred their reputations, damaging their ability to obtain civilian employment.” In addition, “mandatory lectures on the pathology of homosexuality were instituted for new military troops” (Morrow, 2001, p. 156). In 1941 the Army and the Selective Service both included “homosexual proclivities” in their lists of disqualifying deviations. The War Department, in conjunction with the psychiatric community, defined homosexuality as a mental illness. Homosexuals were described as individuals who were comprised of three personality disorders: psychopaths and sexual perverts, paranoid personalities suffering from homosexual panic, and schizoid personalities (Kaiser, 1997, p. 29).

While these practices are pre-Stonewall, some of them are still prevalent today. Although altered through the “Don’t Ask, Don’t Tell, Don’t Pursue” policy of the U.S. military, the 1994 National Defense Authorization Act, homosexuals still cannot openly serve in the Air Force, Army, Marine Corps, Navy, or Coast Guard (Belkin, 2003). Their lives are in jeopardy as is seen in the death of Barry Winchell, a man killed by a fellow soldier while serving in the Army. In 1999, the 21-year-old Private First Class was beaten to death while sleeping in his barracks. A member of his unit who perceived him as being homosexual assaulted and killed him. A similar incident had occurred in Japan in 1992. A sailor or airman beat a gay Seaman, Allan Schindler, to death after he came out to his commanding officer (Service Members Legal Defense Network, 2002). Some gay rights organizations and those advocating for the repeal of “Don’t Ask, Don’t Tell, Don’t Pursue” claim that if these soldiers had been able to openly discuss concerns related to harassment based on sexual orientation, their murders might have been prevented (SMLDN, 2002).

Spiritual violence (the validation of hatred and discriminatory practice against homosexuals because of religious-associated immorality) is also a prevalent issue in America today (Swigonski, 2001). As Swigonski asserts:

Hebrew and Christian scriptures have been used to characterize GLBT (gay, lesbian, bisexual and transgender) persons as moral transgressors, as individuals who stand outside the cloak of protection of human rights, and to justify or rationalize hate crimes against them. (2001, p. 34)

Regardless of religious influences, historical psychological contributions, or other factors that contributed to the oppression of homosexu-

als, the existence of discrimination alone should be enough to warrant concern by all Americans who believe in the foundation of the principles of freedom, justice and equality. On the contrary, discrimination is alive, well and still prevalent against minorities in America today. The challenge is for all Americans to renounce the oppression of any minority and promote fairness and egalitarianism. Of great influence to this ideology is the work of ethicist John Rawls. Rawls wrote of a “veil of ignorance” under the “original position,” in which social status and labeling were removed as an individual imagined himself or herself without socially prescribed adjectives and without a predestined social class and position. Rawls believed that if this were the primary ideal then people would want all rights and liberties to be afforded equally since he or she would not know their eventual status in society. Consequently, those who found themselves to be members of oppressed groups would have the same social rights provided to those who were not oppressed (Miller, 1999). If his work has validity in the ethics of social justice principles, it is essential that we examine it in relation to the gay civil rights movement. In addition, it would be detrimental to ignore his work as it relates to the rights, freedoms and liberties of all individuals, not just to the rights of gays and lesbians. The work of John Rawls is not the only social justice theoretical framework that can be utilized when examining the implications of social justice theory and the principles within the scope of gay and lesbian discrimination. Many principles of Martha Nussbaum’s theories of social justice can also be applied to gay and lesbian rights, especially within the context of the social justice principles of equality and fairness.

EQUALITY AND FAIRNESS IN A SOCIAL JUSTICE FRAMEWORK

Many authors and researchers have correlated Rawls’ theories of social justice and distributive justice theory to the gay civil rights movement (Schauer, Sinnott & Armstrong, 2003). Perhaps Rawls’ most important contribution to the field of social justice theory is his text *A Theory of Justice* (1971). In this publication, Rawls gives what he believes are the foundational characteristics of the social justice principles of fairness and equality. While Rawls never gives a formal definition of the two terms, he does accentuate the societal implications of justice and fairness and also discusses the obligation of society to ensure that everyone employs both of these principles (Rawls, 1971). Rawls also

mentions governmental responsibility, referred to as institutions of practices, in ensuring the meeting of these social justice principles: “It is important to note, however, that the principles of fairness has two parts, the first which states the institutions of practices in question must be just, the second which characterizes the requisite voluntary acts” (Rawls, 1971, p. 112). It is perhaps the first part, the need for just institutions of practices, to which discrimination against gays in American society stands in opposition. For example, many gays believe that government is not just and thus, extrapolating into Rawls’ requirements for fairness, is not fair. Specifically, gay rights advocates have proposed the addition of laws that protect homosexuals against violent crimes by allowing the federal government to intervene in cases where the local authority is unable or unwilling (EF, 2002).

Some states will not pass such legislation because of the opposition of some conservative policymakers. Lawmakers in the state of Florida have not passed the Local Law Enforcement Enhancement Act (also known as the Florida Hate Crimes Prevention Act), which “would enable federal authorities to act in cases of violent crimes either where local authorities lack sufficient resources, or where they fail to act” (EF, 2002). Like Rawls, others researching the effects of public policy on homosexuals also believe in a governmental duty to meet such fairness responsibilities. Janice Wood Wetzel (2001) examined human rights in relation to both international and national policy and mentions this governmental requirement:

The human rights system is built upon the premise that governments are obligated to create the conditions under which human rights laws can be fulfilled, thus providing each individual with freedom from human rights violations either by the government itself or by others. (Wetzel, 2001, p. 15)

Echoing these sentiments is Amnesty International, an organization concerned with fairness and equality on a global level. In 1997, Amnesty International’s United Kingdom Chapter questioned the rationale of why gays and lesbians were not afforded fair protection in both national and international law, “Why is it that general human rights protections so often fail to shield gay men and lesbians from serious abuses” (Amnesty International–United Kingdom, 1997, p. 9). Arguably, some might consider the failure to meet the safety and protection needs of gays and lesbians by the national government of the United States to be contra-

ditory to Rawls' definition of fairness, as the institutions of practice fails to be just.

One more aspect of Rawls' theory of social justice is pertinent: the principle of equality. Like fairness, equality is poorly defined in reference to how it relates to the gay civil rights movement. Many describe the impact and meaning of equality differently, making it difficult to define equality in generalized terms. Rawls' *A Theory of Justice* defines equality as "the features of human beings in virtue of which they are to be treated in accordance with the principles of justice" (Rawls, 1971, p. 504).

While some discussion of governmental failure to protect gays and lesbians from harm is in contrast to Rawls' theory as it relates to fairness, equality principles and definitional differences between Rawls' theory and current American societal practices are also evident. Rawls explains three application-principle levels of equality. The levels are from most basic to complex, with the third level considering the role of morality (Rawls, 1971). Rawls doesn't identify moral individuals as those who commit right and wrong, but rather those who have the potential to develop a "moral personality"—those individuals who deserve the "equality of justice" (Rawls, 1971, p. 506). Rawls clearly states "there is no race or recognized group of human beings that lacks this attribute" (Rawls, 1971, p. 6).

He later continues that "It is sometimes thought that basic right and liberties should vary with capacity, but justice as fairness denies this provided the minimum for moral personality is satisfied, a person is owed all the guarantees of justice" (Rawls, 1971, p. 507). Thus when applying Rawls' theory to practice, the assumption is made that regardless of whether gays and lesbians are identified with a group that lacks the attributes required to develop a moral personality they are still entitled to the guarantees of justice, the equality rights afforded to heterosexuals and heterosexual couples.

Currently in American society, inequalities between gays and non-gays prevail and discrimination against gays and lesbians is a common occurrence (Morrow, 2001; Irwin, 2002; Conley, Devine, Rabow, & Evett, 2002). Rights that are given to heterosexuals and heterosexual couples, including the institution of marriage which is the formal recognition of the unification of a couple by state and federal registry and law, taxation compensation based on marriage, the ability to identify sexual orientation while serving in the U.S. Armed Forces, adoption privileges and the extension of health and life insurance benefits to same-sex part-

ners in both federal and nonfederal employment positions, are some areas where equality for homosexuals simply doesn't exist (EF, 2002).

Governmental officials vary greatly on many of these equality issues. In a publication released in 2002 by Equality Florida, a nonprofit organization that lobbies for equal treatment of lesbians and gays in the state of Florida, it was affirmed that 12 out of 38 candidates running for public office, including the incumbent Florida Gov. Jeb Bush, opposed one or more gay rights initiatives the organization lobbies for. Twelve of the 38 candidates supported one or more of the initiatives, with some overlap in both supportive and nonsupportive issues within each candidate's supportive profile (EF, 2002). Gov. Jeb Bush has openly vocalized opposition to many gay rights in Florida (EF, 2002). Responding to questioning about the provision of same-sex partner benefits for state employees, Bush stated, "The state should not be in the business of actively sanctioning this particular lifestyle" (EF, 2002, p. 2); and when commenting on the issue of lifting Florida's ban on gay adoptions, he replied, "Gay adoption . . . I would consider on the Richter scale of political importance, I'd put that down below 100. That'd be my position" (EF, 2002, p. 2). Statements such as these and the opposition to affording equality to lesbians and gays appears to dramatically conflict with many theories of social justice and the concept of human rights (Nussbaum, 2000; National Center for Human Rights Education, 2003). Like Rawls, Martha Nussbaum has also developed a theory of social justice and human rights. Nussbaum's theory, while certainly feminist in foundation, addresses the rights of gays, lesbians and bisexuals. In her work, Nussbaum proposes six rights that should be afforded to lesbians and gays:

- The right to military service.
- The right to be protected against violence.
- The right to have consensual adult sexual relations without criminal penalty.
- The right to marriage and/or the legal and social benefits of marriage.
- The right to retain custody of children and/or to adopt.
- The right to be free from discrimination in housing, employment, and education, with an exception for religious organizations only.

Nussbaum was widely influenced by the work of Rawls and credits him for much of her work (Garrett, 2002). While an entire overview of her theory is beyond the scope of this exposition, it is salient to examine her theory of human rights especially in terms of equality and fairness.

Like many feminist theorists, Nussbaum affirms a liberal view that is compatible with the feminist affirmation of the value of women as persons:

At the heart of this tradition [of liberal political thought] is a two-fold intuition about human beings: namely, that all, just by being human, are of equal dignity and worth, no matter where they are situated in society, and that the primary source of this worth is a power of moral choice within them, a power that consists in the ability to plan a life in accordance with one's own evaluation of ends. (Nussbaum, 1999, p. 57)

In her theory, Nussbaum discusses equality: "the moral equality of persons gives them a fair claim to certain types of treatment at the hands of society and politics. This treatment must do two things: respect and promote the liberty of choice, and respect and promote the equal worth of persons as choosers" (Nussbaum, 1999, p. 57). At the core of Nussbaum's theory on human rights is what she terms the basic capabilities, which are based on Amartya Sen's substantial freedoms. These are basic human rights that Nussbaum believes everyone is entitled:

1. Life: being able to live to the end of a human life of normal length.
2. Bodily health and integrity.
3. Bodily integrity: being able to move freely from place to place; being able to be secure against violent assault, including sexual assault.
4. Senses, imagination, thought: being able to use the senses; being able to imagine, to think and to reason; being able to use one's mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech and freedom of religious exercise; being able to have pleasurable experiences and to avoid non-beneficial pain.
5. Emotions: being able to have attachments to things and persons outside ourselves; being able to love those who love and care for us; not having one's emotional development blighted by fear or anxiety.
6. Practical reason: being able to form a conception of the good and to engage in critical reflection about the planning of one's own life.
7. Affiliation: being able to live for and in relation to others, to recognize and show concern for other human beings, to engage in

various forms of social interaction; being able to imagine another's situation and to have compassion for that situation; having the capability for both justice and friendship; being able to be treated as a dignified being whose worth is equal to that of others.

8. Other species: being able to live with concern for and in relation to animals, plants and the world of nature.
9. Play: being able to laugh, plays, and enjoy recreational activities.
10. Control over one's environment:
 - (A) Political: being able to participate effectively in political choices that govern one's life; having the rights of political participation, free speech and freedom of association . . .
 - (B) Material: being able to hold property (both land and movable goods); having the right to seek employment on an equal basis with others (Garrett, 2002).

By encompassing the rights of gays and lesbians into this theory of human rights, Nussbaum created an argument in support of homosexuals in relation to many of the major civil liberties, rights, and equalities gays and lesbian strive to achieve. Her basic capabilities provide a foundation for consideration of the characteristics basic human rights should afford to all individuals, not just gays and lesbians. While works like those produced by Rawls and Nussbaum provide a theoretical basis for the rights of gays and lesbians, the topics examined in these works have shown multiple areas of American society where gays and lesbians face discrimination and inequality.

IMPLICATIONS FOR FUTURE POLICY DEVELOPMENT AND REVERSAL

Civil Unions and Homosexual Marriage

Currently in the United States, marriages between a man and another man or a woman and another woman are not legally recognized. Furthermore, only the states of Vermont and California have enacted legislation that gives some of the rights of marriage to gays and lesbians through "civil unions," though many of the taxation benefits and other incentives enjoyed by heterosexual married couples are not provided in these states' civil union statutes (Vermonters for Civil Unions, 2001). In Vermont, civil unions provide the following benefits to same-sex couples:

- Automatic inheritance rights without having to get a will, and broad protections for the surviving partner under the probate laws.
- The right to dispose of partner's bodily remains upon death.
- The preference for becoming partner's guardian if partner is incapacitated.
- The preference for making health care decisions without having to execute a Power of Attorney.
- The right to visit in the hospital.
- Wrongful death cause of action if partner is killed in an accident.
- Loss of consortium claim if partner is injured due to another's negligence.
- Exemption from Property Transfer Tax when one person puts his or her partner's name on the deed.
- The right to hold property as Tenants by the Entirety, protecting property from some creditors.
- Communication privileges, so partners cannot be forced to testify against the other.
- Leave from work to care for an ill partner under family medical leave laws.
- Leave from work when one's partner gives birth to or adopts a child under parental leave law rights as a stepparent for a child of the other partner.
- Protection from discrimination in insurance and credit (to get, for example, joint car insurance).
- Greater access to health insurance coverage to partners in a civil union.
- Potential responsibility to provide support (alimony) to the other partner upon dissolution (VFCU, 2001).

While implementation of Vermont law into legislation for all 50 states is not likely to occur, perhaps tailoring a civil-union statute in each state is not unreasonable. Using the Vermont civil union statute as a benchmark, other states could ensure that the civil union law enacted in their state fairly affords rights and legal recognition to homosexual couples that have entered into a contractual commitment with each other.

Many gay equality organizations throughout the United States have already drafted civil union proposals and are lobbying for consideration into legislation (EF, 2002).

Hate Crimes and Anti-Gay Violence Protection

Nussbaum asserts that homosexuals should be protected from violence and that some states and local jurisdictions have enacted laws that include sexual orientation in strengthening the penalties for violence

levied towards gays and lesbians (Nussbaum, 1999). Some claim these efforts are not enough and some jurisdictions do not have hate crime laws. Organizations such as the Anti-Defamation League show strong support for hate crime legislation:

All Americans have a stake in an effective response to violent bigotry. Hate crimes demand a priority response because of their special emotional and psychological impact on the victim and the victim's community. The damage done by hate crimes cannot be measured solely in terms of physical injury or dollars and cents. Hate crimes may effectively intimidate other members of the victim's community, leaving them feeling isolated, vulnerable and unprotected by the law. By making members of minority communities fearful, angry and suspicious of other groups, and of the power structure that is supposed to protect them, these incidents can damage the fabric of our society and fragment communities. (Anti-Defamation League, 2001, p. 1)

One particular proposal being considered is the Local Law Enforcement Enhancement Act, also known as the Federal Hate Crimes Prevention Act. If passed and written into federal law, this legislation would increase the amount of resources available to local law enforcement agencies (EF, 2002). If a violent crime was committed and was deemed to have prejudice and discrimination as its underlying motive, local authorities could employ the use of federal authorities to help assist with the incident. In addition to increasing the resources of local authorities, this legislation would also allow the federal government to intervene in cases where victims of hate crimes believe local authorities were either not providing adequate resource allocation, or were not treating the crime in accordance with legislation that includes homosexuals as a protected class.

Cessation of the "Don't Ask, Don't Tell, Don't Pursue" Policy

The U.S. military's ban of allowing open homosexuals to serve in the armed forces is deep-rooted (Morrow, 2001). By the end of the 1940s, the U.S. military was discharging 1,000 gays and lesbians per year; and by the 1950s, the figure doubled to 2,000 discharges annually (D'Emilio & Berube, 1984).

With the election of President William Jefferson Clinton in 1992, a new policy was drafted. President Clinton wanted to successfully end

the discrimination against gays who were serving in the U.S. Armed Forces and, in 1993, attempted to fulfill his campaign promise to suspend the ban (Clinton, 1993, p. 240). His effort was met with strong opposition from a majority of lawmakers in combination with the Joint Chiefs of Staff and prominent members of Congress like Sam Nunn that lobbied to continue the practice of asking whether or not applicants had ever practiced homosexual acts or ever would in the future; and, those who answered affirmatively were disqualified for duty (Belkin, 2003; Showtime Network, 2003). President Clinton had embraced an issue that proved to be a political firecracker. In her book *Living History*, Hillary Rodham Clinton surmised that she found the military's treatment of homosexuals to be hypocrisy. She stated that "just three years earlier during the Gulf War, soldiers known to be homosexual . . . were sent into harm's way because their country needed them. After the war ended, when they were no longer needed, they were discharged on the basis of their sexual orientation, that seemed indefensible to me" (Clinton, 2003, p. 240).

The resulting compromise between the two factions was the current 1994 National Defense Authorization Act, commonly referred to as the "Don't Ask, Don't Tell, Don't Pursue Policy" of the U.S. military. Multiple studies have shown that a large number of gays and lesbians have historically served in the U.S. Army, Navy, Coast Guard, Marines and Air Force (Belkin, 2003). A large amount of data exists that refutes the current argument. Those in favor of "Don't Ask, Don't Tell, Don't Pursue" cite: "The official justification for the current policy is the unit cohesion rationale, which states that military performance would decline if known gay and lesbian soldiers were permitted to serve in uniform" (Belkin, 2003, p. 108). Those who oppose the ban have recently lauded a research study entitled "Don't Ask, Don't Tell: Is the Gay Ban Based on Military Necessity?" This study, published in *Parameters*, a "highly regarded and read military journal" (Alexander, 2003), specifically examined issues such as unit cohesiveness in the armed forces of Canada, who lifted its ban on gays in 1992 (Clinton, 2003, p. 241), Australia, Great Britain, who lifted their ban in 2000 (p. 241) and Israel, where gays are permitted to openly serve. The research conducted by the Center for Studies of Sexual Minorities in the Military (CSSM) was perhaps exhaustive:

To prepare the case studies, every identifiable pro-gay and anti-gay expert on the policy change in each country was interviewed, including officers and enlisted personnel, ministry representatives,

academics, veterans, politicians and nongovernmental observers. During each interview, experts were asked to recommend additional contacts, all of who were contacted. By the end of our research, 104 experts were interviewed and 622 documents and articles were examined. Although it is possible that additional data exist, CSSMM believes that the findings reflect a comprehensive appraisal of all relevant evidence. (Belkin, 2003, pp. 108-109)

The major implication of this research was disproof and dissociation of support for the major fallacies (including unit cohesiveness) supporters of the “Don’t Ask, Don’t Tell, Don’t Pursue” claim (Alexander, 2003). “Not a single one of the 104 experts interviewed believed that the Australian, Canadian (lifted ban in 1992), Israeli, or British (lifted ban in 2000) decisions to lift their gay bans undermined military performance, readiness, or cohesion, led to increased difficulties in recruiting or retention, or increased the rate of HIV infection among the troops” (Belkin, 2003, pp. 109-110).

Because of studies such as this one and the perpetuation of hate crimes and violence targeted at homosexuals (including the murders of two soldiers discussed previously in this text), a change in military policy is perhaps an obligation of ensuring equality and fairness in America’s Armed Forces. Barry Goldwater, an icon of the American Right, sums it up with eloquent simplicity when he says, “You don’t need to be straight to fight and die for your country; you just need to shoot straight” (Clinton, 2003, p. 242).

The ideal of social justice, of living in a society where all people are treated with equal regard and respect, and where differences are seen as benefits, not debilitations, remains only a vision for many. Homosexuals continue to suffer the oppression of discrimination and the social justice concepts of equality and fairness remain absent from their lives. The acceptance of diversity is essential to the survival of democracy. This is not a new concept, but rather, one that has been considered for decades and is reflected in this statement made by Franklin D. Roosevelt in a letter he wrote to the NAACP in 1938, “No Democracy can long survive which does not accept as fundamental to its very existence the recognition of the rights of minorities” (Minor, 1994, p. 349). It is clear that the concept of social justice will not be realized until society can embrace the notion that different does not mean bad. “The only ideals involved in all questions of sexual orientation are the great transcendent questions of justice and love . . . acceptance of the homosexual community will leave both communities free from the need to conform to narrow stereotypes . . . and free to develop all the qualities that belong to the fullness of the human personality” (McNeill, 1993, p. 149).

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