

Marie Perlas

Professor Shively

POLS 4081.03

17 November 2014

Engagement Paper 10

The Issue of Gay Marriage and Equality in Texas

The Lesbian, Gay, Bisexual, Transsexual and Queer communities around the world have been actively spearheading movements to achieve equal rights in a global society still teeter-tottering in inequality since time immemorial. A combination of historical and religious constructs influence the current standing of gay rights throughout the world. In the United States, gay rights is a highly debated subject between the two political factions being guided by two polar ideologies: the liberal democrats and the conservative republicans. Some left-leaning states in the nation have already legalized the status of gay marriage within their state boundaries, while others are strongly planning to legalize it soon. On the other hand, the conservative states are staunch on outlawing gay marriage, often citing the moral and religious fabrics of its citizens and the protection of their children. Texas is a conservative state, historically grounded with ideals of the highly conservative and religious south. Gay marriage is still struggling within its borders in terms of legalization and the fight for it is still going intensely as more and more people actively strive for it.

The prospect of gay marriage is currently not legal in the state of Texas. In the year 1997, the legislative branch of the Texas state government banned the distribution and issuance of marriage licenses to same-sex couples. Six years later in 2003, the legislative branch added a newly-enacted statute that voided all forms of legalized unions between same-sex couples. This statute prohibited any governing body within state jurisdictions to legitimize any pre-existing

same-sex union acquired from other jurisdictions (Texas Family Code sec. 2.001 (b)). Ten years later at the regular session of the Texas legislature, Representative Lon Burnam presented the House Bill 1300 that repeals the current ban at the time regarding same-sex marriage (Texas Family Code sec. 6.204). The bill died in the House of Representatives' State Affairs Committee. Senator Juan Hinojosa proposed Senate Bill 480 that restricts its repeal on civil unions only (Texas Family Code sec 6.204 (c)), but the Senate Bill 480 also died within the committee. The most current legal issue regarding gay marriage in Texas happened in the early months of 2014 when Orlando Garcia, a United States District Court judge for the Texas Western District, decided and found that the state law regarding the ban of gay marriage within the state is unconstitutional. Two months later, Judge Barbara Nellermoe of Bexar County, Texas also decided that the ban on same-sex marriage is unconstitutional. These two findings and decisions did not bode well in the conservative state and are now being appealed by the state Attorney General Greg Abbott. As of recently, there are thirty states legalizing gay marriages and civil unions. Texas remains in the twenty that do not.

This legal odyssey for gay marriage has a huge effect on the Texan LGBTQ community. As the current legal standing of gay marriage laws in Texas remain null and void, openly-gay Houston Mayor Annise Parker, who married her longtime partner in California early in 2014, stated that legalization of gay marriage in Texas will eventually happen (Reese, 2014). There are various cases that pertained to gay marriage in the state of Texas. These legal actions reached the state courts as counter-reactions to the current prohibiting laws. One of these cases is the case of *De Leon v. Perry* that took place early in 2014 was profound in its ruling. Federal District Judge Orlando Garcia ruled in favor of the gay couple, stating that the state of Texas "failed to identify any rational, much less a compelling, reason that is served by denying same-sex couples the

fundamental right to marry” (Parker, 2013). This case is currently under the briefing and review of the US Fifth Circuit Court of Appeals. Another case happened in the state capital of Austin. A same-sex couple married in Massachusetts filed for divorce in Texas, and, before the Attorney General had the ability to intervene, the district court handling the case actually granted the divorce. The Attorney General appealed the decision and the case is now pending at the Texas Supreme Court (Kreytak, 2011).

Recently, in an effort to move towards social progression, Sam Houston State University revised its *Equal Employment Opportunity Policy and Nondiscrimination Statements* to be able to encompass sexual orientation and gender identity. Frank Parker, the Vice President for Student Services, led the Office of the President’s Cabinet to vote on the previously mentioned statements’ incorporation into three areas of the existing university policy: Chapter V, which details qualifications for employment; Chapter VI, which details criteria for university admissions; and Chapter VII, which details non-discrimination policies in the general day-to-day campus life and activities. Back in March 2011, the Student Government Association approved Senate Bill S11-03 or the “*Bearkat Equal Protection and Opportunity Act*” in order to urge the Division of Student Services to impose restrictions against discrimination on the basis of Sexual Orientation. This Act was included in the Student Organizations Policy within the Student Guidelines Handbook. There are currently only two universities within the Texas State University System that are actively adopting the wording of this policy: Sam Houston State and Texas State-San Marcos. Another collegiate system that includes a gender-based protection clause is the Lone Star College system (Gauntt, 2014).

Assistant Director of Student Activities Chuck Collins conducted a survey back in 2009 to measure the standing of the LGBTQ people attending the university at the time. Out of 1,352

students who responded in the survey, 298 identified as members of the LGBTQ community.

Out of the 246 faculty and staff respondents to Collins's survey, 24 identified as LGBTQ.

Because of the recent rise of student population within the intervening years between 2009 and 2014, there is much reason to expect that the population of the LGBTQ attending or working at this university also increased. The revision in the university policy regarding gender

discrimination protecting LGBTQ people will benefit this particular population tremendously.

Good protective policies like this secures the safety and well-being of the LGBTQ community

within the university and will enable them to work with utmost productivity because of the

nonexistence of possible hostile working environments. It also encourages associations and

organizations functioning within the university to be more inclusive and welcoming of people

identifying to be LGBTQ and to sustain a level of diversity that is part of the university's vision

and mission. The *Equal Employment Opportunity Policy and Nondiscrimination Statements*

enables the university to conduct just hiring practices free of bias and discrimination against

LGBTQ people and not terminate, admit students based on merit and not gender, and allow

LGBTQ students to enjoy and reap the educational benefits of collegiate life without the constant

and lingering fear of gender-based discriminations from other people in the college (Gauntt,

2012).

The LGBTQ's efforts and struggles to acquire and attain equal rights in terms of marriage, employment security and standing in society have come a long way from the days of

secretly visiting gay bars like the Stonewall Inn in New York City. Today, members of the

LGBTQ continue to progress in terms of what they are seeking: equality. Even with some

hindrances along the way, the LGBTQ movement continues to move forward, fighting and

struggling for their basic human rights such as the right to have a family with the blessing of a legalized marriage, and they will not stop until they achieve everything they are fighting for.

Works Cited

Texas Family Code sec. 2.001(b)

Texas Family Code sec. 6.204

Texas Family Code sec. 6.204(c)

Parker, Kolten (December 11, 2013). "Federal judge sets hearing on Texas same-sex marriage ban". mysanantonio.com. Retrieved January 18, 2014.

Kreytak, Steven (January 7, 2011). "Same-sex divorce stands under appellate ruling: Attorney general did not have standing to intervene in case, court declares". Austin American-Statesman. Retrieved January 19, 2013.

Gaunt, Jennifer (March 7, 2012). "SHSU Adds Sexual Orientation, Gender Identity Protection Into Policy". http://www.shsu.edu/~pin_www/T@S/2012/equalitypolicy.html. Retrieved November 15, 2014.

Reece, Kevin (October 6, 2014). "What Supreme Court decision means for same-sex marriage and Texas". <http://www.khou.com/story/news/local/2014/10/06/what-supreme-court-decision-means-for-same-sex-marriage-and-texas/16831483/>. Retrieved November 15, 2014.

