

Gay rights

[Sociology](#), [Human Rights](#)



The 1950s through the 1960s were all about civil rights. African Americans fought to assert their full rights as Americans, women fought to be able to stand next to a man in whatever profession and also vote. And now since the late 1960s it's the gays turn to fight for equal rights. The movement for gay equality in the constitution has been a recent topic for debate in the United States. Over the last several decades, gay rights advocates have made significant strides in better protecting homosexuals from discrimination, violence, and exclusion. However, many people assert that gays continue to experience discrimination on a scale unequalled by almost any other minority population. Despite the hard-won gains that now allow many in the gay, lesbian, bisexual, and transgender community (often abbreviated as GLBT or LGBT) -including those serving as elected officials, in high-profile business roles, and in the military-to be open about their sexuality, they are still denied what gay rights advocates contend is one of the most basic rights that heterosexual Americans take for granted: the right to marry and have that marriage recognized by the U. S. and state governments. Indeed, in recent years, dozens of states and jurisdictions have passed legislation explicitly outlawing same-sex marriage, while several others-including Connecticut, Iowa, Maryland, Massachusetts, New Hampshire, New York, Vermont, and Washington, D. C.-have legalized the practice. Homosexuals have been trying to secure themselves from violence and exclusion the best they could. And now it's time to take it out of their hands. Americans' views on gay marriage have shifted markedly over the past several decades. A Gallup poll from 1996, for example, showed only 27 percent of Americans supported gay marriage, with 68 percent opposed. In 2012, however, a Wall

Street Journal and NBC News poll found that 49 percent of Americans supported legalization and 40 percent opposed it. Additionally, polls have shown that younger Americans tend to be more supportive of gay marriage. Gay rights advocates have argued that it is unconstitutional to deny homosexuals the same rights as heterosexuals. Opponents, on the other hand, have backed amendments to the U. S. Constitution and state constitutions to define marriage as being exclusively between a man and a woman. On May 9, 2012, during a television interview with ABC, President Barack Obama (D) stated that he believed that homosexuals should have the right to marry. The statement marked the first time that a sitting president had voiced support for same-sex marriage. And in November 2012, voters in three states—Maine, Maryland, and Washington—approved initiatives supporting same-sex marriage, while voters in Minnesota rejected a proposal to ban the practice. The results marked a stark contrast from previous national elections, in which anti-gay marriage propositions served as a rallying call for social conservatives and increased Republican turnout. Should gay marriages be recognized by the federal government, or should they be banned by a constitutional amendment? Do gay people need better legal protection against discrimination, just as earlier civil rights movements did? Supporters of gay rights argue that homosexuals should be able to enjoy the same rights as everyone else in society. The fact that some people happen to be attracted to their own gender, they argue, is incidental and should not have any bearing on their ability to exercise their basic rights. The gay rights movement is analogous to the movements to gain equality for racial minorities and women, supporters contend, and gay rights initiatives

deserve the same consideration as those earlier movements. As was the case with earlier rights movements, they stress, gay people are not asking for special treatment—they are only asking to be treated equally. Opponents, meanwhile, are quick to point out that they are simply trying to uphold social conventions that stretch back to ancient times. According to many opponents, the cause of gay rights is not about gaining equal treatment for all; rather, it is about abandoning traditional moral values. Critics accuse a small group of gay rights activists of trying to force their positions on the majority of Americans who still view homosexuality as wrong. Many critics also oppose gay rights on religious grounds, noting that there is language in the Bible that can be interpreted as condemning homosexuality.

History of the Gay Rights Movement In 1969, patrons of the Stonewall Inn, a gay bar in New York City, rioted after police raided the establishment. At the time, homosexual acts were illegal in most areas, including New York City, and police often raided bars known to be frequented by gay men in the hope of arresting patrons engaged in homosexual behavior. Police at the time often used harsh tactics against people at such establishments, and typically faced little resistance. [See Key Events in History of the Gay Rights Movement (sidebar)] That night, however, some of the men at the Stonewall Inn decided to fight back; police barricaded themselves in the bar after angry patrons pelted them with beer bottles, garbage cans, and coins from broken parking meters. A special police riot unit was called in and swiftly dispersed the crowd. The riot sparked a change in the gay community, leading many gay men to refuse to cooperate with police and to become more assertive and outspoken about their sexuality. Although gay men and women had

protested against discrimination and unequal treatment many times in the past, historians have pointed to this incident—known as the Stonewall riot—as the genesis of the modern gay rights movement. The emerging gay rights movement not only challenged legal discrimination against homosexuals, but also sought to reshape the perception of homosexuality among mainstream society. Groups such as the Gay Liberation Front encouraged homosexuals to publicly acknowledge their sexual orientation. The decade of the 1970s marked a turning point in American society as many gay men and women came "out of the closet" and began asserting their identity. An important victory for the movement came in 1973 when the American Psychiatric Association, the nation's leading organization of psychiatrists and mental health professionals that publishes an authoritative manual of psychiatric illnesses, declassified homosexuality as a form of mental illness. The outbreak of the sexually transmitted disease AIDS (Acquired Immune Deficiency Syndrome) among gay men in the early 1980s, however, proved to be a setback for the gay rights movement, as many people began to associate homosexuality with AIDS and casual, dangerous sex. Additionally, homosexual acts—classified under the broad category of "sodomy" by some legislatures—were still illegal in some states, and gay rights activists fought to overturn such laws. In 1986, the gay rights movement suffered a defeat when the U. S. Supreme Court ruled in the case *Bowers v. Hardwick* that gay men do not have the right to commit sodomy in private. The case revolved around Michael Hardwick, who had been arrested in Atlanta, Georgia, for having sex with another man in his home. The arresting officer had a warrant to arrest Hardwick for public drinking and had been let into his residence by

a roommate. Finding Hardwick engaged in sexual activity with another man, he arrested him under Georgia's anti-sodomy law. Hardwick sued Georgia attorney general Michael J. Bowers, arguing that the sodomy law violated his privacy because it criminalized consensual contact between two adults in the privacy of one's own home. The Supreme Court, however, ruled 5—4 that the privacy rights protected by the Fifth and Fourteenth Amendments to the Constitution do not include sex between two men because, in the words of the justice, " no connection between family, marriage, procreation on the one hand and homosexual activity on the other has been demonstrated." The Court also ruled that the fact that a majority of Americans held the opinion that homosexuality was immoral was an adequate rationale for anti-sodomy laws. Seventeen years later, the Supreme Court essentially overturned its Bowers decision when it ruled in *Lawrence v. Texas* in 2003 that anti-sodomy laws did indeed infringe upon homosexuals' basic rights and are therefore unconstitutional. In the Court's 6—3 decision, Justice Anthony Kennedy wrote: " When homosexual conduct is made criminal by the law of the State, that declaration in and of itself is an invitation to subject homosexual persons to discrimination both in the public and in the private spheres. The central holding of Bowers has been brought in question by this case, and it should be addressed. Its continuance as precedent demeans the lives of homosexual persons." The Lawrence ruling invalidated anti-sodomy laws in Texas, Kansas, Missouri, and Oklahoma, which were specifically aimed at homosexuals. The Court's ruling did not apply to anti-sodomy laws that did not differentiate between heterosexual and homosexual sodomy. [See Supreme Court Strikes Down Texas Anti-Sodomy Law in Victory for Gay

Rights Movement (sidebar)] The gay rights movement enjoyed several other notable victories in the years following the Lawrence ruling. In 2004, the Supreme Judicial Court of Massachusetts ruled that laws barring homosexual marriage were discriminatory and unconstitutional. The decision made Massachusetts the first state to allow same-sex marriage. In 2009, President Barack Obama (D) signed into law the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act. The law was named after Shepard, who had been tortured and killed in Wyoming in 1998, likely because he was gay, and Byrd, a black man who was killed in Texas in 1998 by white supremacists. The law expanded the definition of a hate crime to include crimes motivated by a person's sexual orientation, gender, or disability, in addition to the victim's national origin, color, race, and religion. Gay rights activists have also waged campaigns for equality and inclusion in many organizations, including private groups such as the Boy Scouts. Courts, however, have repeatedly ruled that the government cannot force such groups to allow homosexuals into their ranks, because such a mandate would infringe on the First Amendment's guarantee of freedom of association. Gay rights activist groups like Gay & Lesbian Advocates & Defenders (GLAD) and the Human Rights Campaign have worked to end what they see as discrimination against homosexuals in the workplace, as well as in private organizations such as the Boy Scouts. While there are currently no federal laws prohibiting discrimination against employees on the grounds of sexual orientation, many states have instituted laws outlawing such discrimination. Throughout most of American history, gay men and women were barred from serving in the armed forces and could be dismissed if discovered. In 1993, President Bill

Clinton (1993—2001) introduced a policy known as "don't ask, don't tell," which allowed homosexuals to serve in the military if they kept their sexual orientation private. Although many gay rights supporters recognized this as an advance, they criticized it nonetheless for preventing homosexuals from serving openly in the armed forces and for maintaining homosexuality as a cause for dismissal from the military. In 2010, President Obama and Defense Secretary Robert Gates called on Congress to repeal the policy. Despite staunch opposition from Republicans, Congress passed a repeal bill which took effect in September 2011.

The Gay Marriage Movement Since the gay rights movement has achieved several victories in the late 20th and 21st centuries, including the weakening of anti-sodomy laws, more liberal policies toward gay people in the military, and anti-discrimination legislation, the touchstone of the gay rights debate in recent years has undoubtedly become the issue of same-sex marriage. Married couples in the United States automatically attain many benefits that unmarried couples do not have. For example, spouses are eligible to receive health insurance through each other's employer, are allowed to visit one another in hospitals and jails, and have the right to sue over the wrongful death of a partner or to refuse to testify against him or her in court. Married couples also enjoy tax benefits and are entitled to certain Social Security benefits. Most states prevent homosexuals from legally marrying, and therefore from enjoying those benefits; the gay rights movement has maintained for decades that homosexuals are no less entitled to such benefits than straight couples, though opponents—who often describe themselves as defenders of "traditional marriage"—have resisted any move to have gay marriages

recognized on either the federal or state level. In 1996, Congress attempted to preemptively block the federal legalization of gay marriage by passing the Defense of Marriage Act (DOMA). In addition to defining marriage as strictly a " legal union between one man and one woman as husband and wife," the act also allows states where gay marriage is illegal to refuse to recognize same-sex marriages performed in other states. DOMA passed through Congress without significant opposition, and was signed by President Bill Clinton (D, 1993—2001) in September 1996. In the following years, several states passed similar legislation banning gay marriage. In May 2003, for example, Texas governor Rick Perry (R) signed such a bill into law, proclaiming at the time, " Like the vast majority of Texans, I believe that marriage represents a sacred union between a man and a woman." Other states and cities, however, moved toward legalizing same-sex marriage. In February 2004, the city of San Francisco began issuing marriage licenses to same-sex couples, in apparent defiance of California state law. Within a week, the local government had issued more than 3, 000 such licenses and performed marriage ceremonies at City Hall for hundreds of same-sex couples. The following month, California State Superior Court judge Richard Kramer found that the state's laws restricting marriage to heterosexual couples violated the California constitution, arguing, " The state's protracted denial of equal protection cannot be justified simply because such constitutional violation has become traditional." California's legislature passed a bill permitting same-sex marriage, but Governor Arnold Schwarzenegger (R) vetoed it. Similar battles over the right to marry have engulfed judges, mayors, and legislators in cities and states across the

country. On May 17, 2004, Massachusetts, in response to two rulings by the state's highest court, became the first state to issue officially authorize marriage licenses to same-sex couples. Just after midnight, the city of Cambridge began issuing such licenses, and on the following day at least 900 same-sex couples sought them in 29 cities and towns across the state. Same-sex couples from other states also traveled to Massachusetts to obtain marriage licenses, but the state's high court later ruled that same-sex marriage rights were restricted to couples who lived in or intended to live in the state. At the same time, however, other states were taking steps in the opposite direction. In 2004, voters in 11 states—Arkansas, Georgia, Kentucky, Michigan, Mississippi, Montana, North Dakota, Ohio, Oklahoma, Oregon, and Utah—approved proposals banning same-sex marriage. Opponents of gay marriage advocated similar measures on the federal level. During the 2004 presidential campaign, President George W. Bush (R, 2001—09) endorsed a constitutional amendment banning same-sex marriage. Some activists have embraced domestic partnerships, also known as civil unions, as an intermediary step to legalizing gay marriage. Some jurisdictions have legalized civil unions, which guarantee domestic partners access to many of the benefits enjoyed by partners in heterosexual marriages. Since the early 1990s, many private corporations, businesses, and academic institutions have also instituted policies that grant health insurance benefits to the partners of their homosexual employees. In 2009, President Barack Obama (D) signed a presidential memorandum extending health care benefits to domestic partners of federal civil service employees. While some policy makers have hailed domestic partnership laws as a fair compromise, others

argue that only legally recognized marriage will put homosexual couples on a truly equal platform with heterosexual couples. When Obama entered office in 2009, he supported civil unions but not gay marriage; in 2010, he stated that views on gay marriage were "evolving." Speculation that the president would announce his support for same-sex marriages increased in 2011 when the Obama administration announced that it would stop defending DOMA in pending court cases against the legislation. In May 2012, Obama stated on ABC News that he had "hesitated on gay marriage in part because I think that civil unions would be sufficient. I was sensitive to the fact that for a lot of people, the word marriage was something that invokes very powerful traditions and religious beliefs." However, Obama declared, his own faith reminded him to "treat others the way you would want to be treated," which led him to conclude "that for me personally it is important... to go ahead and affirm that I think same-sex couples should be able to get married." Obama's statement reignited the debate over gay marriage—just a day earlier North Carolina voters had overwhelmingly passed a referendum against it—with supporters hailing Obama as a civil rights trailblazer and opponents characterizing him as an enemy of established traditions. Other top members of the Obama administration have also expressed their support for gay rights. Shortly before Obama's televised interview, Vice President Joe Biden (D) announced that he supported gay marriage (some observers claimed that Biden's public support of his position forced Obama's hand in announcing his own support of gay marriage). Earlier, meanwhile, in a speech to the United Nations Human Rights Council, Secretary of State Hillary Rodham Clinton had asserted that "gay rights are human rights."

Supporters Argue: Gays Deserve Same Rights as All Americans Supporters of gay marriage argue that homosexuals should have the same right as heterosexuals to legalize their marital relationships. Americans should possess all of the rights that most straight Americans take for granted. " It's hard to understand the opposition [to gay marriage]," says Anthony Wilson-Smith, a columnist for the Canadian magazine Maclean's. " Gays aren't asking for government money, tax breaks, preferential status in seeking jobs, redress of past grievances or other rights or privileges that would set them apart from others." Rather, " gay and lesbian couples want to be able to declare their commitment in the same way as any couple who love each other enough to marry." Conservative opposition to gay marriage is confusing and contradictory, supporters argue, given conservatives' long-held view that marriage is a cornerstone of a productive and moral society. " Conservatives have long rightly argued for the vital importance of the institution of marriage for fostering responsibility, commitment and the domestication of the unruly," writes commentator Andrew Sullivan. " Bringing gay men and women into this institution will surely change the gay subculture in subtle but profoundly conservative ways." Supporters contend that opponents of gay marriage are ultimately not so much against same-sex marriage as against homosexuality itself. The arguments against gay marriage—such as the so-called slippery slope argument that it will lead to the acceptance of more " deviant" activities—are based not on logic or reason, they assert, but on fear and hatred of homosexuality. " Since few opponents of homosexual unions are brave enough to admit that gay weddings just freak them out," writes Dahlia Lithwick of Slate, " they hide

behind the claim that it's an inexorable slide from legalizing gay marriage to having sex with penguins." Proponents of gay marriage take issue with the claim, often made by opponents, that because homosexual couples cannot naturally procreate, they have no need to marry. " Straight marriage has long been legally severed from procreation," writes Atlantic journalist Conor Friedersdorf. " That is to say, neither the ability nor the intention to have children is required, and plenty of people who marry never have kids." Many supporters liken gay marriage to interracial marriage, noting that the latter practice was illegal in many states and jurisdictions until the Supreme Court struck down such laws in the 1967 case *Loving v. Virginia*, when it ruled, " The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men." New Yorker journalist Margaret Talbot argues that legal challenges to laws restricting same-sex marriage will continue " because people will continue to want what they want and deserve what they deserve: the freedom to love whom they love and to have that love accepted.... And, eventually, the Court will do the right thing on same-sex marriage." In addition to allowing same-sex marriage, gay rights supporters argue, states should lift all anti-sodomy laws. Although such statutes are rarely enforced, advocates note, their symbolism makes them important to overturn. " The existence of these laws was an excuse for harassment and discrimination," asserts Laurence Tribe, a law professor at Harvard University in Cambridge, Massachusetts, and a " labeling of a whole group of people for whom this is the primary form of physical sexual intimacy as deviant and criminal." Indeed, supporters argue, the U. S. government has no constitutional right to regulate how citizens

choose to live their private romantic lives. In the Supreme Court's 2003 majority opinion in *Lawrence v. Texas*, Justice Anthony Kennedy defended the right of gay people to live their lives in private. " When sexuality finds overt expression in intimate conduct with another person, that conduct can be but one element in a personal bond more enduring," Kennedy wrote. " The liberty protected by the Constitution allows homosexual persons the right to make this choice." The gay rights movement is an important frontier in ensuring that all sectors of American society enjoy basic human rights, supporters claim. They argue that the government must legislate to prevent all forms of discrimination against homosexuals. " It's the last vestige that's left in major violations of civil rights," contends former Maryland state senator Sharon Grosfeld (D), " We've addressed racial discrimination. We've addressed sex discrimination. But we've ignored real and fundamental problems faced by individuals with a sexual orientation different from heterosexual." Opponents Argue: Gay Rights Threaten Traditional Family Values Opponents of gay marriage argue that it will undermine the institution of marriage, which is one of the cornerstones of society that dates back to ancient times. They claim that homosexuals—whether married or not—tend to have a greater number of sexual partners than heterosexuals. Allowing them to marry, these opponents insist, undercuts the importance of monogamy. " Advocates argue that legal gay marriage will...make gays more monogamous," writes National Review columnist Stanley Kurtz. " But it is just as likely (indeed, far more likely) that the effect will go in the other direction—openly non-monogamous married gay couples will break the connection between marriage and monogamy." Opponents of same-sex marriage

maintain that legalizing the practice will send the institution of marriage down a slippery slope of increased permissiveness. As the legal definition of marriage becomes ever broader, opponents warn, there would be no legal reason to forbid, for instance, polygamy (having more than one spouse), or marriage with animals. James Dobson, the founder of the Christian family-values group Focus on the Family, elaborates on the perceived threat: " How about group marriage? Or marriage between daddies and little girls? Or marriage between a man and his donkey? Anything allegedly linked to civil rights will be doable, and the legal underpinnings for marriage will have been destroyed." Opponents argue that the main goal of marriage is to procreate; the government, these critics claim, provides tax breaks to married couples precisely because they will presumably raise new, productive members of society. Ryan Normandin, an editor of the Massachusetts Institute of Technology's newspaper The Tech writes, " Same-sex couples are unable to procreate, meaning that there is no compelling interest to subsidize their marriages." Many critics, meanwhile, oppose gay rights on religious grounds. Former Pennsylvania senator and Republican presidential candidate Rick Santorum has said that heterosexual marriage is " something that reflects nature and reflects God and God's will for us. And both from the standpoint of faith and reason it makes all the sense in the world." Critics also argue that same-sex marriage cannot be likened to interracial marriage. According to the Telegraph's Brendan O'Neill, " comparison between restrictions on interracial marriage and restrictions on gay marriage is utterly moronic" and " historically illiterate." O'Neill argues: Gay marriage is very different, because such an institution, the state-approved union of two men, has never

existed before. Where black and white lovers or Jewish/Gentile sweethearts once demanded, rightly and bravely, equity within an existing social institution, gay-rights activists today are actually demanding the creation of a brand new, historically unprecedented institution—one in which two men can, in the eyes of the state and society, form a marital union. Legalizing gay marriage, opponents claim, would run counter to the will of millions of Americans, forcing the views of the gay rights movement on the entire population. Since many people still believe that a marriage can only be between a man and a woman and that sodomy is wrong, critics argue, the laws should reflect those sentiments. The gay rights lobby should not, opponents assert, force its views on the rest of the population. In his dissent to the Lawrence decision, Supreme Court justice Antonin Scalia wrote: Let me be clear that I have nothing against homosexuals, or any other group, promoting their agenda through normal democratic means. Social perceptions of sexual and other morality change over time, and every group has the right to persuade its fellow citizens that its view of such matters is the best... But persuading one's fellow citizens is one thing, and imposing one's views in absence of democratic majority will is something else. Critics argue that issues surrounding gay marriage and gay rights should be left to the states, not the federal government, and that voters and legislators—rather than what they describe as "activist judges"—should determine the law. Instead of allowing each state to decide for itself whether certain behavior is acceptable, opponents contend, the Supreme Court made that decision for all 50 states in its decision to strike down Texas's anti-sodomy law. "This is social engineering by a court," argued Robert Knight,

spokesman for the conservative advocacy group Culture and Family Institute. " It will have very bad effects on the idea of our republican form of government. If a government like Texas cannot legislate on public health, safety and morals, what can it legislate?" Many opponents of gay marriage argue that homosexuality is a choice, which therefore makes the gay rights movement unlike other civil rights movements. " To put gay rights on a par with civil rights," Reverend Peter Moore, former president of the Trinity Episcopal School for Ministry in Ambridge, Pennsylvania, contends, " is to preempt the conclusion in the still unresolved debate about the origins of sexual orientation. Color is not something over which people have any choice. The claim offends non-white Americans who believe that their struggle involves deeper principles of justice and liberty than struggles involving sexual preference." The Future of Gay Rights Gay rights activists have hailed judicial decisions striking down sodomy laws, the repeal of " don't ask, don't tell" in the U. S. military, and the establishment of domestic partnership laws as significant steps forward, though gay marriage remains extremely controversial. Additionally, the United States remains divided over whether homosexual couples should be legally allowed to adopt children. Most states currently allow single homosexuals to adopt children, but are vague as to whether gay couples are allowed to adopt. While supporters argue that it is discriminatory for gay couples to be prohibited from adopting and raising children, opponents insist that to allow such adoptions would damage the traditional American family. It is likely that gay rights issues will continue to be controversial in the United States' political landscape for the foreseeable future. Discussion Questions & Activities 1) The gay rights

movement has been compared by many observers to the civil rights movements of African Americans and women. Do you think this is a fair comparison? How are they similar? How are they different? 2) The Supreme Court has both upheld and struck down anti-sodomy laws. Do you think states should be able to prohibit homosexual acts in private, or is that a violation of people's constitutional rights? Explain your position. 3) Many opponents of same-sex marriage argue that legalizing gay marriage threatens the institution of marriage. What do you think these opponents mean by that? Do you agree or disagree? 4) Do you think the Defense of Marriage Act (DOMA) should be allowed to stand, or do you think it should be repealed? Explain your reasoning. 5) Examine your state's laws on gay marriage or domestic partnerships. What is allowed? How does your state compare to other states? Write a letter to your state legislator defending or challenging your state's laws on gay marriage.

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For further information about the ongoing debate over gay rights, search for the following words and terms in electronic databases and other publications: Bowers v. Hardwick Domestic partnerships Lawrence v. Texas Same-sex marriage Stonewall riots _____

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