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Justice Not Long Delayed: Historical Perspective and the Twenty-First Century Fight for
Gay Rights

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Honors Thesis

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This paper examines the best methods of achieving equal legal rights for gay people in the United States, largely by looking at previous freedom movements. A necessary part of strategizing is to look at the tactics that allowed activists in movements such as the Abolitionist and the Civil Rights Movement to succeed. Combining these tactics with strategies specific to the Gay Rights Movement will hasten the acquisition of full equality under the law.

The story of America has been, in many ways, the story of fights for equal rights. The original Constitution, containing a clause mandating the return of runaway slaves to their masters, structured the country like a pyramid, with heterosexual, white men at the top and other groups of Americans oppressed. Since the nineteenth century, however, there has been a slow but steady march toward equality for all Americans. First, the Northern states passed antislavery legislation. Then, the Civil War and the Thirteenth Amendment brought slavery to an end in the South. In 1920, women gained the right to vote. In the 1960s, racial minorities were given equal *legal* rights, with the Fourteenth and Fifteenth Amendments finally being enforced. Gay people are now the only group of people in the United States denied equal rights under the law.

The momentum that the Gay Rights Movement has gained in the United States within the past three years is staggering. In December 2010, the ban on openly gay military personnel was repealed. In 2012, the first sitting president and vice president publicly endorsed marriage equality. President Barack Obama then became both the first major party presidential nominee to support marriage equality and the first to win while supporting it. On the same night that Obama won re-election, three states legalized gay marriage via public referendum for the first time ever, and the first openly lesbian

candidate was elected to the Senate. Between 2012 and March 2014, same-sex marriage has become legal in another eight states. The majority of Democratic Senators now support marriage equality. Section 3 of the Defense of Marriage Act has been struck down by the Supreme Court, which means that same-sex marriages performed in states such as Massachusetts will now be recognized by the federal government.

Yet it is clear that, despite the immense progress that has been made on gay rights in recent years, the Gay Rights Movement still faces formidable obstacles. In much of the country, gay people are denied legal protection from workplace and housing discrimination and are legally discriminated against in marriage and adoption. By looking at the tactics of previous movements for equal rights in order to create a comprehensive, radical strategy, activists will be able to more effectively work for an end to the legal discrimination against gays and lesbians.

The Abolitionist Movement is probably the most important movement to examine. In the United States, abolitionism was the first serious challenge to the idea that some Americans, based on immutable traits like race, were superior and deserving of more rights than other Americans. Hence, the Abolitionist Movement can be seen as the foundation for all other movements for equal rights in America. In order for other struggles to be considered as possible influences on the Gay Rights Movement, these struggles must meet two criteria. First, they must involve an attempt to end discrimination against a group of people based on an immutable trait, and second, they must have been successful from a legal standpoint. The Civil Rights Movement, which meets both of these qualifications, also has the added benefit of taking place recently enough that there are people still alive today who participated in it. Three of these people,

Julian Bond, Tom Houck and Congressman John Lewis, were interviewed for this paper, as was Walter Naegle, the life partner of Civil Rights Movement leader Bayard Rustin. In assessing the potential influence of the Abolitionist Movement on the Gay Rights Movement, historians Eric Foner and James McPherson have been interviewed via email.

While previous movements for minority rights can and should influence the Gay Rights Movement, it is important to note that there are significant differences as well as similarities in the oppression of gays and other groups, and that these differences may necessitate different tactics than those used by other equality movements. Still, the similarities between the oppression of women, gays, and racial minorities cannot be ignored. In addition to the fact that all cases involve people being denied equal rights based on benign, immutable traits, oppression of all of these groups has at times been “justified” using arguments based on the Bible, tradition, and the “good of society.” In each case, a disfavored group is branded as “other,” and “inferior.”

What were the tactics used by abolitionists? It should first be noted that even though William Lloyd Garrison was a radical who horrified white Southerners and Northerners alike by calling for immediate emancipation of slaves, he was not as radical as he could have been. He argued that while black people were inherently equal to whites¹ and slavery must end immediately², equal rights must come gradually.³ When it

¹ Malcomson, Scott, *One Drop of Blood: The American Misadventure of Race* (London: Macmillan, 2000), 330.

² Fauchald, Nick, *William Lloyd Garrison: Abolitionist and Journalist* (Mankato: Capstone, 2005), 41.

³ Papke, David Ray, *Heretics in the Temple: Americans who Reject the Nation's Legal Faith* (New York City: NYU Press, 1998), 28.

came to interracial marriage, many abolitionists such as William Lloyd Garrison⁴, Wendell Phillips⁵, and Lydia Maria Child⁶ defended interracial marriage, but they tended to shy away from suggesting that it was advisable immediately, with the lecturer and activist Parker Pillsbury being a notable exception.⁷ Even Pillsbury, after the Civil War, simultaneously denied black inferiority and insisted that equal voting rights had to come gradually.⁸ Some abolitionists such as Frederick Douglass tried to claim, despite evidence to the contrary, that the U.S. Constitution did not support slavery.⁹ Much as Douglass might have claimed otherwise, it is hard to imagine a man of his great intelligence concluding that the Constitution actually opposed slavery, rather than supporting it. More likely, Douglass was aware that by demanding an immediate end to slavery and supporting racial equality, he was already taking very unpopular stances and did not want to add “Constitution-hater” to the list of epithets hurled against him.

Yet one cannot deny the radicalism and aggressive tactics of the Abolitionist Movement, especially Garrison’s faction. First, by demanding an immediate end to slavery everywhere in the United States, the “Garrisonians” were insisting that the slaves had a fundamental right to be free from enslavement and that, therefore, this right had to

⁴ Weierman, Karen Woods, *One Nation, One Blood: Interracial Marriage in American Fiction, Scandal, and Law, 1820-1870* (Amherst: University of Massachusetts Press, 2005), 147.

⁵ McPherson, James M., *The Struggle for Equality: Abolitionists and the Negro in the Civil War and Reconstruction* (Princeton: Princeton University Press, 1967), 148.

⁶ Karcher, Carolyn L., *The First Woman in the Republic: A Cultural Biography of Lydia Maria Child* (Durham: Duke University Press, 1994), 191.

⁷ Lemire, Elise, *“Miscegenation”: Making Race in America* (Philadelphia: University of Pennsylvania Press, 2011), 137.

⁸ McPherson, James M., *The Abolitionist Legacy: From Reconstruction to the NAACP* (Princeton: Princeton University Press, 1995), 57.

⁹ Frederick Douglass, “The Meaning of July Fourth for the Negro,” (speech, Rochester, New York, July 5, 1852), PBS, <http://www.pbs.org/wgbh/aia/part4/4h2927t.html>

given to them without delay. This was in contrast to many antislavery whites from previous generations who had often subordinated emancipation to other concerns and insisted that slavery must end gradually. The New York Manumission Society, started in 1785, was one of the most prominent “antislavery” groups in the early United States and was led by John Jay. In addition to signing the U.S. Constitution, which included the aforementioned clause mandating the return of runaway slaves, Jay continued the practice of buying slaves and freeing them, “at proper ages and when their faithful services shall have afforded a reasonable retribution.”¹⁰ Fellow society member Alexander Hamilton also signed the Constitution, as did Benjamin Franklin, a leading antislavery activist in Pennsylvania, further showcasing the limited level of concern many moderate antislavery leaders showed for African Americans.^{11 12} While Benjamin Rush, one of Franklin’s comrades in Pennsylvania’s antislavery movement, made the claim later echoed by abolitionists that slavery degraded blacks, Rush came to a different conclusion about the appropriate remedy. Rather than favoring immediate emancipation, Rush warned that slaves, “are rendered unfit by their habits of vice (the offspring of slavery) for freedom.” Rush’s solution was to, “make their situation comfortable by good treatment” until slavery was ended in the future—how precisely enslavement could be consistent with good treatment was left unaddressed.¹³ While sometimes implying a belief in the inherent equality of blacks, Rush also claimed that black skin was an incurable form of leprosy.

¹⁰ White, Shane, *Somewhat More Independent: The End of Slavery in New York City, 1770-1810* (Athens: University of Georgia Press, 2012), 82.

¹¹ Miller, John Chester, *Alexander Hamilton and the Growth of the New Nation* (Piscataway: Transaction Publishers, 1959), 122.

¹² Khan, Lurey, *William Still and the Underground Railroad: Fugitive Slaves and Family Ties* (iUniverse, 2010), 18.

¹³ Brodsky, Alyn, *Benjamin Rush: Patriot and Physician* (London: Macmillan, 2004), 266.

To keep this leprosy from spreading, it was necessary to avoid interracial marriage.¹⁴

With friends like these, it almost seemed as if African Americans needed no enemies.

Abolitionists went further than calling for immediate emancipation. Many of them defended breaking laws that supported slavery. The abolitionist Wendell Phillips, perhaps the greatest orator of the movement, played a leading role in “vigilance committees” in Massachusetts designed to prevent runaway slaves from being returned to the South.¹⁵ Plenty of other abolitionists such as Thomas Wentworth Higginson¹⁶, Harriet Tubman¹⁷, and Henry Bowditch¹⁸ actively aided runaway slaves. Many abolitionists disagreed with Douglass on the Constitution, denouncing it as a proslavery document. Garrison burned a copy of it publicly¹⁹, William Nell refused to be a lawyer due to the fact that the job would have required swearing an oath to uphold the Constitution²⁰, and Phillips wrote a book called *The Constitution A Pro-Slavery Compact: Or, Extracts from the Madison Papers, Etc.* demonstrating that the Constitution was proslavery and had to be subverted.²¹ Furthermore, many abolitionists defended racial equality and denied the idea

¹⁴ Aho, James and Kevin Aho, *Body Matters: A Phenomenology of Sickness, Disease, and Illness* (Lanham: Rowman and Littlefield, 2008), 56-57.

¹⁵ Stewart, James Brewer, *Wendell Phillips: Liberty's Hero* (Baton Rouge: Louisiana State University Press, 1986), 152.

¹⁶ Higginson, Mary Potter Thatcher, *Thomas Wentworth Higginson: the Story of his Life* (Boston: Houghton Mifflin Harcourt, 1914), 143-148.

¹⁷ Bradford, Sarah Hopkins, *Harriet Tubman: The Moses of Her People* (New York City: Kensington Publishing Corp., 1974), 152.

¹⁸ Laurie, Bruce, *Beyond Garrison: Antislavery and Social Reform* (Cambridge: Cambridge University Press, 2005), 253.

¹⁹ Mayer, Henry, *All on Fire: William Lloyd Garrison and the Abolition of Slavery* (New York: St. Martin's Press, 1998), 445.

²⁰ Potter, Joan, *African American Firsts: Famous, Little Known and Unsung Triumphs of Blacks in America* (New York: Dafina Books, 2009), 134.

²¹ Stewart, James Brewer, *Wendell Phillips: Liberty's Hero* (Baton Rouge: Louisiana State University Press, 1986), 124.

of black inferiority^{22 23}. As mentioned earlier, though most abolitionists feared the backlash of interracial marriage in the 1800s, many denounced laws against it, denied that interracial marriage was unnatural or immoral, and publicly hoped for a future where it would be accepted. Black and white abolitionists helped fight Jim Crow in the North, with a surprising amount of success.²⁴ In a precursor to the Freedom Rides, Phillips, who was white, and Nell, who was black, attempted to ride segregated trains together as an act of protest.²⁵

Some abolitionists such as Frederick Douglass²⁶, John Brown²⁷, and Wendell Phillips²⁸ either flirted with support for armed rebellion to end slavery or embraced it outright. After John Brown led a raid on a federal arsenal, and was subsequently captured and hung, Douglass and Phillips praised him as a hero. Other abolitionists, like Garrison²⁹, remained fairly committed to nonviolence until the Civil War began, thereby presenting a vehicle for abolition that, though violent, was too good to pass up. Still others, like Abby Kelley Foster, never stopped believing in abolition, racial equality, and nonviolence, taking the stance that although justice for blacks was absolutely essential,

²² Wendell Phillips, "Crispus Attucks" (1858), in *Speeches, Lectures, and Letters*, ed. Theodore Claudius Pease (New York: Lee and Shepard Publishers, 1891), 71.

²³ Child, Lydia Maria, *The Freedmen's Book* (Boston: Ticknor and Fields, 1865), 270.

²⁴ Yee, Shirley J., *Black Women Abolitionists: A Study in Activism, 1828-1860* (Knoxville: University of Tennessee Press, 1992), 130.

²⁵ Stewart, *Wendell Phillips*, 97.

²⁶ Ruffin, Frances E., *Frederick Douglass: Rising Up from Slavery* (New York City: Sterling Publishing, 2008), 69.

²⁷ Ruffin, *Frederick Douglass*, 69.

²⁸ Stewart, *Wendell Phillips*, 204.

²⁹ Thomas, William David, *William Lloyd Garrison: A Radical Voice Against Slavery* (Saint Catherines: Crabtree Publishing Company, 2009), 116.

violence was such a profound evil that it could never be justified no matter the circumstances.³⁰

As referenced earlier, the lack of living primary sources for the Abolitionist Movement makes it necessary to consult scholars. Historians Eric Foner and James McPherson shared their views via email interviews regarding the connection between abolitionism and gay rights. Their responses have not been entirely alike. While Eric Foner and James McPherson both believe Wendell Phillips would support equal rights for gay people if he were alive today, they disagree over whether or not replicating abolitionist tactics would be effective for gay rights activists.

When asked whether or not abolitionist tactics would be beneficial to the Gay Rights Movement, Foner believes that they would be, while McPherson believes they would not. Specifically, Foner states, “I do think the abolitionists pioneered the proper tactics for radical movements in American democracy -- ceaseless agitation, staking out a firm moral position, using every form of media to advance their views, etc. Many movements, including this one, can learn from them.”³¹ McPherson, by contrast, replies, “I am less confident that the tactics of the Garrisonians would be effective in the quest for equal rights--the militant condemnations of government and all other institutions that supported slavery might not work as well against government and other institutions that, for example, oppose gay marriage. Perhaps a softer approach is more appropriate

³⁰ Mabee, Carelton, *Sojourner Truth: Slave, Prophet, Legend* (New York City: NYU Press, 1995), accessed via Googlebooks, page number unavailable, information can be accessed here: <http://books.google.com/books?id=KaM-AAAAQBAJ&pg=PT109&dq=abby+kelly+foster+conscientious+objectors&hl=en&sa=X&ei=fhN8UpPoA5SqyQHznIC4Cg&ved=0CC0Q6AEwAA#v=onepage&q=abby%20kelly%20foster%20conscientious%20objectors&f=false>

³¹ Foner, Eric, email message to Charles Boyd, November 14, 2012.

today.”³² The implication of McPherson’s statement is that gay rights activists may want to be more conciliatory and less confrontational than many abolitionists were.

Yet a conflict may exist between pragmatism and morality. Taking a gradualist, conciliatory approach might make sense from a pragmatic standpoint, while a case could be made that an aggressive, uncompromising approach is morally necessary, since if gay people have an inalienable right to equality, they ought to receive equality immediately. By agreeing to let fair treatment come gradually, a minority group could signify an implicit agreement that they do not have an inalienable right to equality. The reason for this is that waiting implies that equal rights are contingent upon the good will of the majority, in which case they must cease to be called “rights.” It is ethically and philosophically impossible to argue that abolitionists were wrong to demand immediate emancipation. However, some people might point out that the treatment of gay and lesbian Americans, while deplorable, is not as extreme as slavery and that, therefore, less extreme tactics should be used to remedy it.

If the Gay Rights Movement somehow managed to achieve equal rights without any illegal actions, the movement would be a major anomaly. The Abolitionist Movement, the women’s suffrage movement, the Civil Rights Movement, and the antiapartheid movement all practiced resistance to unjust laws. As referenced earlier, abolitionists violated segregation laws and aided fugitive slaves. Women’s suffragists chained themselves to railings and bombed post boxes.³³ In the 1870s, the

³² McPherson, James M., email message to Charles Boyd, November 12, 2012.

³³ Davis, Kenneth C., *Don't Know Much About History, Anniversary Edition: Everything You Need to Know About American History but Never Learned* (New York City: HarperCollins, 2011), 335.

aforementioned Abby Kelley refused to pay taxes, arguing that since she was forbidden from voting, paying taxes would amount to “taxation without representation.”³⁴ The Civil Rights Movement is famous for its acts of nonviolent civil disobedience. Under Nelson Mandela, the African National Congress resisted apartheid through violent rebellion.³⁵

Many American reformers have explicitly defended law breaking. Lydia Maria Child once stated that, “law is not law, if it violates the principles of eternal justice.”³⁶ In “Letter from a Birmingham Jail,” Martin Luther King, Jr. approvingly quoted St. Augustine’s assertion that, “an unjust law is no law at all.”³⁷ Laws denying groups of people equal rights are often firmly entrenched and supported by at least large segments of society, as well as religious institutions. Hence, these laws are extremely difficult to eliminate, necessitating the possible use of a variety of tactics that may extend beyond total obedience to the law.

Already, there have been acts of civil disobedience in the fight for gay rights. In 2004, San Francisco Mayor Gavin Newsom defied state law by issuing marriage licenses to same-sex couples. Since then, Newsome’s actions have been replicated by other mayors. In 2010, openly gay Marine Lieutenant Dan Choi was part of a group of

³⁴ McMillen, Sally G., *Seneca Falls and the Origins of the Women’s Rights Movement* (Oxford: Oxford University Press, 2009), <http://books.google.com/books?id=QFEon2IN9AgC&pg=PT246&dq=abby+kelly+foster+taxation+without+representation&hl=en&sa=X&ei=mBd8UpjeM6T4yQGm6YCwCQ&ved=OCDoQ6AEwAA#v=onepage&q=abby%20kelly%20foster%20taxation%20with%20representation&f=false>.

³⁵ Lotter, Hennie P.P., *Injustice, Violence, and Peace: The Case of South Africa* (Amsterdam: Rodopi, 1997), 65.

³⁶ Hess, Earl J., *Liberty, Virtue, and Progress: Northerners and Their War for the Union* (New York City: Fordham University Press, 1997), 30.

³⁷ King, Martin Luther, *Why We Can’t Wait* (New York: Beacon Press, 2011).

individuals who protested “Don’t Ask, Don’t Tell” by handcuffing themselves to the White House gate. Committing to work entirely within the law could strategically weaken the Gay Rights Movement by letting those opposed to equality know that a wide array of tactics are off the table no matter how much gay people are provoked. Some supporters of equal rights will doubtlessly oppose gay rights activists resisting discrimination through illegal methods, just as some civil rights supporters opposed the tactics of the SCLC, SNCC, and CORE. Indeed, when Newsom began issuing marriage licenses in San Francisco back in 2004, even openly gay Congressman and marriage equality supporter Barney Frank criticized him.³⁸ Nonetheless, acts of civil disobedience can be very effective, and even when there is disagreement regarding tactics, supporters will remain united on the cause of equal rights. Just as sit-ins were effective in the Civil Rights Movement, sit-ins in which gay couples refuse to leave courthouses until they are issued marriage licenses could also be effective. Obviously, the effectiveness of this tactic would be enhanced by the involvement of a large group of protesters.

In a method evocative of Abby Kelley’s technique of refusing to pay taxes, gays and lesbians could take the position that a fundamental obligation of government is to respect the life, liberty, and property of its citizens and that taxes are paid to the government with the understanding that this obligation is upheld. According to this position, since the liberty of gay Americans is continually violated, they are under no obligation to pay taxes. Heterosexuals who support gay rights could also take part by

³⁸ Rachel Gordon, “The Battle Over Same-Sex Marriage / Uncharted territory / Bush’s stance led Newsom to take action,” *SF Gate*, February 15, 2004, accessed November 7, 2013, <http://www.sfgate.com/news/article/THE-BATTLE-OVER-SAME-SEX-MARRIAGE-Uncharted-2823315.php>; Newsom did, however, receive support from Nancy Pelosi.

asserting that they are unwilling to pay to maintain a homophobic government. In this hypothetical scenario, jailing large numbers of participants could prove impractical and the potential disruption in the flow of revenue could also be significant.

One of the most prevalent debates in civil rights struggles, as referenced earlier, is whether or not violence should ever be used. The Abolitionist Movement ultimately failed to end slavery without violence. Their activism and covert efforts to help runaway slaves certainly helped bring the issue of slavery to the forefront of public debate, but slavery did not end until the South was defeated in a war, which John Brown's attempt at armed revolt had helped trigger. Even the Underground Railroad and "vigilance" committees formed in the North to protect fugitive slaves required some violence or at least the possibility of it. At one point, abolitionist Henry Ingersoll Bowditch carried a gun to protect a fugitive slave.³⁹ Harriet Tubman also carried a gun while leading slaves out of the South.⁴⁰ In 1851, a group of abolitionists that included Unitarian preacher Samuel Joseph May rescued a fugitive slave named William "Jerry" McHenry from the police of Syracuse, New York. A pacifist, May argued that if anyone had to be hurt, it must be the abolitionists, not the police.⁴¹ By the time of the Civil War, May had abandoned his pacifism, as had Garrison and Child.⁴²

It may be said that Martin Luther King, Jr. and his fellow nonviolence supporters within the movement such as Bayard Rustin and David Dellinger were the spiritual heirs

³⁹ Laurie, *Beyond Garrison*, 253.

⁴⁰ Calkhoven, Laurie, *Harriet Tubman: Leading the Way to Freedom* (New York City: Sterling Publishing Company, Inc., 2008), 116.

⁴¹ May, Samuel Joseph, *Some Recollections of Our Antislavery Conflict* (Boston: Fields, Osgood, & Co., 1869), 377.

⁴² Ziegler, Valarie H., *The Advocates of Peace in Antebellum America* (Macon: Mercer University Press, 2001), 151.

of Abby Kelley. One of King's most prominent fellow supporters of nonviolence in the movement is now-Congressman John Lewis. In the 1960s, John Lewis was a founding member and leader of the Student Nonviolent Coordinating Committee (SNCC). In this capacity, he participated in the Freedom Rides and was one of the "Big Six" civil rights leaders involved in planning the March on Washington. During his life, Lewis has been arrested forty-five times for acts of civil disobedience.⁴³ Since being elected to the House of Representatives in 1986, he has been one of the strongest advocates of equal rights for gays and lesbians and has not shied away from comparing the Civil Rights Movement to the Gay Rights Movement. In an interview regarding strategies of the Civil Rights Movement that are applicable for gay rights activists, Lewis states, "We studied the way of peace, the way of love, the way of nonviolence. I think the gay movement, the peace movement, the women's movement, the farm workers under the leadership of Caesar Chavez, they all learned from the Civil Rights Movement . . . you make up your mind that . . . you're not going to become bitter, you're not going to become hostile. I grew as an individual to accept the way of peace, the way of love, the way of nonviolence as a way of living. I think if people are consistent and persistent . . . they will win. It's just a matter of time."⁴⁴

Julian Bond is another individual who, like Congressman Lewis, was involved in founding SNCC and took part in demonstrations during the Civil Rights Movement. And like Congressman Lewis, he also champions gay rights and draws parallels between the oppression of blacks and the oppression of gays. When asked about strategies of the Civil

⁴³ Lewis, John. Interview by Charles Boyd. Tape recording. Atlanta, Georgia, March 20, 2014.

⁴⁴ Lewis, John. Interview by Charles Boyd. Tape recording. Atlanta, Georgia, March 20, 2014.

Rights Movement that could also benefit the Gay Rights Movement, Bond states, “I think all movements can share methods and techniques. If you think about an issue that upsets you because it is inherently evil or discriminatory, what can you do? You can point it out to other people, you can show them the wrongness of it, you can picket against it . . . the issues are transferrable, they are not owned by MLK, let’s say. They are available to everybody and anybody.”⁴⁵

When Robert F. Williams, an NAACP activist and World War II veteran from North Carolina who had been forced to serve in segregated military units, decided that if violence could be used to defend American interests abroad, it could also be used to stand up for black rights, the NAACP disavowed him.⁴⁶ The Civil Rights Movement arguably serves as a contrast to the Abolitionist Movement, as it is a prime example of an oppressed group of people achieving equal *legal* rights without the use of violence.

Although the civil rights activists used nonviolent litigation and civil disobedience, their activism eventually created a situation in which the federal government had to use force to make sure that the rights of blacks were respected. An essential part of this force was the possibility of violence if whites continued to refuse to obey civil rights edicts. For example, when activists attempted school desegregation in Little Rock, Arkansas, Governor Orval Faubus used the state National Guard to try to stop them. President Dwight Eisenhower used the United States military to allow the students to be admitted.

⁴⁵ Bond, Julian. Interview by Charles Boyd at “Whose Beloved Community?: Black Civil and LGBT Rights Conference.” Tape recording. Atlanta, Georgia, March 27, 2014.

⁴⁶ Tyson, Timothy B., “‘Black Power’ and the Roots of the African American Freedom Struggle,” *The Human Tradition in the Civil Rights Movement*. Ed. Glisson, Susan M. (Lanham: Rowman and Littlefield, 2006), 236.

Little Rock was hardly an isolated case. Consider the case of Ruby Bridges, the first black student to enroll at an all-white elementary school in the South. When going to school, Bridges had to be escorted by federal marshals to keep from being attacked by angry mobs of white racists.⁴⁷ It goes without saying that if an attack had been attempted on Bridges, the marshals would have used force to protect her. In his autobiography, *You Can't Be Neutral on a Moving Train*, historian Howard Zinn, who was active in the Civil Rights Movement, describes a conversation he had with fellow civil rights activist Eric Weinberger on the use of federal troops to protect civil rights activists as they marched against segregation. Weinberger, an Anarchist and pacifist, was displeased by the presence of soldiers, despite the fact that he had been tortured in Southern jails. By contrast, though he was generally distrustful of the government, Zinn was supportive of using the military power of the federal government, "if, under popular pressure, it became a force for good."⁴⁸

This is not to say that the federal government deserves a large portion of credit for the achievements of the Civil Rights Movement. The federal government had ignored and even abetted the plight of African Americans for many years and only stopped when activists brought the pressure to bear. It is also true that many of the civil rights reforms, including school integration, were libertarian and victories for small government, as they involved fighting racist policies imposed by *governments*. Yet the fact remains that an essential part of the work of the Civil Rights Movement was to push the federal government into forcefully dismantling Jim Crow.

⁴⁷ Dierenfield, Bruce, *The Civil Rights Movement: Revised Edition* (London: Routledge, 2013), 30.

⁴⁸ Zinn, Howard, *You Can't Be Neutral on a Moving Train: a Personal History of Our Times* (Boston: Beacon Press, 2010), 67.

The presence of violence or at least the threat of violence to bring about equal rights is not confined to the United States. The case of Nelson Mandela's anti-apartheid movement is instructive here. Mandela was an integrationist like Nell, Douglass, Rustin, King, and others. He was willing to work with anti-apartheid whites such as Helen Suzman, Cecil Williams, and Albie Sachs.⁴⁹ His goal was equal rights for black South Africans. Initially, like King and Rustin, he was a supporter of non-violence. By the early 1960s, however, he had accepted violence as a necessary evil to end apartheid, and began using bombing to attempt to overthrow the white supremacist government. This led to his incarceration for nearly thirty years, yet he is recognized today as a key figure in ending apartheid.

It is unlikely that violence will be used to achieve LGBT rights. Yet history shows that taking the threat of violence completely off the table may be counterproductive. The Civil Rights Movement was not only aided the threat of violence from the U.S. military and federal law enforcement, but also the threat of violence from activists. Non-violent reformers like King warned that if their demands went unheeded, other African Americans would turn to violence.⁵⁰ The Nation of Islam may have inadvertently aided King. Despite the fact that the organization advocated for segregation rather than equality, its calls for violence made giving blacks equal rights seem like the safest solution. The choices presented were to either relent and support racial equality, or to risk an outbreak of violence.

⁴⁹ Magoon, Kekla, *Nelson Mandela: A Leader for Freedom* (Minneapolis: ABDO Publishing, 2008), 11.

⁵⁰ Belknap, Michael R., *Federal Law and Southern Order: Racial Violence and Constitutional Conflict in the Post-Brown South* (Athens: University of Georgia Press, 1995), 118.

Bayard Rustin was one of Martin Luther King, Jr.'s closest advisers. He was also a gay man in an era when homosexuality was almost universally stigmatized. In the 1940s, he helped plan and participate in the Journey of Reconciliation, an event that, along with the public accommodations segregation protests by abolitionists, was a prototype for the Freedom Rides.⁵¹ He was involved in the Montgomery Bus Boycott and helped organize the Prayer Pilgrimage for Freedom in 1957, and the National Youth Marches for Integrated Schools in 1958 and 1959.⁵² According to Congressman John Lewis, the 1963 March on Washington, where King gave his "I Have a Dream" speech, would have been like "a bird without wings" without Rustin.⁵³ "Within the movement, within the Civil Rights Movement itself," recounts Lewis, "There were some people who wanted to discriminate against Bayard, not necessarily discriminate against him, but they didn't want him out front. Or they thought he would damage the movement. When we were planning the March on Washington, at the very first meeting, of the so-called 'Big Six,' we were trying to decide whether Bayard Rustin should be the chair, or be the face out front, rather than A. Philip Randolph. So Mr. Farmer, James Farmer of CORE, Dr. King, myself, caucused, because Whitney Young of the Urban League and Roy Wilkins of the NAACP were afraid that some of the Southern Senators, some Southern politicians probably in Washington, would see Bayard Rustin's history, and that he had been arrested once, and they would know that he was gay, that it would be damaging to the

⁵¹ Cashman, Sean Dennis, *African-Americans and the Quest for Civil Rights, 1900-1990* (New York City: NYU Press, 1992), 107.

⁵² *Rustin.org*. Naegle, Walter. "Brother Outsider—A Closer Look at Bayard Rustin." Accessed, November 12, 2013, http://rustin.org/?page_id=11.

⁵³ Lowe, Benjamin Y., "Out of King's Shadow: 40 Years After March, the Strategist Gets His Due." *The Philadelphia Inquirer*, August 28, 2003. Accessed November 12, 2013. http://articles.philly.com/2003-08-28/news/25453834_1_john-d-emilio-civil-rights-jobs-and-freedom.

movement. So we caucused and said, ‘Let’s select A. Philip Randolph,’ and Bayard and A. Philip Randolph were very, very close, and everybody respected and loved A. Philip Randolph, and we knew that A. Philip Randolph would select Bayard as his deputy. And he did the work. Bayard Rustin did *all of the work*. He was so brilliant and so smart to pull the March on Washington off. And we had only a few days to do it.”⁵⁴ Late in life, along with fighting against apartheid, Rustin became involved in the Gay Rights Movement and explicitly compared the struggles of gays to the struggles of blacks.⁵⁵

Unfortunately, Rustin passed away in 1987, and the cause of equal rights for everyone lost a powerful champion. However, Walter Naegle, the man who was Rustin’s partner for the last ten years of Rustin’s life, agreed to be interviewed via email. As someone who knew Rustin perhaps better than anyone else, Naegle is an invaluable source for research. Naegle stated, “Bayard often said that any movement needs to win the hearts and minds of the majority. Don’t waste time focusing on the extremist elements (i.e. KKK, religious fundamentalists, etc.) You can’t win them over. Concentrate instead on the vast majority of people, many of whom may not know what they think about a particular issue. Focus on educating them with facts and logic to back up your position. Prejudice is often a result of fear, and fear is often tied to ignorance. So, strategies designed to educate people about the facts (writing, distributing material, demonstrating while giving out flyers, etc.) are some tactics that could apply to any movement.”⁵⁶ Naegle brings up a good point here. For the most part, extremely

⁵⁴ Lewis, John. Interview by Charles Boyd. Tape recording. Atlanta, Georgia, March 20, 2014.

⁵⁵ Anson, Aaron, *Mind Your Own Life: The Journey Back to Love* (Balboa Press, 2011), 75.

⁵⁶ Walter Naegle, email message to Charles Boyd, November 30, 2011.

homophobic people will probably not change their views. When one looks at the politicians who have changed their stance on equal rights for gays in the last ten years from opposition to support, one finds that most of them were originally moderate on gay rights issues. There are a few of them, like Harold Ford, Jr. and Robert Portman, who were originally very conservative on gay rights, but these individuals represent special cases who changed their views for unusual reasons—Ford because he had gone from trying to get elected in Tennessee to trying to get elected in New York, Portman because he has a gay son. In most cases, individuals who abandoned their opposition to equal rights, such as Barack Obama, Joe Biden, Hillary Clinton, Harry Reid, Barbara Boxer, Dianne Feinstein, and Olympia Snowe, had already supported some moderate gay rights reforms before coming out in support of full legal equality.

In the past, civil unions have been promoted as a viable alternative to same-sex marriage, but in the last few years, this alternative has increasingly been seen as unjust. As long as civil marriage exists for heterosexual couples, civil unions cannot be an acceptable alternative for gay couples. As many people have come to understand, giving heterosexual couples civil marriage and gay couples civil unions is practicing “separate but equal” and necessarily involves the government dividing people into different categories of rights based on the immutable trait of sexual orientation. Whether or not civil unions provide all the financial benefits of marriage does not change this fact. The “marriage in everything but name” approach is little different than forcing people of different races to attend separate schools of equal quality or forcing them to drink from separate water fountains of equal quality. Most gay rights activists are in agreement that

civil marriage cannot be extended to people of one sexual orientation and denied to people of another. One issue that those looking at strategies for the Gay Rights Movement often disagree about is to what extent civil unions should be seen as a step in the right direction. Jonathan Rauch, for example, is a writer who has written a book in support of same-sex marriage but also co-wrote an article accepting civil unions as a temporary compromise.⁵⁷ It should be noted that Rauch's co writer, David Blankenhorn, was strongly opposed to same-sex marriage at the time that the article was written.⁵⁸

Some people, however, fear that civil unions legitimize the inferior legal status of gays and lesbians and can delay progress toward marriage equality by creating the illusion that the problem of anti-gay discrimination has been resolved. The former position can be supported by the fact that various states and nations, including Belgium, Norway, France, Connecticut, Rhode Island, and New Hampshire have had civil partnerships for gay and lesbian couples prior to legalizing same-sex marriage. The latter position can be supported by the fact that there is often a cultural bias in favor of compromise and that people are generally reluctant to adopt a compromise only to go right back to fighting for the "whole loaf," so to speak. Consider the following hypothetical scenario: Jared Polis, Keith Ellison, Tammy Baldwin, Elizabeth Warren, and Bernie Sanders propose a bill to legalize same-sex marriage across the United States. Not surprisingly, the bill encounters heavy opposition in the House and the Senate.

⁵⁷ Blankenhorn, David and Jonathan Rauch, "A Reconciliation on Gay Marriage," *The New York Times*, February 21, 2009, accessed April 18, 2013, http://www.nytimes.com/2009/02/22/opinion/22rauch.html?_r=0.

⁵⁸ Blankenhorn, David and Jonathan Rauch, "A Reconciliation on Gay Marriage," *The New York Times*, February 21, 2009, accessed April 18, 2013, http://www.nytimes.com/2009/02/22/opinion/22rauch.html?_r=0. Blankenhorn has since effectively conceded defeat, as have Newt Gingrich and Bill O'Reilly.

Eventually, a compromise bill legalizing civil unions is adopted. President Obama signs it, saying that it is a step in the right direction. At this point, some people in this hypothetical scenario would unjustly accuse activists of being unreasonable if they immediately resumed fighting for marriage equality.

These concerns can also be supported by the case of Denmark, which began granting “registered partnerships” to same-sex couples in 1989, making it the first country to do so.⁵⁹ One might expect that Denmark would have gone on to become the first country to legalize same-sex marriage. In fact, however, Denmark did not adopt marriage equality until 2012, twenty-three years after legalizing registered partnerships. One has to wonder if the compromise of registered partnerships actually *delayed* marriage equality, as it may have led gays and lesbians to become complacent and accept second-class citizenship. Yet the case can also be made that civil unions did help facilitate same-sex marriage in the long run, as most nations still have not legalized marriage equality, unlike Denmark. The case of Rhode Island is one of the more compelling anecdotes to support the conclusion that civil unions hasten the legalization of gay marriage. Having historically been one of the most progressive states on civil rights for African Americans, it was not a question of if but rather when Rhode Island would embrace marriage equality. In 2010, former Rockefeller Republican Lincoln Chafee became governor. The first bill related to gay partnerships to come to his desk, however, was a civil unions bill. Chafee signed it, declaring that he supported gay marriage, but

⁵⁹ Eskridge, William N., and Darren R. Spedale, *Gay Marriage: For Better or For Worse? What We've Learned from the Evidence?* (Oxford: Oxford University Press, 2006), 57.

considered the bill a step in the right direction.⁶⁰ Now, Chafee's first term as governor is not even over, and gay marriage is legal in Rhode Island.

At any rate, the evidence suggests that civil unions will not even be on the table much longer. The view that a two-tiered system is appropriate has declined. Conservative commentator Jonah Goldberg remembers supporting civil unions, "back when it was considered a left-wing position, not a fallback right-wing one."⁶¹ Goldberg concedes that, "I think the argument over whether or not to call civil unions 'marriage' has been all but lost." Five years ago, most Democratic politicians claimed to oppose same-sex marriage but favor civil unions. Now, this is a minority position in the Democratic Party. One by one, virtually every Democrat who favored civil unions but stated their opposition to gay marriage—Barack Obama, Howard Dean, Hilary Clinton, Joe Biden, Al Gore, Harry Reid—has recanted his or her position and announced support for marriage equality. Politicians who view civil unions as "good enough" are not totally extinct in the Democratic Party, but they are a relic of an era that most prominent Democrats seem to rightfully want to jettison. Fifteen years ago, it was considered progressive for a politician to say that while marriage was between a man and a woman, civil unions should be legalized as a matter of fairness. Now that position is rightfully considered antiquated, bigoted, and mainly a way for social conservatives to stave off marriage equality. In 2000, the Vermont Supreme Court gave the state legislature and governor a choice: legalize civil unions, or legalize gay marriage. Governor Howard Dean, who

⁶⁰ CBS. "R.I. Gov. signs bill allowing civil unions." July 2, 2011. Accessed November 12, 2013. http://www.cbsnews.com/2100-201_162-20076400.html.

⁶¹ *National Review Online*. Goldberg, Jonah, "Abortion and Gay Marriage—Separate Issues." March 22, 2013, Accessed November 12, 2013. <http://www.nationalreview.com/articles/343636/abortion-and-gay-marriage-separate-issues-jonah-goldberg>.

opposed gay marriage publicly until 2010, signed a civil unions bill. At the time that he opposed same-sex marriage, Dean stated that he had only favored the bill because the court had stated that either civil unions or gay marriage had to be permitted.⁶² Later, the New Jersey Supreme Court made a similar ruling, and the state also legalized civil unions. In 2012, their legislature finally passed a gay marriage bill. Governor Chris Christie, who was already on record as favoring civil unions, refused to sign it, and was lambasted as homophobic. The times they are changing, indeed.

The best approach to civil unions is somewhat nuanced. Even in states like Georgia, where it will be extremely difficult to legalize gay marriage, gay rights activists should avoid actively attempting to legalize civil unions. Devoting time and energy to passing civil unions legislation *would* tacitly legitimize the inferior legal status of gays and lesbians, since it would basically be accommodating the denial of same-sex marriage rights. However, gay rights activists should urge supportive legislators to vote for civil unions legislation if it is proposed, as well as urge governors to sign civil unions legislation if it comes to their desk. This would be treating civil unions as a step in the right direction while avoiding promoting the illusion that they are in any way a solution. The one caveat involves cases in which a bill legalizes civil unions while also reaffirming that gay marriage is not permitted. The passage of such a bill would not only fail to give gays and lesbians equal rights but also in some way solidify the ban on gay marriage. It would be comparable to legislation mandating that black and white children be given equally good schooling while also stating that schools would continue to be segregated.

⁶² Mark Steyn, "Democrats are turning to...this guy?" *Chicago Sun Times*, July 6, 2003.

“Separate but equal” civil unions are not and will not be vindicated by history. It should be noted that Southern governors like Hugh L. White attempted to do something similar to that. In the aftermath of *Brown v. Board of Education*, White offered to make the segregated schools for blacks in Mississippi equal to the schools for whites in exchange for blacks accepting segregation. Civil rights activists rejected his offer.⁶³ Civil rights leader James Farmer, Jr. declared that his organization, the Congress of Racial Equality, must fight, “not to make housing in ghettos more tolerable, but to destroy residential segregation; not to make Jim Crow facilities the equal of others, but to abolish Jim Crow; not to make racial discrimination more bearable, but to wipe it out.”⁶⁴ Farmer’s words should be recalled every time a person of any sexual orientation tries to convince gay people to be happy with civil unions. Evan Wolfson, one of the premier advocates for marriage equality, cautions that, “history reminds us that you don’t get a full loaf by asking for, or settling for, half.”⁶⁵

A somewhat similar but still distinct issue is whether or not gay rights activists should focus on abolishing civil marriage altogether. The argument made by many libertarians, including the Libertarian Party, as well as some leftists, goes as follows: 1. If civil marriage exists, it should be extended to gay couples; 2. The issue would be best resolved if the government stopped granting civil marriage to anyone, and marriage became simply a religious institution. Under this system, denominations like Reform Judaism, the United Church of Christ, and the Unitarian Universalist Association could

⁶³ Bartley, Numan V., *The New South, 1945-1980* (Baton Rouge: LSU Press, 1995), 168-169.

⁶⁴ Polenberg, Richard, *War and Society: The United States, 1941-1945* (Westport: Greenwood Press, 1980), 107.

⁶⁵ Wolfson, Evan, *Why Marriage Matters* (New York City: Simon and Schuster, 2004), 182.

perform same-sex weddings, while denominations like Orthodox Judaism, the Roman Catholic Church, and the Southern Baptist Convention could refuse. This stance has some merit. It acknowledges that granting civil marriage to heterosexuals and forcing gays to settle for civil unions is unfair. It also proposes to do away with a law that discriminates based on sexual orientation. And it could be satisfactory to people who oppose same-sex marriage but have a certain level of distrust of government.

However, focusing on privatizing marriage instead of focusing on legalizing gay marriage is counterproductive overall. The biggest problem is that it confuses the issue. The most important issue should be ending state-sanctioned discrimination against gays and lesbians, not ending civil marriage. The issue of whether or not civil marriage should exist is less of a cut and dry moral issue than the issue of whether or not civil marriage can be granted to heterosexuals while being denied to gays. By allowing the issue to be confused in such a manner, gay rights activists run the risk of alienating those who support marriage equality and also oppose privatizing marriage. It is important that those who support marriage equality be as united as possible if gays and lesbians are to achieve justice.

Perhaps just as problematic is the fact that taking such a stance could open the door for unsavory alliances with people who want the government out of marriage but are bigoted towards gays and lesbians and would rather have civil marriage extended only to heterosexuals if it exists at all. For instance, Ron Paul warmly supports DOMA⁶⁶ but

⁶⁶ *Advocate*. "Ron Paul Supports DOMA." March 7, 2011. Accessed November 18, 2013. <http://www.advocate.com/news/daily-news/2011/03/07/ron-paul-supports-doma>.

claims to want government out of marriage.⁶⁷ If the Civil Rights Movement had focused on abolishing public schools rather than abolishing Jim Crow in public schools, the cause would have been derailed. Some segregationists would have joined with civil rights activists, while a multitude of leftists would have been unwilling to support a movement to eliminate public education. Furthermore, legalizing same-sex marriage and desegregating public schools are still libertarian positions. As mentioned earlier, they prevent the government from dividing people into different classes of rights based on sexual orientation.

Students for Liberty, a libertarian organization, published an article on same-sex marriage that is worth quoting at length due to its compelling argument: “Some, however, have espoused an argument which usually goes like this: Marriage licensing is an illegitimate role of the state, therefore libertarians should only advocate for privatizing marriage, and thus oppose gay marriage because it requires further state encroachment. Once same-sex marriage is legalized, so the argument goes, government is involved in doling out special benefits to two groups – gay couples and straight couples. This argument lacks substance however, because the reality is that government is involved in marriage, and so long as that is true, libertarians should uphold the more pressing concern of equality under the law. This is not to suggest that libertarians should be any less concerned with returning marriage to its original, private roots. Take the example of lawfully segregated schools in the United States which lasted for nearly a century after emancipation. Would it be a reasonable libertarian position to oppose desegregating

⁶⁷ Page, Clarence, “An odd push to privatize marriage,” *Chicago Tribune*, April 3, 2013, accessed November 18, 2013. http://articles.chicagotribune.com/2013-04-03/news/ct-oped-0403-page-20130403_1_ron-paul-licenses-should-government.

schools because this would further aggrandize the state? Probably not. The proper libertarian position is to oppose state-sponsored discrimination. Should we continue to push for privatized schooling? Of course, but that does not mean that we cannot push for incremental change in order to further liberty and equality under the law. This applies to both segregation and to marriage.”⁶⁸ No person should see a contradiction between believing in as little government as possible and also believing that ending marriage discrimination against gays and lesbians is more important than privatizing marriage.

It may be easier to build coalitions between gays of different races due to the comparative degree of racial harmony in LGBT communities. According to author Robert Staples, “Some of the landmark court rulings involving gays were interracial couples. A Florida gay couple denied adoption rights wanted to adopt some black children with AIDS.”⁶⁹ According to a study by the Williams Institute, same-sex couples were over twice as likely as married heterosexual couples to be interracial or interethnic.⁷⁰ The early, underground gay rights movements often displayed a level of integration and support for racial equality very unusual for the era. In 1924, Henry Gerber, a gay German immigrant, founded the Society for Human Rights in Chicago, the first gay rights organization in the history of the United States. John T. Graves, a black minister, signed on as president of the organization, making the Society for Human

⁶⁸ Townsend, Clint, “Marriage Inequality: The True Abomination,” *Students For Liberty.org*, June 28, 2011, accessed November 18, 2013,

<http://studentsforliberty.org/blog/2013/03/27/marriage-inequality-the-true-abomination/>.

⁶⁹ Staples, Robert, *Exploring Black Sexuality* (Lanham: Rowman and Littlefield, 2006), 63.

⁷⁰ Gates, Gary J., “Same-sex couples in Census 2010: Race and Ethnicity,” *the Williams Institute* (2010): , accessed November 18, 2013,

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-CouplesRaceEthnicity-April-2012.pdf>.

Rights one of the few biracial organizations, other than the NAACP, to have black leadership.⁷¹ In 1964, the Daughters of Bilitis, the main lesbian rights organization in the United States, selected a black president named Cleo Bonner.⁷² Many early white gay rights leaders, such as W. Dorr Legg, Del Martin⁷³, Phyllis Lyon⁷⁴, and Frank Kameny⁷⁵, strongly opposed racism. In 1950, Legg worked with his romantic partner, Merton Bird, to found an organization called the Knights of the Clock. The Knights of the Clock was specifically designed to be an interracial gay organization.⁷⁶

Before coming to terms with his sexual orientation, Igal Roodenko, a gay Jewish New Yorker, was active in protesting racism. In 1947, both he and Bayard Rustin both took part in the Journey of Reconciliation, a protest of segregated interstate buses.⁷⁷ During his trial, the judge expressed his disgust with Jewish New Yorkers who stood up for African Americans' rights (Roodenko was neither the first nor the last to do so) and

⁷¹ Kepner, Jim and Stephen O. Murray, "Henry Gerber (1895-1972): Grandfather of the American Gay Rights Movement," *Before Stonewall: Activists for Gay and Lesbian Rights in Historical Context*. Ed. Bullough, Vern L. (Binghamton: Hayworth Press, 2002), 24-28.

⁷² Lyon, Phyllis and Del Martin, "Cleo Glenn (Bonner) (Dates Unknown)," *Before Stonewall: Activists for Gay and Lesbian Rights in Historical Context*. Ed. Bullough, Vern L. (Binghamton: Hayworth Press, 2002), 189.

⁷³ Martin, Del, "Phyllis Lyon (1924-)," *Before Stonewall: Activists for Gay and Lesbian Rights in Historical Context*. Ed. Bullough, Vern L. (Binghamton: Hayworth Press, 2002), 170.

⁷⁴ Martin, Del, "Phyllis Lyon (1924-)," *Before Stonewall: Activists for Gay and Lesbian Rights in Historical Context*. Ed. Bullough, Vern L. (Binghamton: Hayworth Press, 2002), 170.

⁷⁵ Long, Michael G., *Martin Luther King, Jr., Homosexuality, and the Early Gay Rights Movement: Keeping the Dream Straight?* (Basingstoke: Palgrave Macmillan, 2012), 122.

⁷⁶ Dynes, Wayne R., "W. Dorr Legg (1904-1994)," *Before Stonewall: Activists for Gay and Lesbian Rights in Historical Context*. Ed. Bullough, Vern L. (Binghamton: Hayworth Press, 2002), 96-98.

⁷⁷ Levine, Daniel, *Bayard Rustin and the Civil Rights Movement* (Newark: Rutgers University Press, 2000), 60.

gave him a sentence on the chain gang three times as long as Rustin's.⁷⁸ Later in life, Roodenko participated in an organization called Men of All Colors Together, dedicated to eliminating racism among gays.⁷⁹ David Mixner, a white gay leader of a later generation, participated in the Civil Rights Movement as a teenager.⁸⁰ Barney Frank, the first member of Congress to voluntarily "come out" as gay and the first to marry a member of the same sex while in office, participated in the Mississippi Summer Project and co-sponsored legislation imposing economic sanctions on South Africa's apartheid government. Martin Duberman, a prominent gay writer, wrote a play called *In White America* in 1963 that documented African American history, especially the horrors of slavery and Jim Crow. Coretta Scott King once stated, "Gays and lesbians stood up for civil rights in Montgomery, Selma, in Albany, Ga. and St. Augustine, Fla., and many other campaigns of the Civil Rights Movement," and that, "Many of these courageous men and women were fighting for my freedom at a time when they could find few voices for their own, and I salute their contributions."⁸¹

⁷⁸ Dixon, Mark E., *The Hidden History of the Main Line: From Philadelphia to Malvern* (Charleston: The History Press, 2010), accessed via this link:

<http://books.google.com/books?id=5Do7QYbYUn8C&pg=PT141&dq=igal+roodenko+s+entence+three+times+as+long+as+rustin's&hl=en&sa=X&ei=jX-OUvWUFYiI2AXej4GQDg&ved=0CDEQ6AEwAA#v=onepage&q=igal%20roodenko%20sentence%20three%20times%20as%20long%20as%20rustin's&f=false>.

⁷⁹ "Igal Roodenko, 74; Led Anti-War Group," *The New York Times*, May 1, 1991, accessed November 20, 2013,

http://www.nytimes.com/2009/02/22/opinion/22rauch.html?_r=0.

⁸⁰ Mixner, David, *Stranger Among Friends* (New York: Random House LLC, 2009), accessed via this link:

<http://books.google.com/books?id=0Jeg2X025UgC&printsec=frontcover&dq=stranger+among+friends&hl=en&sa=X&ei=0oGOUobFMenC2gXO-IG4BQ&ved=0CC8Q6AEwAA#v=onepage&q=livid&f=false>.

⁸¹ Wilson, Terry, "King's Widow Stands Up for Gay Civil Rights: She Cites Husband's Strong Opposition to All Forms of Injustice," *Chicago Tribune*, April 1, 1998, accessed

Still, racial tension does exist among some gays and lesbians. The case of Andrew Sullivan holds special significance. Sullivan is a libertarian-leaning conservative gay writer who has advocated vocally for same-sex marriage since the 1980s and enjoys a great deal of popularity with people across the political spectrum. However, his racial attitudes are nothing short of horrifying. While serving as the editor of *The New Republic*, Sullivan published excerpts from *The Bell Curve*, which argues that there are inherent differences in intelligence between races. While allowing other authors to publish rebuttals, Sullivan defended *The Bell Curve*'s conclusions.⁸² In a 1999 article, gay writer John Cloud lamented the supposed failure of the Gay Rights Movement's attempt to use the tactics of the Civil Rights Movement, including the, "bleat of victimhood."⁸³

Walter Naegle, in fact, seems to disagree with the conclusion that racism is less prevalent among gays than Americans in general. While Naegle describes encountering less stigma toward his and Bayard's relationship while living in New York City, he also recalls that, "I do think that the gay community still tends to largely self-segregate, and an interracial couple doesn't always fit into that mix. I wouldn't say that interracial relationships are any more or less frowned upon in the gay community than in the straight community. I don't know about this, perhaps there is some kind of sociological data about the subject. I will say that Bayard convinced me that simply being a member of an oppressed minority does not necessarily endow one with the compassion and humanity

November 20, 2013, http://articles.chicagotribune.com/1998-04-01/news/9804010141_1_gay-civil-rights-lambda-legal-defense-coretta-scott-king.

⁸² Metcalf, Stephen, "Is defending the Bell Curve an example of intellectual honesty?" *Slate.com*, October 17, 2005, accessed November 20, 2013, http://www.slate.com/articles/arts/culturebox/2005/10/moral_courage.html.

⁸³ Cloud, John, "Protesting Too Much," *Out*, June 1999.

needed to embrace other minorities. Minority group members can be just as oppressive and intolerant when the opportunity arises.”⁸⁴ While these incidents and testimony do not demonstrate widespread racism among gays and lesbians, they do demonstrate that being gay or lesbian is not a guarantor of enlightened racial attitudes.

There are plenty of prominent African Americans who could be quoted making the comparison between the experiences of blacks and gays. John Lewis, Mildred Loving, Julian Bond, Bayard Rustin, Coretta Scott King, Carole Moseley-Braun, Leonard Pitts, and Randall Kennedy are among them. When asked, “In forging alliances between African Americans and the Gay Rights Movement, how important do you think it is to quote black figures like Bayard Rustin regarding the comparison between racism and homophobia? I ask this, because Bayard Rustin, like Mildred Loving, John Lewis, Julian Bond, and Coretta Scott King, compared the experiences of gays with the experiences of blacks under Jim Crow, but white people who make similar comparisons are often dismissed.” Walter Naegle replied, “I think it is important to quote people from all races on the subject. Racism and homophobia both grow out of fear. While I think that Bayard is someone worth quoting, mainly because of his intelligence and experience, I don't think quoting a person of a particular race to other members of that race necessarily means much. People don't think alike because of color.”⁸⁵

When asked about ways to appeal to more African Americans, Naegle responded, “I think you can enlist people based on their open-mindedness and intelligence. You can do this by educating them. I do think that, percentage wise, the Black community is

⁸⁴ Walter Naegle, email message to the author, November 28, 2011.

⁸⁵ Walter Naegle, email message to the author, November 30, 2011.

attending church in higher numbers than the white community. To the degree that those churches are fundamentalist in orientation, I think you'll have an obstacle there. It's 'faith versus reason,' and I still think that faith trumps reason in the religious community. I think it can matter how one frames the argument: Don't ask people to say 'gay is good' or that homosexuality is 'okay with God', but concentrate on whether people in America, a secular country, should be equal under the law. That's an issue of logic and law, not faith."⁸⁶

At any rate, Naegle is optimistic about forging a coalition between gays and lesbians of different races and believes that Rustin would be as well, writing, "I don't know how Bayard felt about this, but I don't think he would have seen it as very difficult. I don't think it is difficult if we're all fighting for the same objective. I do understand that there are parts of the country where racism plays a larger role, and bringing folks of different races together can be more of a challenge. However, Bayard used to say that coalitions don't last forever. You come together to work for certain, limited objectives, without necessarily agreeing on all things."⁸⁷ This idea has a great deal of merit. Until the end of the Civil War, coalitions of abolitionists who often disagreed on many important issues worked together. After the Civil War, these disagreements often came to a head. For example, when enfranchising ex-slaves was discussed, some abolitionists, such as Susan B. Anthony, Robert Purvis, Elizabeth Cady Stanton, Parker Pillsbury, and Sojourner Truth refused to support a constitutional amendment giving black men the right to vote unless it included a clause that also

⁸⁶ Walter Naegle, email message to the author, November 30, 2011.

⁸⁷ Walter Naegle, email message to the author, November 30, 2011.

guaranteed women's suffrage. Others, such as Abby Kelley Foster, Stephen Symonds Foster, Wendell Phillips, Frederick Douglass, and Lydia Maria Child argued that while women's suffrage should be enacted, it was important to focus for the time being on making sure that the right to vote was not denied based on race. While the old coalition came apart over this issue, it is important to remember that this coalition had earlier played a pivotal role in abolishing slavery.

It is of undeniable importance that the Gay Rights Movement show solidarity with other oppressed groups. Bigotry against any group must never be tolerated within the movement, and LGBT organizations and leaders must make it clear that they believe in equality and fair treatment for everyone, and consider issues like racism, sexism, and modern-day slavery to be important.

Evidence shows that gay rights activists should fight for federal intervention on the matter of same-sex marriage and other gay rights issues. First, both women and African Americans ultimately won their legal battles at the federal level, with constitutional amendments, federal legislation, and Supreme Court decisions. In virtually no case did activists for women's rights or African American's rights achieve legal equality nationwide by going state-by-state. Second, it sends the wrong message to suggest that issues of civil rights should be decided at the state level. It dilutes the importance of these issues and suggests that a person's rights can justly be dependent on the state they live in. It was wrong to argue that a black person in 1855 could be free (in a manner of speaking) in Massachusetts but not in Mississippi. It is also wrong to argue that a gay person now can have equal rights in Massachusetts but not in Mississippi. Third, there is now such strong support for federal action in support of same-sex marriage

that it makes it feasible for activists to soon achieve equal rights in this manner. According to a 2013 poll, fifty-two percent of Americans stated that they would vote for a federal law to make gay marriage legal in all fifty states. A sizable majority of American Catholics said that they would support such a law, and nearly a third of Republicans said that they would as well.⁸⁸ Federal courts have already legalized gay marriage in California. South Africa is a prominent example of a country that achieved equal rights for gays and lesbians largely through the courts. Gay marriage became legal in South Africa in 2005, as a result of a decision by Chief Justice Albie Sachs, who had been active in the anti-apartheid movement.⁸⁹ Lower courts should also be utilized, as these institutions have already legalized gay marriage in Massachusetts, Connecticut, Iowa, and New Jersey as of this writing.

The ultimate goal should be a twenty-eighth amendment to the U.S. Constitution. This amendment should read: "Equality of rights under the law shall not be denied or abridged based on sex, gender, gender identity, or sexual orientation anywhere in the United States, by the federal, state, or local governments or by any government in U.S. territories or Native American reservations. No government in the United States may allow civil marriage between opposite-sex couples while denying it to same-sex couples. Discrimination in housing, employment, and other public accommodations based on gender, gender identity, sex, disability, race, religion, color or sexual orientation is forbidden anywhere under U.S. jurisdiction. Jurisdictions failing to adhere to this

⁸⁸ Saad, Lydia, "In U.S., 52% Back Law to Legalize Gay Marriage in 50 States," *Gallup.com*, July 29, 2013, accessed November 21, 2013, <http://www.gallup.com/poll/163730/back-law-legalize-gay-marriage-states.aspx>.

⁸⁹ Richards, David A.J., *The Rise of Gay Rights and the Fall of the British Empire: Liberal Resistance and the Bloomsbury Group* (Cambridge: Cambridge University Press, 2013), 213-214.

amendment will be denied any federal funding, and Congress shall have the power to enforce this amendment by appropriate legislation.” It is necessary for such an amendment to be very specific. Imagine, for instance, that Congress were to pass an amendment simply stating that gays are entitled to equal protection under the law. That would not solve the problem, because states that are opposed to equal rights might simply pass a separate but equal civil unions bill and claim to have complied with the amendment. They could even try to argue that their current laws do not violate the equal protection clause, because both gays and heterosexuals are required to marry someone of the opposite sex.

While this may appear far-fetched and obstructionist, there is a distinct possibility that it could happen. After Reconstruction, many states argued that the Fourteenth Amendment did not prohibit segregated schools or bans on interracial marriage, because such laws applied to people of both races. This problem was exacerbated by the fact that while some proponents of the Fourteenth Amendment such as Charles Sumner wanted to completely remold America into a nation of racial equality, others still believed in some form of white supremacy and were not interested in initiating change to the extent that their abolitionist allies desired. Wendell Phillips proposed a text for the Fourteenth Amendment that would have essentially forbidden government from taking race into account, but this wording was rejected, and the result was eighty years or so of Jim Crow.⁹⁰ Furthermore, the U.S. Supreme Court in 1883 ruled that the Fourteenth Amendment only applied to governments, not the private sector, and struck down a civil rights bill that restricted racial discrimination by private business. If there is no clause in

⁹⁰ Kennedy, Randall, *Sellout: The Politics of Racial Betrayal* (New York: Random House LLC, 2008), 102.

the Twenty-Eighth Amendment dealing with private businesses, it could be argued that companies still have the right to discriminate against gay employees.

Still, it will be important for gay rights activists not to rely exclusively on any one level of government. Not attempting to do any work at the state level for marriage equality or other gay rights reforms is ill advised. The federal government has representatives from the most homophobic as well as the most gay-friendly states. It will be much more difficult to get a federal law legalizing gay marriage everywhere than it will be to get gay marriage legalized in, say, Oregon. Federal intervention should be a goal, but it should not be pursued to the exclusion of efforts at the state level.

The importance of not relying exclusively on one level of government also applies to the branches of government that gay rights activists should rely on at the state and federal level. There have been some gay rights activists, such as Rauch, who have opposed relying on courts. These activists rely at least partly on the moral argument that courts should not subvert the will of the people. This argument fails to hold water. If people have rights, these rights cannot be subject to popularity contests. The fact that the vast majority of white Mississippians probably favored some level of Jim Crow in the 1950s did not make it wrong for courts to intervene then. Any attempt to claim that courts should not intervene on gay rights will trivialize the importance of the issues and promote the idea that gays and lesbians really do not have inalienable rights but are instead only entitled to fair treatment if the majority favors it.

Some may also argue that the judiciary has little ability to enforce its edicts independent of the legislative and executive branches. This argument has some validity. Southeastern Native American tribes found this out firsthand, when Andrew Jackson

violated the Supreme Court's order and had them forcibly removed from their homeland. If the Supreme Court declared tomorrow that gays and lesbians were entitled to all of the same rights as heterosexuals, Congressional Republicans and a slew of state governments would declare the ruling unconstitutional and try to flout it.

On the other hand, courts *have* helped get the ball rolling, so to speak, on civil rights, as they did in the cases of *Brown* and *Loving*. Ten years ago, the Supreme Court invalidated state laws against homosexuality. In certain cases, courts can give sympathetic politicians the push they need to support reforms. Consider that Dwight Eisenhower had not taken a firm stand against school segregation prior to the *Brown* decision, probably in part due to fear of political backlash. When the *Brown* decision was handed down, however, Eisenhower promptly desegregated the Washington, D.C. public school system.⁹¹ In 1957, he used federal troops to make sure that black students could enter Little Rock Central High School in Arkansas. Because of the *Brown* ruling, Eisenhower could portray himself as simply obeying the Supreme Court.⁹² If Eisenhower had not had both the desire to respect the court's decision and the excuse that he was only upholding the system of checks and balances, he would have probably been far more reluctant to support desegregation in these cases.

Likewise, despite their relative weakness compared to legislation and court rulings, executive orders should also be a goal for gay rights activists. Presidents and, to a lesser extent, governors, have the power to make certain policy decisions unilaterally. For

⁹¹ Felzenberg, Alvin S., *The Leaders We Deserved (and a Few We Didn't): Rethinking the Presidential Rating Game* (New York: Basic Books, 2010), 318-319.

⁹² Felzenberg, Alvin S., *The Leaders We Deserved (and a Few We Didn't): Rethinking the Presidential Rating Game* (New York: Basic Books, 2010), 318-319.

example, before he made the decision to sign the bill implementing “Don’t Ask, Don’t Tell,” Bill Clinton could have ended the military ban on gays via an executive order. On his first day in office, President Obama could have signed an executive order effectively making “Don’t Ask, Don’t Tell,” impossible to enforce as long as he was the president. He could still issue an executive order forbidding businesses from discriminating against gays and lesbians if they receive government contracts. Executive orders are a good way of getting around opposition to improve things more quickly. However, they must be viewed as a supplement to legislation and court rulings, not a substitute. An executive order can go as easily as it comes, since a succeeding president can reverse their predecessor’s orders at any time. While President Obama missed an opportunity when he chose not to issue an executive order preventing gay soldiers from being discharged, it would still have been just as necessary for legislation to be passed ending “Don’t Ask, Don’t Tell.”

A controversial facet of the discussion over strategies for the Gay Rights Movement revolves around whether or not the pro-gay rights position is significantly stronger if activists maintain that sexual orientation is immutable. Wolfson seems to consider the debate rather unimportant and compares discrimination based on sexual orientation to discrimination based on religion, since religion is indeed a choice.⁹³ In fact, at the federal level, people currently receive much more protection from discrimination based on religion than they do from discrimination based on sexual orientation. On the other hand, in court cases related to gay rights, proponents of equality have frequently made the argument that homosexuality is *not* a choice and that this is at least part of the

⁹³ Wolfson, Evan, *Why Marriage Matters* (New York: Simon and Schuster, 2004), 182.

reason why gays and lesbians deserve equal rights.⁹⁴ Furthermore, it becomes very difficult to compare the struggles of gays with the struggles of African Americans if homosexuality is a choice, since people can plausibly point out that there is a difference between being discriminated against for something you have no control over versus something that you chose. The statements of two figures from the Civil Rights Movement, Walter Fauntroy and Julian Bond, highlight this. Fauntroy states, "The essential difference between the Black civil rights struggle and the gay rights struggle ... is that Black people are discriminated against on the basis of something we cannot change, our race; gays are discriminated against on the basis of their behavior, something that can be changed."⁹⁵ If Fauntroy had to concede that homosexuality was innate, he would be hard pressed to maintain his anti-gay views. Julian Bond, on the other hand, has asserted, "African Americans ... were the only Americans who were enslaved for two centuries, but we were far from the only Americans suffering discrimination then and now." According to Bond, homosexuality, "is inherent in some," and, "in that regard, it exactly parallels race."⁹⁶ Recently, Julian Bond wrote an organization-wide email for the Human Rights Campaign. The former NAACP chairman began by stating, "Thousands are in Washington, D.C. today to re-create something so powerful and so vivid that it still

⁹⁴ Whisman, Vera, *Queer By Choice: Lesbians, Gay Men, and the Politics of Identity* (London: Routledge, 2012), page number not available on GoogleBooks, information can be accessed here:

<http://books.google.com/books?id=ixcijnh9XI0C&pg=PT9&dq=homophobia+correlated+with+belief+that+homosexuality+is+a+choice&hl=en&sa=X&ei=uvhwUZC6FOH4yAHChoGoAw&ved=0CDIQ6AEwAA>.

⁹⁵ Long, Michael G., *Martin Luther King, Jr., Homosexuality, and the Early Gay Rights Movement: Keeping the Dream Straight?* (Basingstoke: Palgrave Macmillan, 2012), 103.

⁹⁶ Bond, Julian, "Is Gay Rights a Civil Rights Issue?" July, 2004, *Ebony*, 144.

plays on loop in my mind. They're here for the 50th anniversary of the 1963 civil rights March on Washington. We are returning amidst a newly reinvigorated fight for civil rights that has grown rapidly to include lesbian, gay, bisexual, and transgender Americans. *After all, LGBT rights are civil rights.* No parallel between movements is exact. But like race, our sexuality and gender identity aren't preferences. **They are immutable, unchangeable – and the constitution protects us all against discrimination based on immutable differences.** Today, we are fighting for jobs, for economic opportunity, for a level playing field free of inequality and of discrimination. **It's the same fight our LGBT brothers and sisters are waging – and together we have formed a national constituency for civil rights.**”⁹⁷ Julian Bond’s first set of words, which he himself chose to highlight, is particularly important to consider. He states, once again, that comparing oppression of blacks and gays is appropriate, *because neither race nor sexual orientation is a choice.*

Since, according to *Queer By Choice*, research indicates that homophobia is correlated with a belief that homosexuality is a choice, it is easy to see why this debate among gay rights activists is important.⁹⁸ A final point to consider is that, while far more antidiscrimination protections exist in America based on religion than based on sexual orientation, this is probably because homophobia has only recently started being viewed by many Americans as comparable to racism. There seems to be a wide consensus that

⁹⁷ Julian Bond, group email message, August 24, 2013.

⁹⁸ Whisman, Vera, *Queer By Choice: Lesbians, Gay Men, and the Politics of Identity* (London: Routledge, 2012), page number not available on GoogleBooks, information can be accessed here:

<http://books.google.com/books?id=ixcijnh9XI0C&pg=PT9&dq=homophobia+correlated+with+belief+that+homosexuality+is+a+choice&hl=en&sa=X&ei=uvhwUZC6FOH4yAHChoGoAw&ved=0CDIQ6AEwAA>.

precisely *because* religion is a choice, denigrating a race is worse than denigrating a religion. Franklin Graham might be able to call Islam a “very evil religion”⁹⁹ and still maintain a high level of respectability, but he would have encountered much more backlash if he had, for example, described Arabs as a “very evil race.”

It will strategically behoove gay rights activists to place the cause before party or even national loyalty. Otherwise, it is likely that gay rights reforms will continue to be postponed, because obstructionists will always be able to argue that other things are of greater importance. The contrasting cases of Wendell Phillips and fellow abolitionist Gerrit Smith underscore this point. In an 1857 speech, Phillips admonished, “No man deserves the name of an Abolitionist who, in arguing the slave question, sets out with the assumption that any human institution is to be saved at all hazards, come what may of the slave . . . I do not know where my opposition to slavery will lead me; but I know this, that wherever it leads me, I will go until I reach the slave. The Abolitionist gives no pledge to his fellow except this—that he will make his way over every obstacle, in order to reach the slave.”¹⁰⁰ The fruits of Phillips’s decision to prioritize freeing slaves over loyalty to country are clear: thirty years spent contributing to the emancipation of millions of enslaved people. By contrast, in 1863, Gerrit Smith delivered a speech saying, “If a man cannot be a patriot whilst yet an abolitionist, he should cease to be an abolitionist.” In an 1864 letter to Elizabeth Cady Stanton, also an abolitionist, Smith asserted, “I love the anti-slavery cause. Nevertheless, I would have the [Confederate] rebellion put down at

⁹⁹ Beverly, James A., *Islamic Faith in America* (New York City: Infobase Publishing, 2009), 77.

¹⁰⁰ Wendell Phillips, “Speech at State Disunion Convention” (1857), in *Proceedings of the State Disunion Convention*, ed. Yerrington, J.M.W., (Boston: Massachusetts State Disunion Convention, 1857), 43.

whatever necessary expense to that cause.”¹⁰¹ The problem with Smith’s prioritizing is that it opened the door for people to abandon abolitionism if abolitionism was against the “national interest”—which many Americans had always argued was the case. Smith was essentially conceding a major premise of anti-abolitionist arguments—that blacks must remain chained for the time being, because their freedom was less important than the nation’s overall prosperity. Phillips gave his opponents no such ground. The stance that gay rights must be prioritized above patriotism may engender the ire of a great many people. However, the alternative is to subjugate the Gay Rights Movement and risk an indefinite delay of progress.

Another example that speaks favorably to this strategy of prioritizing is the case of segregation in the United States military. The conventional narrative teaches that the patriotic service of black soldiers during World War II persuaded the government to desegregate the military. This is a gross oversimplification. For one thing, the Lynn Committee to End Discrimination in the Armed Forces was created during World War II as a result of the case of Winfred Lynn. Aided by his lawyer brother, Conrad Lynn, Winfred stated that he would refuse to comply with conscription if forced to serve in a segregated unit.¹⁰² A number of prominent blacks and whites were involved with the committee, including Oswald Garrison Villard, NAACP cofounder and a grandson of William Lloyd Garrison.¹⁰³ The committee was unsuccessful in achieving military desegregation during the war, but the story did not end there. When Harry Truman took

¹⁰¹ Stauffer, John, *The Black Hearts of Men: Radical Abolitionists and the Transformation of Race* (Cambridge: Harvard University Press, 2009), 265.

¹⁰² Walker, Samuel, *In Defense of American Liberties: A History of the ACLU* (Carbondale: SIU Press, 1999), 165.

¹⁰³ Wynn, Neil A., *The African American Experience During World War II* (Lanham: Rowman & Littlefield, 2010), 30.

office, he initially dragged his feet with regard to integrating the military by not using executive authority. A major factor that forced him to finally issue an executive order to outlaw military segregation was the risk of blacks refusing to be drafted. Shortly before Truman issued the order, black political activist A. Phillip Randolph threatened to help black men avoid the draft if military segregation was not ended. Randolph was met with strong opposition, even by many supporters of civil rights. Senator Wayne Morse (R-OR), a board member of the NAACP and champion of the rights of African Americans, warned Randolph that he could be prosecuted for treason.¹⁰⁴

Yet Randolph would not back down. His stance helped back the United States government into a corner. Truman knew that the Southern segregationists were powerful in his party and that General Dwight Eisenhower had testified against full integration.¹⁰⁵ In fact, a poll in the late 1940s, after World War II had ended, still showed a clear majority of soldiers favored some form of segregation in the military¹⁰⁶, and General Douglas MacArthur would resist desegregation.¹⁰⁷ Yet with the Cold War now underway, Truman wanted the United States to appear to be a beacon of liberty on the international stage. Black men refusing to serve in the military due to segregation would embarrass the United States greatly. It is hard to deny that this concern, brought on by activists like

¹⁰⁴ Kersten, Andrew Edmund, *A. Phillip Randolph: A Life in the Vanguard* (Lanham: Rowman & Littlefield, 2007), 79.

¹⁰⁵ Miller, William Lee, *Two Americans: Truman, Eisenhower and a Dangerous World* (Lanham: Random House, LLC, 2013), 322.

¹⁰⁶ "Lesbians and Gay Men in the U.S. Military: A Historical Background," UC Davis, accessed December 5, 2013, http://www.chicagomanualofstyle.org/tools_citationguide.html.

¹⁰⁷ Parker, Christopher S., *Fighting for Democracy: Black Veterans and the Struggle Against White Supremacy in the Postwar South* (Princeton: Princeton University Press, 2009), 53.

Randolph, helped push Truman toward integrating the military. In essence, by refusing to be unswervingly loyal to a country that denigrated them, blacks were able to leverage patriotism in exchange for increased civil rights. Gays could use the same tactic.

The Gay Rights Movement has already faced a possible conflict between national loyalty and commitment to equal rights. During the fight over repealing “Don’t Ask, Don’t Tell,” many people argued that letting openly gay soldiers serve in the U.S. military would undermine unit cohesion. In other words, some homophobic soldiers would refuse to fight alongside openly gay and lesbian soldiers. This was a case of the “heckler’s veto,” wherein a person is forbidden from exercising their rights because of potential backlash from other people.

By entertaining the possibility of making equal treatment of gay soldiers contingent on the good will of their heterosexual peers, the repeal of “Don’t Ask, Don’t Tell” was put at risk. Then-presidential candidate Newt Gingrich showcased the danger of this dichotomy by saying, “Well, I think it's very powerful that both the Army and the Marines overwhelmingly opposed changing it, that their recommendation was against changing it. And if as president--I've met with them and they said, you know, it isn't working, it is dangerous, it's disrupting unit morale, and we should go back, I would listen to the commanders whose lives are at risk about the young men and women that they are, in fact, trying to protect.”¹⁰⁸ Yet the just position, one which many gay rights supporters at least tacitly took, was that gays and lesbians must be treated equitably

¹⁰⁸ “Army and Marines wanted Don’t-Ask-Don’t Tell,” *OnTheIssues.org*, accessed December 5, 2013, http://www.ontheissues.org/2012/Newt_Gingrich_Civil_Rights.htm#13.

regardless of the backlash and that military cohesion could not be built on the backs of gays and lesbians.

A critical component of any successful strategy for achieving gay rights is the willingness of gays and lesbians to work alongside heterosexuals in the same organizations. In any freedom struggle, there will be people from outside the oppressed group that support freedom. The American Anti-Slavery Society had both white and black members. The NAACP has always allowed white members. Martin Luther King, Jr. worked closely with white Americans, especially Stanley Levison. “Any movement,” warned Bayard Rustin, “Which begins by blocking out the active cooperation of the best minds, many of which are white as well as black, is fighting a losing battle.”¹⁰⁹ The Student Non-Violent Coordinating Committee and the Congress of Racial Equality allowed white members until the mid 1960s, meaning that most of their efforts fighting Jim Crow was done by blacks and whites working together.

White activists during the Civil Rights Movement such as Jim Zwerg, Jonathan Daniels, James Peck, Andrew Goodman, Michael Schwerner, James Reeb, and Viola Liuzzo, were beaten severely or killed standing up for racial equality. Many others participated in marches and voter registration in 1964 Mississippi. When discussing the importance of involvement of activists from outside the oppressed group, John Lewis asserts, “That is vital. It is so important. That sends the strongest possible message. It helped to sensitize, to educate and inform the larger population. You look back at the March on Washington, 1963, 50 years ago, you look at the photographs of the people. So it’s not just African Americans there, it’s not just civil rights for African Americans, civil

¹⁰⁹ “Bayard Rustin debates Malcolm X,” *YouTube* video, 0:13-0:26, posted by “BrotherOutsider,” February 4, 2008, <http://www.youtube.com/watch?v=WdbQKjr9Bu4>.

rights for *all* Americans. The movement helped free and liberate so many people. And it was not just members of the religious community, it was not just the priests, the rabbis, and the nuns. The March from Selma to Montgomery, after Bloody Sunday . . . More than a thousand ministers, priests, and rabbis, and nuns, and the great majority of them were white. You look at the Mississippi Summer Project. This year we commemorate the Fiftieth Anniversary, 1964. Many of the students and young people that came down were white. They bled, got arrested, jailed. Three young men, two of them I knew, that were killed, two were white and one African American. So since the early days of the movement, there has been an integrated Civil Rights Movement. The so-called, I'm sure you've seen the photograph of the so-called 'Big Six.' James Farmer, Whitney Young [Roy Wilkins], Dr. King, A. Philip Randolph, and myself. But at that first meeting to plan the March on Washington, we invited four major white religious and labor leaders to join us in issuing the call for the March on Washington. And so when we met with President Kennedy, it was not just so-called black leaders, but it was also white religious and labor leaders and champions of civil rights and human rights. That's important. It's saying in effect, 'as long as one person, as long as one group, is being denied their full citizenship or their rights, we all are being denied. So that's important. It's important to have said to America, said to the larger population, that we all are in this thing together.'"¹¹⁰

Tom Houck became involved in the Civil Rights Movement in early adolescence. He is very much a neo-Garrisonian: a white New Englander who has dedicated his life to fighting for racial equality. His activism began when he took part in a demonstration

¹¹⁰ Lewis, John. Interview by Charles Boyd. Tape recording. Atlanta, Georgia, March 20, 2014.

outside a Woolworth's store in his hometown of Cambridge, Massachusetts, to protest the fact that the Woolworth's chain allowed its stores in the South to be segregated. As a teenager, he took part in civil rights demonstrations in states including Florida, Alabama, and Mississippi and was arrested at least twenty-five times. In 1966, he became the personal chauffeur to Dr. Martin Luther King, Jr. In an interview, he cites "lobbying" and "organizing the masses" as two of the most important strategies that the Gay Rights Movement should borrow from the Civil Rights Movement. He also believes that it is "absolutely" important for groups of oppressed people fighting for equal rights to include supportive people from outside the oppressed group—i.e. whites in the Civil Rights Movement, heterosexuals in the Gay Rights Movement—in their movement, because, "no one can do it by themselves."¹¹¹

Bernard Cohen and Philip Hirschkop, the two main attorneys who persuaded the Supreme Court to legalize interracial marriage in the case of *Loving v. Virginia*, were Jewish.¹¹² The African National Congress had no racial restrictions for membership, and whites as well as blacks were arrested and tried for treason alongside Nelson Mandela. There were whites who opposed the conquest of Native Americans, and there were whites who participated in the American Indian Movement. The idea that only people from within oppressed groups believe in equality and are willing to make sacrifices for equality is demonstrably false and has done nothing but sow discord. There are heterosexual Americans who will fight vigorously for the rights of gays and lesbians, and the cohesion brought about by this alliance will only strengthen the movement.

¹¹¹ Houck, Tom. Interview by Charles Boyd. Tape recording. Atlanta, Georgia, March 15, 2014.

¹¹² Newbeck, Phyl, *Virginia Hasn't Always Been for Lovers: Interracial Marriage Bans and the Case of Mildred and Richard Loving* (Carbondale: SIU Press, 2005), 140.

More controversial than the issue of heterosexual participants in the Gay Rights Movement is the issue of whether or not it is appropriate to label opponents of equal rights as bigoted. Some gays and lesbians are careful to deny that they believe opposition to equal rights is automatically bigoted. Rauch, for instance, seems to find it important to make this disclaimer multiple times in his writing.¹¹³ Especially in recent years, however, it has become exceedingly common, as social conservatives are quick to lament, to label anyone who opposes equal rights for gays and lesbians as bigoted. This has probably been aided by the Democratic Party leadership's embrace of marriage equality. Five years ago, the fact that Democrats like Hilary Clinton and Barack Obama publicly opposed gay marriage made it risky for gays and lesbians to label opposition to gay marriage as bigoted, since it created the possibility of alienating politicians otherwise sympathetic to the goals of the movement.

It is both rational and strategically effective to label opposition to equal rights for gays and lesbians as bigoted. Those who would deny gays and lesbians equal rights based on an immutable trait demonstrate a belief that gays and lesbians are, as a group, inferior. If that is not bigoted, the word "bigoted" loses most of its meaning. In addition, cynical though it may sound, it will be easier to achieve victory if, for example, opposing marriage and adoption equality becomes a socially unacceptable stance to take publicly. That point has not yet been reached. But public discourse is progressing toward that goal, as evidenced by the Democratic Party's shift. Indeed, some question whether the Republican Party's stance on gay rights will render it incapable of electing a Republican president in future elections. Opposition to gay marriage must come to be viewed by the

¹¹³ Rauch, Jonathan, *Gay Marriage: Why It Is Good for Gays, Good for Straights, and Good for America* (London: Macmillan, 2005), 7, 29.

bulk of society just as negatively as opposition to interracial marriage. Opposition to workplace protection laws for gays must come to be viewed by the bulk of society just as negatively as opposition to workplace protection laws for women and racial minorities.

Equality comes faster with bipartisan support. The United Kingdom is a prime example of this. Mainland England, Scotland, and Wales now have equal rights for gays and lesbians. This victory is partly because Prime Minister David Cameron has come to support equal rights. And Cameron is a member of the Conservative Party. It seems that in the United Kingdom, support for gay equality is becoming a stance that politicians on across the spectrum feel compelled to take.

What about opposition to gay rights voiced in the name of religion? If religion is allowed to serve as a shield to prevent people from being criticized for their anti-gay views, then the Gay Rights Movement will be placed at a disadvantage. Hence, opposition to legal equality for gays and lesbians should be labeled a form of bigotry regardless of whether or not it is attributed to religious belief. It is vital, however, not to make generalizations about religions or adherents of those religions. Leadership of specific denominations and churches can and must be held accountable for anti-gay policies, and individual passages in religious texts that promote homophobia should be called into question. However, it is important to avoid ad hominem attacks, wherein an entire religion and all of its members are labeled as homophobic. Each religion has pro-gay rights factions, and many gays and lesbians are religious. Just as there were ministers, priests, bishops, and rabbis who participated in the abolitionist, civil rights, and anti-apartheid movements, there are religious figures who fight for gay rights and will continue to do so. Some denominations such as the United Church of Christ and the

Unitarian Universalist Association (which is non-sectarian but rooted in Christianity) perform same-sex marriages and ordain gay ministers as a matter of policy. At the National Equality March in 2009, various members of churches actively participated.

Even in churches that have homophobic policies and leaderships, there are often individual members who support the Gay Rights Movement. As referenced earlier, the Roman Catholic Church opposes crucial goals of the Gay Rights Movement, but polls show its members in the United States actually being *more* supportive of gay rights than society as a whole.¹¹⁴ Pro-equality religious organizations and people have an important role to play and must never be marginalized or insulted. Even anti-gay fundamentalists can grudgingly recognize the aid that gay-friendly religious figures and institutions render to the Gay Rights Movement. Anti-gay activist Peter LaBarbera urges opponents of gay rights to, “Reserve your greatest outrage for those who affirm homosexuality in the name of God – i.e., religious ‘gay’ advocates.”¹¹⁵ Perhaps the real reason for LaBarbera’s statement is that people like him may realize the danger religious advocates of gay rights pose to them: these advocates make it more difficult to use religion as an excuse for homophobia.

There is a caveat, however, with regard to using the label “bigoted.” It is preferable to label a person’s views as bigoted rather than the person themselves. Thus

¹¹⁴ Saad, Lydia, “In U.S., 52% Back Law to Legalize Gay Marriage in 50 States,” *Gallup.com*, July 29, 2013, accessed November 21, 2013, <http://www.gallup.com/poll/163730/back-law-legalize-gay-marriage-states.aspx>.

¹¹⁵ LaBarbera, Peter, “20 Resolutions for Pro-Family Advocates Battling the Homosexual-Transgender Agenda in 2013,” *Americans For Truth About Homosexuality*, January 8, 2013, accessed December 5, 2013, <http://americansfortruth.com/2013/01/08/20-resolutions-for-pro-family-advocates-battling-the-gay-and-transgender-agenda-in-2013/>.

the Gay Rights Movement is targeting policies and views rather than individuals. This principle was put into practice in 2011 when conservative commentator Matthew Franck was invited to speak at Oglethorpe University. Franck opposes marriage equality. A main theme of his presentation was to decry that fact that his views were frequently labeled as bigoted. During the Q & A portion of the event, a question was made to Franck about whether he agreed with Stephen Douglas that the people of a state could vote to deny a person civil rights, and was prefaced with the assertion that opposition to marriage equality is an inherently bigoted stance. Thus, Franck was held accountable without being subjected to name-calling.

Perhaps more important than all of these points is the need for gay rights activists to avoid becoming complacent due to the large number of major victories achieved recently. These victories have come, and many anti-gay individuals have begun retreating, because activists have made an aggressive and determined push for change. Gay marriage did not become legal in seventeen states because gay rights activists decided to settle for civil unions. Gays and lesbians did not gain the ability to serve openly in the military because they were willing to defer to the generals. If gay rights activists begin to soften their tactics or spend less energy fighting for equality, progress could very well be slowed.

Additionally, mass rallies for gay rights in Washington, D.C. should be an annual event. If an event with the level of attendance that the 2009 National Equality March experienced were to take place every year, it could make a significant impact. After all, evidence indicates that the National Equality March itself had a major effect on progress. With the exception of enacting the Matthew Shepard Act, which did directly address the

denial of equal rights under the law, President Obama and the Democratic Congress had done little for gay rights before the march. It was only after the National Equality March that they began making the repeal of “Don’t Ask, Don’t Tell” a significant priority, and repeal took place before the end of the following year.

Based on both logic and historical precedent, the Gay Rights Movement is unlikely to be successful without at least a dose of radicalism. According to Congressman Lewis, “I tell young people today . . . I got in trouble, I got in the way. Good trouble, necessary trouble.” Perhaps the most important thing is to demand immediate change. Change will not come immediately, but it is insulting to the victims of oppression to “set a date for their freedom” to paraphrase “Letter from a Birmingham Jail.”¹¹⁶ Additionally, demanding immediate change can actually pave the way for change to happen even when it happens gradually, since reactionaries faced with the possibility of inevitable change may accept gradual change as a compromise. Any successful movement must be assertive enough to stand firm in its demands and gain the attention of society as a whole. It must also be conciliatory enough to avoid losing its moral high ground or alienating those who are “on the fence” about equal rights. Dr. Martin Luther King, Jr.’s statement that, “We must combine the toughness of the serpent with the softness of the dove, a tough mind and a tender heart,” has much to recommend it.¹¹⁷ Congressman Lewis predicts that, “I think the day will come very soon [when] the fifties, the sixties, even this period we’re going through now, people will look back and say ‘Why were we so silly?

¹¹⁶ King, Martin Luther, *Why We Can’t Wait* (New York: Beacon Press, 2011)

¹¹⁷ Jackson, Thomas L., *Moments of Clarity* (Bloomington: Xlibris Corporation, 2002), 100.

What was this all about?''¹¹⁸ Within the context of historical perspective, it seems certain that the day will come when gays and lesbians will have equal rights under the law. All effort must be made to assure that this equality comes sooner rather than later.

¹¹⁸ Lewis, John. Interview by Charles Boyd. Tape recording. Atlanta, Georgia, March 20, 2014.

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