

Why Gay Rights Are Civil Rights—and Simply Right

Conservatives shouldn't dismiss comparisons between the discrimination homosexuals have faced and Jim Crow.

By: David Lampo- July 8, 2013

There are many ways to define government oppression of its citizens, and certainly many examples of it in U.S. history. And no doubt some government impositions on individual freedom have been broader than others or have had more widespread and deadlier consequences. Perhaps that was the point that James Antle intended to make in his recent article “Why Conservatives Say No” when he derided the comparison of the black civil rights struggle of the 20th century with the gay civil rights struggle of the 21st. “For liberals, every social issue is Selma,” he wrote. “If you disagree with whatever social cause the liberal champions,” he continued, “you are the new Hitler, or at least the new Bull Connor.”

The widespread misconception today of gay people as mostly smug, well-off whites with fat bank accounts and comfortable (and, we’re told, chosen) lifestyles, however, does not negate the undeniable history of often brutal treatment of gays and lesbians and their lack of basic human rights in the eyes of government for most of this nation’s history.

The gay rights movement has made enormous strides over the past few decades, and the recent surge in public support for the once unthinkable concept of same-sex marriage reflects this quite radical shift in American culture. Homosexuality and support for the rights of gay and lesbian Americans are now widely accepted, even among Republicans, and a large majority of Americans say they know someone who is gay. But America was not always so accepting.

It was a very different story in the ’50s and ’60s, when gays and lesbians were still relatively invisible in American society. Many gays lived in ghettos of their own in major cities, and most lived their lives in the closet, concealing their sexual orientation to keep their jobs or prevent eviction. Few commercial establishments served openly gay customers, and many that catered to gay clientele, such as bars and restaurants, were owned or operated by organized crime, required to pay off police in order to operate what were often illegal establishments.

Police were rarely sympathetic to gay victims of assault and other violent crimes, and police themselves were often the perpetrators, raiding gay bars to close them or shake them down. Sodomy laws were on the books in every state except Illinois (after 1961), and some convicted of the crime were sentenced to long prison terms. The American Psychiatric Association (APA) listed homosexuality as a sociopathic personality disorder in 1951, and gays were routinely characterized in the media by crude stereotypes.

Because of the APA designation, 29 states had laws that allowed gays to be detained by the police simply on the suspicion they were gay. According to historian David Carter, sex offenders in California and Pennsylvania could be confined to mental institutes, and in seven states they could be castrated. Electroshock therapy and lobotomies were sometimes used to “cure” homosexuals in the ’50’s and ’60s, and “in almost all states, professional licenses could be revoked or denied on the basis of homosexuality, so that professionals could lose their livelihoods,” Carter writes in *Stonewall: The Riots That Sparked the Gay Revolution*.

Known gays and lesbians were forbidden from working for the federal government, and President Dwight Eisenhower formalized this policy of discrimination with an executive order in 1953. Those were the days of the Red Scare and fear of communist infiltration of the U.S. government, so the U.S. Senate and other official bodies routinely held hearings to investigate how many “sex perverts” worked for the feds since they were considered security threats. Between 1947 and 1950 alone, 1,700 federal job applicants were rejected, over 4,300 members of the armed forces were discharged, and 420 were fired from their government jobs simply for being gay or on the suspicion that they were gay.

The FBI and many police departments maintained lists of known and suspected homosexuals, and the U.S. Post Office actually kept track of addresses to which gay-related material was mailed. It was not until 1958 that the U.S. Supreme Court affirmed the right to send such material through the mail, ending the federal watchlist of such addresses.

In today’s culture it’s hard to believe such a time existed, but it was in that context of routine and widespread persecution of gay people that the modern gay civil rights movement was born in 1969 amid riots set off by police raids at a New York City gay bar called the Stonewall Inn. Not until the late 1970s and 1980s was routine police prosecution of gay people in most large cities ended. Only with the Supreme Court’s *Lawrence v. Texas* decision in 2003 were state sodomy laws finally declared unconstitutional, and in spite of that decision some of those laws are still on the books, if rarely enforced. The prohibition against openly gay members serving in our armed forces ended less than three years ago with the repeal of Don’t Ask, Don’t Tell, and it will take years for that change to be fully implemented and accepted in military culture.

While gay and lesbian legal equality has vastly improved—the overturning of DOMA by the Supreme Court is just the latest example—workplace discrimination on the basis of sexual orientation is still widespread, and many state and local governments are not legally barred from practicing such discrimination. Most states prohibit not just marriage equality but any legal recognition of gay couples, and adoption by gay couples is illegal in most states. The legacy of virulent homophobia and legal inequality still looms large in many parts of this country, and will for many years to come.

Critics of gay marriage would be wise to learn the history of institutional homophobia in America and how it helps drive today’s gay rights movement, just as institutional racism inspired and drove the civil rights movement. As I argue in my book, *A Fundamental Freedom: Why Republicans, Conservatives, and Libertarians Should Support Gay Rights*, there is a fundamentally conservative and libertarian case for gay rights, including same-sex marriage, that is entirely consistent with the right’s core principles of limited government and individual

rights. Gay rights aren't just for liberals anymore: polls consistently show that even a majority of rank and file Republicans support most of the so-called "gay rights agenda"—as it's derisively called by its opponents—including some form of legal recognition for gay couples.

Conservatives will continue to debate the issues of gay rights and same-sex marriage for years, and many of them will come to understand the fundamental injustice of subjecting gay and lesbian Americans to their own form of Jim Crow rather than sharing in equal rights for all. But one thing that should be clear to all is the demonstrable history of homophobia in this country and why it continues to inspire today's movement for gay and lesbian equality.

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