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On Being LGBT in Our Society: As If Life Wasn’t Difficult Enough

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Growing up in modern industrial society may seem a struggle, at times, for many of our young. Not only are they being robbed increasingly of the innocence and freedom of their childhood as adults seek to control ever more of their time through institutionalized education and a myriad of organized recreational and creative activities, but children are also inundated by mixed messages about social expectations for themselves by the adults in their lives, amplified and distorted by the relentless ideological onslaught that is our nation’s media. The diversity of opinion that comprises our society lacks no inhibition as it attempts to mold the young in its own, often self-serving image. This is especially true for gender roles and the issue of sexual orientation. What one should look like, how one should behave, who one should cavort with and in what manner are all deemed fair topics for adults to weigh in on, particularly family members, as they endeavor to imprint their values on their offspring, to reproduce the familial line in all but genetic exactitude. But across the generations, the young have typically not been the same as their forbearers in either knowledge or disposition, and certainly not in our modern society. And so the public and private struggles continue as difference is perceived invariably as inappropriateness, a failure to comprehend, a failure to heed expectations.

Of increasing contention has been sexual orientation, and particularly, as it pertains to civil rights—the right against discrimination, and the right of social partnership with all its associated legal benefits. Both of these have evolved significantly since WWII, and particularly since
the 1970s, as American society has witnessed the ebb and
flow of social awakenings and cultural backlashes, all the
while moving forward with slow deliberation as social
and legal barriers have been confronted and inevitably
crumbled under the weight of evolving public sentiment
and legal reasoning, notwithstanding attempts by some to
roll back perceived gains or entrench the status quo (e.g.,
Michigan’s Proposal 04-2; California’s Prop 8). What was
once a topic and personal declaration expressed in less
vocal tones has become an increasingly public discussion
over the past 40 years leading more and more jurisdictions
across the country to recognize
basic civil rights for the LGBT
community, including the right
to have a legal partner of the
same gender.

Decades of social gains achieved
their latest culmination this past
summer with the US Supreme
Court’s 5-4 decision in United
States v Windsor striking down
Section 3 of the Defense of
Marriage Act (DOMA) as
unconstitutional under the
Due Process Clause of the Fifth
Amendment. In writing for the majority, Justice Kennedy
claimed that “DOMA undermines both the public and
private significance of state-sanctioned same-sex marriages;
for it tells those couples, and all the world, that their other-
wise valid marriages are unworthy of federal recognition.”
Furthermore, he argued that the definitions of “spouse”
and “marriage” in terms of a traditional heterosexual norm
“humiliates tens of thousands of children now being raised
by same-sex couples. The law in question makes it even
more difficult for the children to understand the integrity
and closeness of their own family and its concord with
other families in their community and in their daily lives.”

The Supreme Court decision is also significant in its
broader implications. First, at the federal level, and the
primary reason for this suit, the IRS must now treat legally
coupled gays and heterosexuals on the same footing for
tax purposes—that is, “same-sex couples, legally married
in jurisdictions that recognize their marriages… [whether
they now live] in a jurisdiction that recognizes same-sex
marriage or… nor.” Furthermore, the Obama administra-
tion has since instructed other federal agencies to comply
with the law’s implication. Thus:

- The Social Security Administration now recognizes
  same-sex marriages for purposes of determining
  benefits.
- All beneficiaries in private Medicare plans now have
  access to equal coverage when it comes to care in
  a nursing home where their
  spouse lives.
- U.S. embassies and cons-
  sulates will process visa
  applications for same-sex
  marriages the same as for
  opposite gender spouses.
- The Department of Defense
  will extend benefits to same-
  sex spouses of uniformed
  service members and
civilian employees.
- The Office of Personnel
  Management is now able to
  provide benefits to legally married same-sex spouses of
  federal employees and annuitants.

However, what this decision does not do is legally bind
states to act accordingly. They still retain the constitutional
authority to define marriage.

At present, some 35 states including Michigan have laws
on the books banning same-sex marriage. One can easily
see how the Supreme Court’s opinion could now become
leverage against the holdouts, a fact that Justice Scalia
noted in his dissenting opinion. “By formally declaring
anyone opposed to same-sex marriage an enemy of human
decency, the majority arms well every challenger to a state
law restricting marriage to its traditional definition.”

The Justice’s interpretation was reinforced by ACLU executive
director Anthony Romero. “Scalia’s dissent is absolutely on
the money. It’s going to open the floodgates for litigation

“One of the paramount
purposes of marriage in
Michigan … is, and always
has been, to regulate sexual
relationships between men
and women so that the
unique procreative capacity
of such relationships benefits
rather than harms society.”

– Michigan Attorney General
Bill Schuette
applying equal protection standards to laws discriminating against LGBT people.”

This has potential ramifications for Michigan where a lawsuit already challenging the state’s 2011 ban on adoptions by same-sex couples (DeBoer v Snyder) found itself being conjoined this fall to include a challenge to the 2004 Michigan Marriage Amendment. The trial is set for February, 2014.

While gay rights advocates may feel bolstered by the Supreme Court’s decision on DOMA, seeing it as another step toward eventual equality, opponents in the states have not yet surrendered that legal terrain. For example, as the state’s principal legal officer, Michigan’s Attorney General Bill Schuette, an ardent opponent of same-sex marriage and adoption by same-sex couples, responded to the DeBoer v Snyder suit by filing a brief in support of the state’s existing constitutional language defining marriage in heterosexual terms, arguing, curiously, the state’s right “to regulate sexual relationships” through its legal authority over the institution of marriage.

On the matter of non-discrimination in employment, housing, and public accommodations in Michigan, the Elliott–Larsen Civil Rights Act of 1976 did not address sexual orientation. While attempts to amend the legislation over the years have been successful on a few fronts, additions based on sexual orientation, gender identity, and gender expression have failed. Simply put, LGBT employees remain vulnerable under Michigan statutes with few viable legal options as recourse. Similarly, the state affords LGBT couples no legal protection against discrimination in the housing sector. Attempts in some local jurisdictions to develop ordinances to address this have been met with animosity (e.g., Grand Rapids, 1994) and defeat (e.g., Holland, 2011). In fact, in 2011, one state legislator, Rep. Tom McMillin (R-Rochester Hills), attempted to deny local communities, even retroactively, the right to self-determination on the issue through the introduction of House Bill 5039 which “Prohibits municipalities from adopting nondiscrimination ordinances that include gay and transgender residents.” While that bill has languished in the Judiciary Committee for over two years, its mere existence raises concern as to the extent to which some elected officials are prepared to engage this issue.

While various legislators spurred on by their socially conservative supporters have sought to limit, even deny, the LGBT community from sharing in the legal rights afforded their heterosexual counterparts, there are collateral considerations that are often overlooked in the scramble for the supposedly moral high ground. The economics of alienating LGBTs are no small matter. “The National Gay and Lesbian Chamber of Commerce reported that, as of 2007, the buying power of the LGBT community stood at $712 billion” while the Human Rights Campaign (HRC), the largest civil rights organization working to achieve equality for lesbian, gay, bisexual and transgender Americans, claims that the annual buying power of the LGBT community was estimated at $790 billion in 2012. For comparative purposes, as of January 2012, the projected 2011-12 total expenditures for elementary and secondary education in America were only $686 billion. For the potential economic clout and thus influence that can be wrought by such a segment of the population, if united, one only has to look back to the Anita Bryant controversy in the late 1970s to find an example of a powerful industry, the Florida Citrus Commission, who in a different time and against a less economically formidable opponent, attempted to withstand the initial public criticism and association of their product with Bryant’s anti-gay crusade only to come to the realization that they would have to disassociate themselves from her or have their producers’
businesses continue to suffer accordingly. What reason fails to make apparent, economics illuminates.

As consumers and employees, gays and lesbians are seeking companies whose products reflect “an understanding of and serious commitment to the LGBT consumer” and are seeking employers “known to provide equal workplace benefits for all their employees.” In the aftermath of the 2004 Michigan Marriage Amendment and the subsequent exclusion of domestic partner benefits, the state’s public universities sought alternative ways to address the healthcare component for their LGBT faculty and staff. At Grand Valley, domestic partner benefits were finally developed in 2008 under the mantle of the Household Member Program. Like any other public institution, Grand Valley State University perceived the threat posed by the amendment not only to itself as an employer, but also to the valuable human resource that was their LGBT employees. But such concern was not always evident. In A People’s History of the LGBT Community in West Michigan, several Grand Valley faculty and staff outline the 20-year struggle to obtain equal benefits. It was reported that at first, the university questioned whether there even were any gay and lesbian faculty and staff in its employ. That was followed by several years of inaction while other universities in quick succession began providing equal benefits. That the institution finally crafted a policy after failed attempts over many years speaks to the resilience of the LGBT community and its supporters within the university. While the current policy language does not identify same-sex partnerships specifically, the resulting Household Member Program nonetheless achieved its intended goal even if it was framed as “support[ing] the recruitment and retention efforts of the University in an effort to keep us competitive.”

This article would be remiss were it not to address some implications for the field of education of students and educators being LGBT. But like schools themselves, this is not a topic that is easily separated from its larger social context. Discussing matters LGBT invariably means talking about societal attitudes, language, gender roles, sexuality, the school curriculum itself and, of course, politics. So much of what it means to grow up in modern society is to struggle with fulfilling familial, peer and general societal expectations about oneself. That difficulty is often amplified for many growing up as members of the LGBT community because during that stage in their emotional and intellectual development, they have to contend with narratives that question and seemingly counter their very being, only adding to whatever internal conflicts they may be experiencing simply as youth growing up. That many of their family members and peers cannot be counted on for emotional support, but rather are quite often the source of distress and pain only serves to exacerbate things for the younger LGBT in society. Schools lack emotionally safe venues and meaningful opportunities for LGBT youth to flourish. Role models in the curriculum and in the form of educators are in short supply.

This issue is not simply one of addressing perceived needs of LGBT youth. It is also about reorienting heterosexual youth away from dispositions that foster acts of harassment and bullying. One 2009 survey of more than 7,000 LGBT middle and high school students aged 13–21 years found that in the past year, because of their sexual orientation—8 of 10 students had been verbally harassed… 4 of 10 had been physically harassed… and 6 of 10 felt unsafe at school… and 1 of 5 had been the victim of a physical assault at school.

Also, in 2009, the National School Climate Survey published by GLSEN found that “84% of LGBT students reported being verbally harassed, 40% reported being physically harassed, and 18% reported being physically assaulted at school in the past year because of their sexual orientation.” At the college and university level, the Chronicle of Higher Education reported that “about a quarter of lesbian, gay, bisexual, and queer students and employees said they had experienced harassment, as did more than a third of transgender and ‘gender nonconforming’ respondents, compared with 12 percent of heterosexual…
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Unfortunately, this seems to be a too common response by many of society’s young to the myriad of differences, real or imagined, significant or otherwise, that distinguish their peers from themselves. That many adults, even some in positions of influence or authority, harbor some of those same dispositions and allow them to manifest in acts wrapped in self-serving justification does a disservice not only to all youth in society, but particularly to the larger civil projects of equality and inclusion.

And so when the Michigan Senate passed Bill 137, the school anti-bullying legislation, by a margin of 26-11 in November, 2011, many around the country took notice not because of the thoughtfulness of the legislation, but rather because it included a last minute clause by Sen. Rick Jones seeming to validate bullying as long as it was “a statement of a sincerely held religious belief or moral conviction of a school employee, school volunteer, pupil, or a pupil’s parent or guardian.” Jones then defended his action to ABC News, rationalizing that he was only attempting to protect students’ First Amendment rights. That the House backed away from it quickly once the public outrage and national media scrutiny materialized suggests that even some socially conservative ideologues have their limits. But what of the not-so-thinly veiled attempt to justify socially unacceptable behavior? What message was being communicated? That intolerance and its associated verbal abuse are acceptable in some fashion? The ironic and yet rather tragic aspect of this episode rests with the fact that much of the impetus for the bill came from Kevin Epling whose own son took his life because of bullying. The anti-bullying legislation was signed into law a few weeks later absent the offending clause and duly named “Matt’s Safe School Law” after Matt Epling.

This legislation and its implications bring us to the final aspect of this discussion—youth suicide and particularly, suicide amongst LGBT youth. Suicide is the third leading cause of death amongst 15-24 year olds in America. That LGBT youth are not only purported to have rates many times higher than their heterosexual counterparts, but also more suicidal ideation should be distressing for everyone.

“A nationally representative study of adolescents in grades 7–12 found that lesbian, gay, and bisexual youth were more than twice as likely to have attempted suicide as their heterosexual peers.” In general, LGBT youth experience more suicidal behavior than other youth.

A variety of studies indicate that LGB youth are nearly one and a half to three times more likely to have reported suicidal ideation than non-LGB youth. Research from several sources also revealed that LGB youth are nearly one and a half to seven times more likely than non-LGB youth to have reported attempting suicide.

The difficulty in acquiring accurate national data rests with the lack of self-declaration by many LGBT individuals, for reasons most of us are already familiar with, as well as their lack of statistical identification as LGBT in legal documents after the tragic event. While more studies and better methods of collecting and identifying the data are in order, there are some clear markers already apparent. The Center for Disease Control and Prevention (CDC) reported on a study of 7,000 seventh and eighth graders in a large midwestern county. The focus was on school climate and homophobic bullying. Significant was the finding that “LGB students who did not experience homophobic teasing reported the lowest levels of depression and suicidal feelings of all student groups (heterosexual, LGB, and questioning students).” Additionally important was the finding that “All students, regardless of sexual orientation, reported the lowest levels of depression, suicidal feelings, alcohol and marijuana use, and unexcused absences from school when they were in a positive school climate and not experiencing homophobic teasing.” Irrespective of students’ moral conviction or faith, evidence would suggest that the attitudes of all students matter when schools seek to develop a safe and inclusive climate through the enactment of a comprehensive anti-bullying policy.

There is still considerable ground to cover in the area of social policy in Michigan if Gov. Snyder’s campaign slogan
“Get It Right. Get it Done” is inclusive. Even if one was to restrict that phrase to attracting potential employers, when “89% of the nation’s Fortune 500 employers… have non-discrimination policies that include sexual orientation” but a number of this state’s legislators appear bent on limiting the civil rights of the LGBT community while seemingly offering comfort to anti-gay social attitudes, one cannot help but ponder what future employment opportunities as well as creative and intellectual talent the state may lose, what economic possibilities may be squandered.

Endnotes
1 570 U.S., at 22-23 (slip op.)
2 570 U.S., at 22-23 (slip op.)
4 USA.gov. (n.d.)
7 suit filed in federal court challenging Governor Rick Snyder and Attorney General Bill Schuette for their enforcement of the Michigan Adoption Code which prohibits same-sex couples from jointly adopting a child.
12 Equality Michigan. (n.d.).
18 http://grandrapidslgbthistory.org/watch-the-film/
27 CDC. (2011, January 11).
28 CDC. (2011, January 11).
30 HRC. (2013)