Sorting Through Lesbian, Gay, Bisexual, and Transgender Issues in the American Workplace

Gerald Hunt
Ryerson University, Toronto, Canada

Did you know?... The LGBT population is larger than the number of Asian Americans (3.6%) and greater than the number of Jewish people living in the United States (3%).

INTRODUCTION

In May 2012, President Obama made headlines around the world when he declared his support for same-sex marriage. This announcement followed on the heels of several pro-gay initiatives that occurred during his first term as President. In September 2011, Obama signed into law a repeal of the infamous "don't ask, don't tell"—a policy that had prevented lesbians and gays from serving openly in the military since December 1993. After that, in December 2011, Secretary of State Hillary Clinton, in a speech to the United Nations in Geneva, made the words "gay rights are human rights" a cornerstone of her remarks. Some pundits believed the Obama administration's support for gay and lesbian rights would have a negative impact on his 2012 bid for a second term as President. However, this did not seem to be the case. Obama's Republican opponent, Mitt Romney, came out strongly against gay marriage, so there was a clear choice for voters who felt strongly about this issue, but Obama won the election. Adding to the sense that Americans had turned a corner toward a more positive framework for gays and lesbian rights, four gay-related, state-level 2012 referenda, were all decided in favor of enhanced rights. These included voter endorsement of same-sex marriage in Maryland and Washington, and Maine. A referendum in Minnesota sought a constitutional ban on same-sex marriage, but was defeated.

The shifts during the Obama administration are part of a larger shift in the legal environment and public opinion over the past few years. Lesbian, Gay, Bisexual and Transgender (LGBT) characters have become a common and accepted part of mainstream television programs and Hollywood films. More and more Americans consider discrimination against this group in the same league as discrimination against any other minority. Same-sex marriage is possible in an increasing number of states. More and more organizations fully embrace issues related to sexual and gender diversity, and have removed as many discriminatory policies and procedures as possible.

But, there is a big but. The day after Obama announced his support for gay marriage, North Carolina passed an amendment defining marriage as between a man and a woman, signaling the fact that a number of states would continue to ban legalizing same-sex relationships. Many institutions continue to discriminate openly, and many individuals continue to hold extremely negative or hateful attitudes towards the LGBT minority population. Throughout much of the country there remains anti-gay bias in law, housing, and the media. Some churches and media personalities are very vocal in their opposition, declaring homosexuals to be "sick" and "perverse," and not worthy of support of any kind. Among other organizations, the American Boy Scouts still legally exclude gay men from being leaders in their midst, even while the Girl Scouts have no such ban. Unfortunately, in some situations, the level of discrimination and hate can escalate to bashing and even murder. To the casual observer, it is confusing. Are LGBT minorities equal to other Americans? Are organizations legally and/or morally required to accommodate sexual and gender identity diversity? Is it still okay to despise this minority group?

This article examines the contradictory responses and mixed messages surrounding lesbians, gays, bisexuals, and the transgendered, especially as this relates to the workplace by looking at the demographics of the LGBT population, and highlighting the demands this minority group makes for fair and equal treatment. It then considers the social, legal and political changes that have taken place, followed by an assessment of organizational response to this minority.

LGBT: WHO ARE THEY AND WHAT DO THEY WANT?

Lesbian and **gay** people are sexually and emotionally attracted to people of the same sex. **Bisexuals** are attracted to both sexes, but may function primarily as homosexual or heterosexual at different points in their lives. **Transgenderism** is an umbrella term referring to a person who does not conform to traditional gender norms. It includes those who are intersexed (a person whose biological sex does not conform to either male or female), people who live substantial portions of their lives as other than their birth sex, and people who refuse to conform to rigid understandings of gender boundaries. This minority often challenges gender roles related to dress codes, use of cosmetics, and "normal" gender appropriate behavior. Some people in this group feel so deeply drawn to the gender opposite to their birth sex that they undergo surgical procedures to change their status. Transgender issues are often grouped under the term "**gender identity**" and "**gender expression**." LGBT people come from all racial, religious, class, and ethnic backgrounds. As a group, LGBT people can be thought of as "sexual minorities." Some people who identify as LGBT use the term "queer," which constitutes an appropriation of what historically has been a derogatory term. It would be inappropriate for those outside of the LGBT identity structure to use the term queer.

Estimates of the LGBT population vary. In the late 1940s, in his pioneering work on human sexuality, Kinsey (1948) found upwards of 10 percent of the American population to be engaged in homosexual activity. Recent studies report 5–6 percent of the population to be predominately homosexual, identifying exclusively as gay or lesbian. That figure could rise to as high as 13–15 percent when bisexuals and transgendered people are included (Bagley and Tremblay 1998). A recent source estimates there are over 8 million people in the American workforce who identify as LGBT (Pizer, et al. 2012). These figures mean that the LGBT population is larger than the number of Asian Americans (estimated at 3.6 percent) and greater than the number of Jewish people living in the United States (estimated at 3 percent).

Unlike many minority groups however, LGBT people are not always readily visible. Many have chosen to remain invisible, especially at work, because they fear the negative consequences that might result from revealing their sexual identity. As the murder of Matthew Sheppard illustrated, being openly and visibly gay can still cost your life. Matthew was an openly gay 21-year-old student at the University of Wyoming who was savagely murdered to make the point that homosexuals deserve to die. Throughout history there are many examples of organizations such as Cracker Barrel harassing and dismissing employees when they learned, or just suspected (see Cracker Barrel case in this text), that they were homosexual.

In recent years, more and more LGBT people have come-out (exposed their sexuality). They have done this in order to declare their right to be who they are publically, and to fight for equal rights. They find living in the closet too demeaning a price to pay for "protection" from discrimination. As a result, equality for LGBT people is now an issue of concern and an important rallying point for all people (straight and gay) who are concerned about equity in society generally and at work in particular.

Spokespersons for this group offer a clear message: the gay, lesbian, bisexual, transgender community is discriminated against and treated inequitably at work. Change is demanded in human resources policies and practices concerned with recruiting, hiring, promotion, discipline, and benefits. Activists call for organizational leaders to foster and promote an environment that is positive and supportive of all human difference and diversity. These demands closely parallel those made by women and Afro-Americans, and reflect the fact that the LGBT movement has caught up with other human rights movements. All of these groups come together in desiring equal treatment, not special or exceptional treatment, and they want the social and institutional barriers that prevent them from gaining full equality eradicated.

The overwhelming difference between sexual minorities and other minority groups is that for some people sexual diversity is more controversial. Homosexuality and gender nonconformity make some people extremely uncomfortable and even angry. Some conservative thinkers portray LGBTs as immoral and degenerate (see Chick-Fil-A case in this text). For others, homosexuality is a "private" issue and should not be exposed in the public domain, even though heterosexuality is never reduced to being merely a bedroom activity. Guided by Christian teachings, some quote from the Bible to defend their views (Leviticus 18:22 states that homosexuality is an abomination). These people fail to note that Leviticus 10:10 also indicates that eating shellfish is an abomination and that Exodus 35:2 clearly states that a neighbor who insists on working on the Sabbath should be put to death.

The polarization around homosexuality has created work situations characterized by a lack of consensus regarding the merit of appeals for equal treatment and justice being made by the LGBT community. This has resulted in a range of organizational responses. Some organizations have made extensive efforts to ensure that policies and benefits are equal for everyone and value their LGBT employees equally with other workers (IBM is a good example). In other settings, there has been little if any accommodation, such as MobileExxon. A few employers go so far as to dismiss these minorities if their identity becomes known, such as the Boy Scouts of America.

SOCIAL, LEGAL AND ECONOMIC DEVELOPMENTS

In spite of controversies and differing perspectives, more and more LGBT people are open about their identities and vocal about their desire for change. This, when combined with a changing social, legal, and economic environment, has convinced more and more

organizations to rethink and overhaul policies and practices in order to be inclusive of their LGBT employees.

Social Forces

Public opinion polls show a steadily increasing tolerance toward homosexuals in general, and their workplace rights in particular. Wilcox and Wolpert (2000), in a summary of polling data from throughout the 1990s, found attitudes moving in a positive direction since 1992. Research conducted by Yang (1999) found that by 1998 a majority of Americans supported the idea of gays and lesbians having equality in employment (84%), housing (81%), inheritance rights (62%), social security benefits (57%), and in the military (66%). Since then, public opinion has shifted steadily toward increased acceptance. A May 2006 Gallup poll found that 89% of Americans believed gays and lesbians should have equal rights in job opportunities (reported in Bowman and Foster, 2006). Gallup also reported in 2009 that 76% of Americans thought homosexuals should be allowed in the armed forces, and 62% believed they should be hired as high school teachers (Gallup, 2013). Indicative of more and more positive attitudes, a 2011 Gallop poll indicated that 53% of Americans support the equal right to marry for same-sex couples (Gallop 2013).

Public opinion data also point to a large generational divide, with younger people tending to be much more favorable toward gay rights than are older Americans. In other words, while there may not be widespread public involvement in the fight for LGBT rights, and some people continue to be extremely vocal in their opposition, there is no basis for believing that the majority of citizens in the United States support either overt or covert discrimination in the workplace on the basis of sexual orientation.

Legal Change

The increased visibility of LGBT people, combined with more assertive demands for equal rights, has generated considerable legal action. In recent years, federal, state, and municipal legislators debated changes in legislation that affect LGBT minorities in almost every aspect of their lives, including violence and harassment, employment and housing discrimination, adoption and child care, domestic partner benefits, and the freedom to marry. In some jurisdictions, the legal changes are wide-spread; in others there has been little or no change; and in others, progressive change has subsequently been overturned.

At one time, all states had laws regulating and criminalizing consensual sexual activity between adults of the same sex. The beginning of 2003 found "sodomy" laws still on the books in 13 states. However, in a landmark case in June of that year, the Supreme Court struck down the sodomy law in Texas, effectively eliminating discriminatory sodomy laws throughout the country.

In December 1999, Vermont made history by becoming the first American jurisdiction to formalize same-sex, civil unions. As a result, for the first time in American history, lesbians and gays who entered civil unions automatically became eligible to receive the same protections and benefits that Vermont provided to heterosexual, married couples. Since then, a growing list of states offer same-sex couples the possibility of civil unions, and a few have marriage equality. As of January 2013, nine states and the District of Columbia, issue marriage licenses to same-sex couples (Connecticut, Iowa, Maine, Maryland, Massachusetts, New Hampshire, New York, Washington, and Vermont).



Points of Law

Many U.S. state governments and many of the federal levels have now passed bills to include sexual orientation as a protected class, particularly in employment and housing.

As of January 2013, there were twenty-one states, along with the District of Columbia, that prohibited discrimination based on sexual orientation (California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington, and Wisconsin).

Of this group, sixteen states and the District of Columbia also prohibit discrimination based on gender identity (California, Colorado, Connecticut, Hawaii, Massachusetts, Nevada, Illinois, Iowa, Maine, Minnesota, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Washington).

In addition, many cities in locations without state-wide protections, cities such as Atlanta, Dallas, Tampa and Houston, prohibit employment discrimination based on sexual orientation (HRC, 2013).

Economic Forces

The LGBT community represents an important market segment and a group with considerable clout if it decides to boycott a product, service, or organization. Badgett (2001) argues that gays and lesbians are not as affluent as many believe, and on average earn no more than heterosexuals. However, this is a group (especially gay men) that is less likely to have children, probably making discretionary income levels higher than average, and spending with more political sensitivity than most others. Buford (2000) points out that advertising for these so called "gay dollars" in the media generally and the "gay media" in particular, is big business. Like Badgett, he argues that what matters about this group from a marketing point of view, is not affluence, but slightly higher discretionary income, combined with more free time and desire to patronize and support LGBT-positive companies.

Activists can also affect the bottom line of anti-LGBT corporations in a variety of ways. They wage proxy contests against homophobic companies, urge public institutions to buy the shares of companies that prohibit antigay discrimination and to sell the shares of companies that do not. Cracker Barrel restaurants, for example, had been dismissing workers they believed to be gay or lesbian. Subsequent boycotts of Cracker Barrel throughout the 1990s (see case in this text), provide an indication that activists have a direct impact on company policy, but not always on profits. Cracker Barrel added sexual orientation to its written nondiscrimination policy in 2002. Another example is Coors Beer. In the early 1980s, the Coors organization went so far as to require lie detector tests to screen out prospective employees identified as gay or lesbian. This prompted countrywide boycotts, leading to a significant reduction in the company's market share. Since then, Coors has taken steps to position itself as a more LGBT-positive company, amongst other things by sponsoring Gay Pride events.

Best Practices

Companies such as Starbucks and IKEA recognize the economic impact of sexual minorities in several ways. IKEA uses advertisements showing same-sex shoppers, and runs ads in newspapers and magazines that appeal to LGBT audiences. Starbucks signals its support in the same way, and actively recruits from the LGBT talent pool. Many large cities hold an annual Pride Day, with events sponsored by high-profile corporations, such as breweries and clothing manufacturers.

ORGANIZATIONAL RESPONSES

More and more organizations are responding positively to the concerns about discrimination raised by the LGBT community. State and local governments, colleges, and universities were among the first organizations to institute nondiscrimination policies and offer benefit packages that included same-sex partners. In 1998, President Clinton signed an executive order banning discrimination based on sexual orientation throughout the federal civil service. Even though most of the federal government does not yet offer same-sex benefits, all cabinet-level departments and 24 independent agencies have non-discrimination policies. If the Employment Non-Discrimination Act currently before Congress moves forward, it will provide further protections against discrimination in the workplace based on sexual orientation and gender identity. Another bill currently before Congress, The Domestic Partnership Benefits and Obligations Act, would open the door to equal family benefit packages to all federal civilian employees, regardless of sexual orientation.

Increasing numbers of public and private organizations have adopted anti- discrimination policies and instituted domestic partner benefit packages inclusive of same-sex partners. According to one survey, fewer than 24 employers offered same-sex domestic partner benefits at the beginning of the 1990s, but this number rose to nearly 10,000 by the year 2007, and has grown steadily (HRC, 2013). One of the largest LGBT rights organizations (The Human Rights Campaign) reports that by 2013, 88% of the Fortune 500 companies had nondiscrimination policies that included sexual orientation, and 57% also had anti-discrimination policies related to gender identity (HRC, 2013). As a result, many of the well known brand names such as Ford, eBay, AT&T, Boeing, Home Depot, Walt Disney, McDonald's, Xerox, Gap, Nike, Verizon, and Starbucks, offer equal benefits to both their LGBT and straight workforces.

Many companies now realize that a positive CEI score makes good business sense. It often equates to a more inclusive work environment overall since it sends a strong message about valuing diversity in all its forms. The first CEI survey was conducted in 2002 with 312 corporations participating, and just eleven got the top rating. By 2009, 260 businesses received the top rating. By 2013, 688 businesses participated in the survey, with 252 achieving the top score. The fact that this represents a slight drop in the number of businesses scoring 100% is because the index adopted tougher criteria to keep up with new and emerging issues. For example, it is now impossible to receive a top CEI score without offering comprehensive healthcare coverage to transgender workers. The significant jump in corporations aiming for and achieving the top score over the years can be attributed to the fact that more and more companies no longer wish to alienate any talent pool, including the LGBT minorities. Among well known companies that score 100% are Ford, Gap, Google, Shell, and US Airways (HRC, 2013a).

Corporate Equality Index

The corporate equality index (CEI) is a set of standards and benchmarks established by the Human Rights Campaign Foundation's Workplace Project to examine and evaluate corporate policies affecting LGBT employees throughout the country (HRC, 2013a). Among the items measured by the CEI are:

- Official recognition of a LGBT support group
- Sexual orientation, gender identity, and gender expression nondiscrimination policy
- Equal health and other benefits for different-sex spouses, and same-sex partners or spouses
- Training aimed at increasing the understanding of sexual orientation and/or gender identity
- Public engagement with the broader LGBT community including targeted recruitment programs, and efforts to find and use LGBT-positive suppliers

GENDER IDENTITY AND TRANSGENDER ISSUES

In recent years, workplace issues related to gender identity have developed a much higher profile. The transgendered minority pose a number of unique issues in the workplace, ranging from restroom use to dress codes. The response to this minority and the issues they raise is often hostile, but some companies do go out of their way to accommodate. American Airlines, for example, was one the first organizations to expand its equal opportunities statement to include gender identity, with policies and guidelines specifically addressing transgendered issues. Employees must use restrooms appropriate to their current gender, but have the right to access different restrooms if they alter their gender identity. American's policy stipulates that the attire of a transitioning employee should reflect the appropriate dress codes of the job they hold and the office where they work, underscoring that all employees are held to the same uniform appearance standards within their gender identity status. In 2010, openly gay former Massachusetts Congressman, Barney Frank, hired the first openly transgender congressional aide.

BACKLASH AND MIXED MESSAGES: THE STING OF DISCRIMINATION CONTINUES

Pizer et al. (2012) conclude that there continues to be evidence of persistent and pervasive workplace discrimination against LGBT people, in spite of the progress that has been made. Not all people and organizations are committed to confronting sexual orientation discrimination, and some conservatives feel such gains have happened too quickly, gone too far, and represent a threat to their sense of identity and well being. The shifts in attitudes, policies, and legislation related to LGBT minorities, especially in terms of relationship recognition, have in fact become rallying points for uniting conservative thinkers.

In 1996, Congress passed the "Defense of Marriage Act (DOMA)," which, among other things, defined marriage as between one man and one woman, and allowed states to refuse to honor same-sex marriages performed in another state. In 2010, the Obama administration

declared that in its view, DOMA was unconstitutional, and would not defend it in the courts, but the Act remains in force. Most legal observers reckon the constitutionality of the Act will end up being debated by the Supreme Court. By 2013, thirty-eight states had enacted laws or constitutional amendments to define marriage as between a man and a woman. Of this group, nineteen states (the so called "super DOMA" states) go so far as to include language in the law or amendment that does or may affect other legal relationships such as civil unions. These states include Florida, Michigan and Wisconsin (HRC 2013).

Another interesting example of backlash happened in California, a state thought by many to be one of the most liberal in the union. In May 2008 the California Supreme Court struck down a ban on same-sex marriage. However, in a highly contested November 2008 referendum known as Proposition 8 voters inverted the ruling. In February 2012, an appeal court overturned Proposition 8 on the grounds that it served no purpose other than to denigrate a specific group of people. This ruling has since been appealed to the Supreme Court. As part of the publicity surrounding the events, people were reminded of the fact that it had taken a 1948 Supreme Court ruling to overturn a ban on interracial marriages in California, but in that case the ruling was allowed to stand.

One might argue that confrontations to do with relationship recognition and marriage provisions have little to do with workplace attitudes and policies, but this would be incorrect. These human rights battles speak to deeply held anxieties about legitimizing and accepting sexual diversity, and provide the fuel some organizations need to rationalize and justify not implementing policy changes aimed at equalizing the treatment of the LGBT minority.

A number of religious and conservative groups exist whose missions seem to be defeating what they term "the gay agenda." The web site of "Concerned Women for America," for instance, indicates the following: "many of the largest corporations in America have bought into the homosexual agenda. Americans should work to roll back these ill-advised policies" (reported in Knight, 2009). Other groups such as Focus on the Family, and the American Family Association, also launched major attacks on gains made by LGBT minorities in general, and in the workplace in particular, using vitriolic and often hateful language to cast aspersions on their radio and TV programs that attract audiences in the millions.

Some corporations steadfastly refuse to alter their human resources policies and practices to accommodate LGBT minorities. One example of this is Chick-Fil-A, which not only fails to support their LGBT employees, but makes large financial contributions to anti-gay groups (see case in this text). Other companies have even rescinded such protections and benefits after mergers and changes in ownership. ExxonMobil is a good example. Prior to the merger of Mobile Oil and Exxon, Mobile had a nondiscrimination policy and offered domestic partner benefits, whereas Exxon did not. After the merger, a policy was put in place to allow same-sex partners of former Mobile employees to continue receiving benefits, but excluding former employees of Exxon or new employees of ExxonMobil from the same perks. As a result, ExxonMobil has the odd distinction of being the only company on the Fortune top 50 not to include sexual orientation in its nondiscrimination language.

Another organization that fights to retain homophobic policies is the Boy Scouts of America. After a prolonged court battle, the Supreme Court ruled in July 2000 that the Boy Scouts could maintain a policy excluding gay men from joining the organization. Several organizations, such as Levi Strauss and the United Way, discontinued contributions to the Boy Scouts as a form of protest, and several churches, such as the United Methodists, have condemned the policy, but the Boy Scouts remain adamant. In contrast, the Girl Scouts have reaffirmed their inclusive nondiscrimination policy. One of the issues this speaks to is the invalid perception

that homosexuals are more inclined to be pedophiles than heterosexuals, even though extensive research clearly indicates this is not true.

Walmart, America's largest employer with close to 1.5 million workers, affords a glimpse into the contradictions and backlash that surround LGBT discrimination. For years, Walmart had refused to add protections for sexual minorities to its non-discrimination language, but in 2003 it finally added sexual orientation as a protected group. Since 2006, Walmart has voluntarily participated in the Corporate Equality Index and in 2013 scored 60%. Walmart has a LGBT pride group, and does comply with domestic partnership and civil union provisions in locations where these benefits are required by law, but these do not include highly valued benefits such as extended health care insurance. In 2007, Walmart announced it would discontinue its financial support to LGBT community-based organizations, but subsequently resumed some support. As a result, Walmart falls into a group of organizations that comply with the law and undertake some positive actions, but rarely act proactively in support of its LGBT employees or the broader community.

Global Notes..... Developments in Other Parts of the World

The situation for LGBT people has undergone spectacular change in many other parts of the world. Canada, Belgium, Spain, the Netherlands, Norway, Sweden, and South Africa all allow same-sex marriage. Other jurisdictions such as Denmark have civil union provisions that provide couples, regardless of sex, with the same protections and responsibilities.

Many workplaces around the world now make no distinctions in their approach to straight and LGBT workers. At the same time, LGBT minorities continue to confront serious discrimination in some parts of the world. Sexual acts between consenting adults of the same sex carry the death penalty in five countries including Iran, Saudi Arabia, and the Southern Somalia, and prison terms in seventy-two countries including much of the Caribbean, Russia, and Africa.

Among the more progressive countries, Canada stands out. The Charter of Rights and Freedoms, roughly equivalent to the American constitution, is interpreted to include sexual orientation. All provinces and territories include sexual orientation in their provincial human rights codes as a protected group, and recognize same-sex relationships in family law, including the right to adopt children. These legislative changes followed initiatives already under way in many Canadian organizations.

As early as the mid-1980s, labor unions were fighting nondiscrimination policies and negotiating same-sex benefit packages in collective agreements, and these changes soon became the norm in many unionized and non-unionized organizations (Hunt and Eaton, 2007). By the time they were legislatively mandated to do so, most universities, colleges, and public sector organizations, as well as many in the private sector, had already moved toward inclusive policies and practices.

Even though Canada has been a leader in challenging sexual orientation bias, it continues to lag in relation to transgender discrimination. Transgendered people have many fewer protections in law, and most organizations have yet to enact policies or other provisions that would extend a more welcoming environment for this group of workers.

CONCLUSIONS

Of all the diversity challenges an organization faces, accommodation to sexuality differences remains the most contentious. Although there has been considerable accommodation to the LGBT minority in American organizations over the past two decades, this progress has

produced a backlash by people and organizations that do not endorse or support these changes. As a result, there are contradictions and mixed messages in the response LGBT people receive to their demands for equity. This results in significant variation among local authorities, cities, states, countries and organizations.

On the one hand, significant change has occurred. The majority of Americans support equal rights for LGBT minorities, and this is particularly true of younger Americans. A number of state and local governments prohibit employment discrimination. Increasingly, organizations take steps to curb heterosexual bias in their human resource policies and practices. Some companies go out of their way to provide a welcoming environment for their LGBT workers, and actively recruit within this community as part of their "finding-the-best-talent" human resource strategy. On the other hand, in some settings, there has been no change at all. It is still legally possible to discriminate based on sexual orientation and gender identity in many states. Some people and organizations fight assertively to prevent or overturn LGBT-positive measures, no matter how small. Many organizations passively comply with legal changes, but make no effort to create a safe and welcoming environment for LGBT minorities.

In many ways, accommodating sexual diversity in the workplace acts as a litmus test for an organization's acceptance of diversity in general. An organization that recognizes and acknowledges its sexual minorities is almost certain to do the same for its other minorities. Benchmark organizations with a broad based commitment to diversity accept the challenges and opportunities associated with their LGBT employees. These organizations discontinue discriminatory practices and alter human resource benefit policies to ensure that they are equal and fair for everyone. They include sexual diversity in training programs and recruitment strategies. Progressive, pro-diversity organizations make clear through their disciplinary policies and cultural messages that anti-LGBT behavior will not be tolerated any more than will sexist or racist behavior.

No matter how you look at it, reforms for the LGBT minority in America are a moving target. In the main, each new year brings positive change, but the pace of change is slow and often highly contested. It is clear that within another decade most states and organizations may treat their LGBT constituents equally to their heterosexual counterparts, including the right to marry and with full equality in workplace and government-based benefits, but we are not there just yet.



Points of Law

Challenges to the constitutionality of the "Defense of Marriage Act" have been initiated in a number of states. An interesting example is *Windsor v. United States*. In December 2012, the Supreme Court agreed to hear a challenge from Edie Windsor, a lesbian who had been in a long-term relationship with another woman, and had been married in Canada. When her partner died in 2007, the federal government taxed the inheritance, even though a spouse who dies can leave her assets and incur no estate taxes. Clearly, she had been taxed because she was married to a same-sex partner. Whatever the Supreme Court decides will have reverberations throughout the country (*Source*: http://www.aclu.org/lgbt-rights/windsor-v-united-states-thea-edie-doma).