# LGBTQ Rights Policy Analysis

Scott Coble

# ABSTRACT

This policy paper addresses the progress and setbacks in the struggle for LGBTQ rights in the United States, advocating for the passage of the Equality Act as an essential legal safeguard. Despite notable advancements, LGBTQ Americans continue to encounter systemic and interpersonal discrimination, particularly in employment, housing, and public spaces. Such discrimination is often entrenched in heterosexist and transphobic ideologies, creating pervasive inequities and mental health disparities. The Equality Act is presented as a critical response to these challenges, proposing comprehensive protections that would prohibit discrimination based on sexual orientation and gender identity. By ensuring equal treatment in all facets of life, the Equality Act would support the mental and emotional health of LGBTQ individuals and symbolize a national commitment to equal rights. Its enactment would represent a milestone in the movement toward full civil rights for LGBTQ Americans, reflecting the country's dedication to the principles of liberty and justice for all.

*Keywords:* LGBTQ rights, Equality Act, discrimination, mental health disparities, civil rights

This social policy proposal delves into the ongoing struggle for LGBTQ rights in the United States, highlighting the significant progress achieved and the adversities faced, particularly legislative efforts that threaten to reverse these gains. The proposal outlines the multifaceted nature of discrimination against LGBTQ individuals in employment, housing, and public life, exacerbated by heterosexist and transphobic attitudes at both systemic and interpersonal levels. The proposal emphasizes the urgent need for the Equality Act, examining its potential to offer comprehensive protections, mitigate mental health disparities, and further the cause of justice and equality in the fabric of American society.

# Social Problem

In the United States, the LGBTQ community has made notable strides toward equality and legal recognition (Lambda Legal, 2023). Nonetheless, this progress is continually challenged by new legislative measures that threaten to erode these gains. In fact, state legislatures nationwide have introduced over 275 pieces of adverse legislation targeting the LGBTQ community for the 2024 legislative session, in addition to the more than 500 similar bills from the previous year (Robertson, 2024). The difficulties encountered by the LGBTQ population are diverse and intricate, necessitating an in-depth review of these legislative challenges, their consequences, and strategies for advocacy and pushback (American Civil Liberties Union [ACLU], 2023).

LGBTQ individuals often confront bigotry, discrimination, and violence due to their sexual orientation, gender identity, or how they present themselves (Casey et al., 2019). Such discrimination can permeate many life areas, including employment, security of marriage equality, adoption rights, housing, medical care, and public accommodations (Elias, 2020; Lambda Legal, 2023).

Discriminatory practices against the LGBTQ community, rooted in heterosexism and transphobia, occur on both systemic and personal levels. Systemic discrimination is apparent in the laws of certain states that target transgender people, particularly around access to bathrooms and public amenities. 'Religious freedom laws' also provide a legal basis for individuals to deny services to LGBTQ persons under religious pretexts. While religious exemption laws play a crucial role in safeguarding individual liberties by allowing persons to opt out of certain legal requirements that conflict with their sincerely held religious beliefs, it becomes controversial when employed to legitimize discrimination. Religious liberty was frequently invoked to justify segregation and Jim Crow laws, opposition to interracial marriage, and restrictions on women's reproductive rights (Koppelman, 2014). Yet, balancing religious freedom with LGBTQ rights is crucial for fostering a just and equitable society. Harcourt (2017) explains how religious freedoms should not justify actions that harm others. Discrimination against LGBTQ individuals could inflict significant psychological and economic damage. Hence, there should be clear limits to religious exemptions, especially when they result in harm to others.

Moreover, federal employment discrimination laws do not presently classify sexual orientation and gender identity as protected categories (Lambda Legal, 2023). At a personal level, LGBTQ individuals continue to experience widespread bias, as seen in school bullying and the alarmingly high murder rates of transgender women of color (Nadal, 2019, p. 1310). Furthermore, research indicates that LGBTQ individuals disproportionately suffer from mental health issues, such as depression, anxiety, and suicidal thoughts and actions, often due to persistent discrimination, rejection, and stigmatization (Kaniuka et al., 2019).

# **Past Policy Efforts**

The analysis of past policy efforts to address LGBTQ rights in the United States can be approached by examining two significant milestones: the 'Don't Ask, Don't Tell' (DADT) policy and the legalization of same-sex marriage. Reviewing these past policies provides a framework of initiatives that underscore how current political climates and societal perceptions affect long-term progress.

# Don't Ask, Don't Tell

Alford and Lee (2016) discuss the significant role of the 'Don't Ask, Don't Tell' policy in the history of lesbian, gay, and bisexual (LGB) rights within the U.S. military. Before the implementation of this policy, LGB individuals faced a complete prohibition from serving in the military. Enacted in 1993 as a compromise between Congress and President Clinton, DADT aimed to soften the absolute ban by allowing lesbian, gay, and bisexual individuals to serve, provided they neither disclosed their sexual orientation during enlistment nor engaged in same-sex relationships or behaviors. This policy was intended to circumvent the prevalent discriminatory practices of the time.

The 'Don't Ask, Don't Tell' policy resulted in mixed outcomes, reflecting the complex interplay between public perception and policy enforcement. While it enabled numerous LGB individuals to serve in the military—a previously unattainable opportunity—it simultaneously compelled them to hide their identities. This concealment led to heightened stress, vulnerability to subjective targeting, and a pervasive fear of exposure, alongside inconsistent enforcement of the policy. Ultimately, DADT was responsible for the discharge of thousands of service members and notably failed to consider the transgender community (Alford & Lee, 2016; Wansac, 2013).

The repeal of DADT in 2011 marked a monumental shift. It acknowledged

the policy's unjust nature and opened the door for LGB individuals to serve openly, promoting inclusivity and diversity in the military. In 2021, the policy expanded protections for transgender soldiers to serve openly as well (Suits, 2021). This repeal and updated policy can be seen as both a reflection of and a catalyst for changing societal attitudes towards LGBTQ rights.

# Legalization of Same-Sex Marriage

The fight for same-sex marriage in the U.S. has been a prolonged and central issue in LGBTQ rights. Before its nationwide legalization, same-sex marriage was a patchwork of differing laws across states (Ofosu et al., 2019). Legalizing same-sex marriage, culminating in the landmark Supreme Court ruling in *Obergefell v. Hodges* (2015), was a significant victory for LGBTQ rights. It gave same-sex couples legal recognition and rights, signifying societal acceptance and equality (Ofosu et al., 2019).

The ruling had far-reaching implications beyond the right to marry. First, it legally contested heteronormative frameworks, thereby influencing societal perceptions of sexuality, gender, and family structures more broadly. Additionally, the ruling affected various sectors, including healthcare, taxation, and adoption. Same-sex couples were now able to receive the same legal treatment as their heterosexual counterparts. Moreover, the ruling had profound cultural and psychological effects, validating the dignity and worth of LGBTQ individuals (Bernstein, 2018; Ofosu et al., 2019).

# **Competing Options**

The policy strategies addressing LGBTQ rights in the U.S. reveal a stark contrast in their conception and impact, reflecting the changing dynamics of social attitudes and legal interpretations over time. The 'Don't Ask, Don't Tell' policy was a barometer of the era's prevailing norms. It was a policy of compromise that allowed LGB individuals to serve in the military, provided they did not openly disclose their sexual orientation. This requirement for secrecy can be seen as a tacit acknowledgment of their presence while simultaneously mandating their invisibility, a poignant reflection of the conditional acceptance of the time (Wansac, 2013).

In stark contrast stands the legalization of same-sex marriage, a policy that did not just open the door to equality but emphatically affirmed it. Unlike the implicit expectations of concealment under DADT, the legalization of same-sex marriage was a clear and loud declaration that love and commitment should be recognized and honored regardless of gender. It was a policy that granted rights and validated identities, with the Supreme Court's ruling in *Obergefell v. Hodges* serving as an historic beacon of progress (Bernstein, 2018; Ofosu et al., 2019).

The repeal of DADT and the embrace of same-sex marriage chart the trajectory

of LGBTQ rights from begrudging tolerance to full legal recognition. These policies mirrored the shift in public opinion, with each step towards equality influencing and being influenced by societal attitudes. DADT's existence and eventual repeal highlighted the inherent conflict between a society's call for service and its reluctance to accept the full personhood of those in service. The end of DADT marked an acknowledgment that sexual orientation should neither be a barrier to service nor a cause for dismissal or discrimination.

Furthermore, the transition from DADT to the celebration of same-sex marriage reveals the evolution of advocacy and legal strategies within the LGBTQ movement. Initially, the strategy was to fit within the confines of restrictive norms, but the approach shifted towards challenging and changing those norms. Legal victories such as the right to marry represented not just a change in law but a transformation in the cultural landscape, carving out a space where LGBTQ rights are understood as an inseparable part of broader human rights.

Both policies serve as case studies in the power of law as a reflection of and a force for societal change. The journey from DADT to marriage equality underscores a broader narrative of growth and struggle within the LGBTQ community and American society. It showcases the competing options of gradual integration through compromise versus the pursuit of unequivocal equality through legal recognition, each with its implications and ramifications for societal change and the lived experiences of LGBTQ individuals.

# **Policy Proposal**

However, while great strides have been made over the last fifty years in the advancement of LGBTQ rights, nearly a decade after the nationwide legalization of same-sex marriage, a majority of states in the U.S. continue to have the power to refuse fundamental rights to LGBTQ Americans. Individuals can still face discrimination with employment, housing, credit, and accessing public goods and services solely because of their sexual orientation or gender identity (Human Rights Campaign [HRC], 2023; Santos et al., 2021). Thus, the Equality Act aims to rectify this situation, providing essential freedoms and safeguards to all Americans, regardless of their state of residence (Human Rights Campaign [HRC], 2022).

Gamble-Eddington (2020) explains that the origins of the Equality Act trace back to the 1970s when Representative Bella Abzug introduced progressive LGBTQ discrimination laws in Congress, aiming to expand civil rights protections for the LGBTQ community. Despite initial setbacks and opposition, the concept of LGBTQ protections continued to resurface over the years in various forms. In 2007, the Employment Non-Discrimination Act (ENDA) was revised to include safeguards for sexual orientation and gender identity, serving as a precursor to the current iteration of the Equality Act. In 2019, another version of the Equality Act was introduced in the House of Representatives to amend civil rights statutes to prohibit discrimination based on sexual orientation and gender identity. Passing the House by a vote of 236 to 173 (with unanimous Democratic support), the Act expanded protections to LGBTQ individuals by redefining sex to include gender identity and sexual orientation.

However, critics identified potential conflicts between sex-based and gender identity-based rights, which could potentially impact existing legal provisions. The Republican-controlled Senate stalled the bill's progress by keeping it untouched in committee for over a year, thus thwarting its chances of passage (Burt, 2020; Gamble-Eddington, 2020). This legislative journey reflects a persistent effort to combat discrimination and promote equality for marginalized communities. The Equality Act, despite its imperfections and need for additional legal scrutiny, represents a crucial advancement in explicitly outlawing discrimination based on sexual orientation and gender identity. By amending existing federal civil rights laws and incorporating sexual orientation and gender identity as protected categories, this inclusion places them alongside other established categories such as race, religion, sex, and national origin, thereby explicitly prohibiting discrimination based on these grounds (Santos et al., 2021).

Furthermore, the Equality Act plays a crucial role in establishing uniform national standards to address the variance in LGBTQ rights across states. It introduces legal mechanisms for recourse against discrimination, aligning with and reinforcing existing civil rights frameworks. The Act enforces safeguards in employment practices such as hiring, firing, and promotions—to ensure workplace equality for LGBTQ individuals. It also broadens protections to housing, prohibiting discrimination in activities like renting, selling, or financing homes. The definition of public accommodations is expanded under the Act to include retail stores, transportation services, and online retailers, ensuring LGBTQ individuals receive fair treatment. Moreover, the Act bans discrimination in federally funded programs across various sectors, including education and healthcare, and forbids bias in jury service (Santos et al., 2021).

Nevertheless, the Equality Act's societal impact goes beyond its legal provisions. It is a powerful statement affirming the dignity, equality, and rights of LGBTQ individuals. By amending and extending the scope of existing civil rights legislation, it seeks to foster a more inclusive and equitable society where discrimination based on sexual orientation and gender identity is no longer tolerated.

# **Policy Components**

The Equality Act, aimed at protecting LGBTQ rights, involves multiple stakeholders, including LGBTQ individuals, advocacy groups, businesses, religious institutions, and the public. Its implementation does not require significant new funding sources, as it primarily amends existing civil rights laws. Instead, the focus is on reallocating and efficiently using existing resources within various federal agencies to enforce these expanded protections (Jansson, 2018). The Act necessitates a balanced distribution of enforcement efforts across various sectors, such as employment, housing, education, and public accommodations. This would ensure that all areas of potential discrimination are adequately addressed. The enforcement of the Act's provisions does not involve tangible goods but rather the equitable application of legal protections and services (Santos et al., 2021).

The primary entity responsible for carrying out the policies outlined in the Equality Act is the U.S. Department of Justice (2019), particularly the Civil Rights Division. This division is tasked with enforcing federal statutes prohibiting discrimination based on race, color, sex, disability, religion, familial status, and national origin. With the passage of the Equality Act, their responsibilities would expand to include the enforcement of non-discrimination based on sexual orientation and gender identity, ensuring that these protections are upheld across all states.

# Supporters and Audience

A multifaceted persuasion strategy is crucial to gain widespread support in crafting a policy proposal to enact the Equality Act. This strategy must interweave the ideological underpinnings of the policy with targeted objectives for various audiences to create a coalition of support.

# Persuasion Strategy

The core ideology of the Equality Act is rooted in the principles of fairness, justice, and the fundamental right to equality under the law (Badgett, 2020; Lambda Legal, 2023). The policy is grounded in the belief that all Americans, regardless of sexual orientation or gender identity, deserve to live without fear of discrimination. Strategies should emphasize universal values that transcend ideological differences to persuade a broad spectrum of society. These include the love of family and friends, freedom of expression, compassion and understanding, community and belonging, and fairness and justice (Putnam & Campbell, 2011).

Storytelling can be a powerful tool to create support, showcasing personal narratives illuminating discrimination's real-world implications (Lowndes, 2016). The policy is humanized by placing human faces and stories at the forefront, fostering

empathy and understanding. Furthermore, economic arguments emphasizing the benefits of diversity and inclusion in the workplace and marketplace can appeal to business interests, framing the Equality Act as a moral and economic imperative (Badgett, 2020). **Plan for Objectives** 

By crafting a narrative that aligns the Equality Act with American values and demonstrating the broad benefits of its implementation, the proposal can appeal to diverse groups, galvanizing a robust support base for enacting the policy. Therefore, a combination of approaches will be utilized: the friendly approach, which involves engaging with supportive policymakers through relationship building and coalition forming, and the adversarial approach, which addresses skeptical policymakers through confrontational tactics like public demonstrations, aggressive lobbying, and media strategies (Jansson, 2018). The effectiveness of the friendly and adversarial approaches is contingent upon the specific context and dynamics of the prevailing political environment. Therefore, to lay the groundwork for enduring advancements in civil rights, it is crucial to employ strategies that are both insightful and persistent.

Incorporating the policy stratagems illustrated in Jansson (2018), combative persuasion and coercive messaging in advocating for LGBTQ rights and the passage of the Equality Act involve assertive strategies that highlight the costs of not enacting the legislation. This approach might include stressing the legal and social repercussions that states and organizations could face if they continue to discriminate, such as economic boycotts, legal challenges, and public relations crises. This form of messaging is confrontational, aiming to create a sense of urgency and the inevitability of change, thus pushing legislators and the public to support the Act to avoid adverse outcomes. The underpinning message is clear: failure to support the Equality Act equates to supporting discrimination, which is untenable in a society that values equality and justice.

Conversely, a win-win persuading strategy for the passage of the Equality Act would focus on mutual benefits, emphasizing how its enactment would not only safeguard rights for LGBTQ individuals but also promote a more harmonious and equitable society for everyone. This method would involve engaging opponents in dialogue to understand their concerns and finding common ground, such as the shared desire for safe communities and economic prosperity. The mediator method would introduce a neutral party to facilitate discussions between opposing sides, helping to break down misconceptions and build alliances. This strategy seeks to reduce adversarial attitudes, fostering an environment where all parties feel heard, valued, and willing to contribute to a solution that respects both LGBTQ rights and the diverse fabric of American society (Jansson, 2018).

#### **Key Presentations**

To galvanize support for the Equality Act, the key presentations must articulate objectives tailored to resonate with specific audiences. Given the inherent and deepseated opposition of conservative lawmakers and their constituents, a combative persuasion must be taken. For instance, The Heritage Foundation (2019), a politically conservative think tank, outlined in an article that the Equality Act could adversely affect several groups. This article highlighted concerns about parental rights being at risk, the erasure of women's spaces and opportunities, and the impact on medical professionals who may be forced to provide certain therapies. They addressed conflicts arising from disagreements on gender identity and sexual orientation, citing examples like the case of Colorado baker Jack Phillips. Additionally, it raises issues related to sports competitions, charity organizations, and the potential chilling effect on individuals expressing differing beliefs. Overall, the document argued that the Equality Act could lead to a politicization of medicine, legal battles over personal beliefs, and challenges to traditional notions of gender and sexuality.

However, the counterargument must center around the cherished principle of fairness (Lambda Legal, 2023). By positioning the Act as an extension of the meritocratic ideal that individuals should be judged on their abilities and character rather than their sexual orientation or gender identity, the policy aligns with conservative values. This framing underscores that the Equality Act ensures that all citizens have an equal shot at success, a concept that transcends partisan lines.

Many religious-right groups maintain a strong adherence to their faith's traditional views on marriage and family, often seeing the advancement of LGBTQ rights as a challenge to these beliefs (Hopkins et al., 2013). Therefore, when engaging with religious communities, it is crucial to find a delicate balance that honors religious freedom while emphasizing universal values of dignity and respect (Lambda Legal, 2023). A confrontational strategy should be moderated; the approach should reflect the ethical imperative present in many faiths to treat others with compassion, ensuring no one is subjected to discrimination while preserving religious expression rights. Overcoming this significant barrier is essential for legislative success. Although finding common ground may seem insurmountable, the strategy should prioritize compassion and understanding, even towards those staunchly against LGBTQ human rights.

When engaging with business and corporate leaders, the dialogue will pivot to the economic advantages of a diverse and inclusive workforce. This will emphasize the innovation and broad market appeal that inclusivity brings, presenting the Equality Act as a catalyst for economic growth and enhanced corporate reputations. For example, leaders can be presented with case studies from companies that have seen a direct correlation between implementing inclusive policies and experiencing a surge in creativity, productivity, and overall company performance. Additionally, discussions can include data-driven reports illustrating how companies known for their diversity and inclusivity have gained substantial market share and customer loyalty (Jansson, 2018). This perspective is particularly compelling to the business community, which often seeks to align with progressive social values that reflect the demands of their customers and employees (Badgett, 2020; HRC, 2022).

In outreach to civil rights and advocacy groups, the approach will be to invoke the shared heritage of fighting for equal rights, drawing parallels with historic civil rights battles (HRC, 2023). This approach aims to unite these groups under a common cause, summoning a sense of solidarity and shared mission that has historically been a powerful motivator for change. These tactics include conducting joint research to provide solid evidence for policy changes, organizing community events to raise awareness and support, and developing strategic communication plans highlighting proposed policies' mutual benefits. Additionally, building long-term relationships with these groups through regular meetings and collaboration can enhance trust and cooperation, facilitating more effective advocacy efforts for LGBTQ rights (Jansson, 2018).

Finally, in communicating with the public, the strategy involves a widespread educational media campaign. The Pew Research Center recently reported that in 2002, 51% of Americans stated homosexuality should be accepted by society, whereas, in 2019, that percentage increased to 72% (Poushter & Kent, 2020). Therefore, with the increased public support for the LGBTQ community, the approach would then simply be debunking myths and highlighting the Act's universal protections. The message will be clear: the Equality Act is not about special privileges for some but equal rights for all (HRC, 2022).

Thus, presentations must resonate with various audiences to garner support for the Equality Act. Critics, like conservative groups, express concerns over traditional values. Yet, the counterarguments highlight fairness and alignment with these meritbased ideals. Engagements with religious groups balance respect with advocating for dignity. Business discussions focus on the economic benefits of diversity. Outreach to civil rights groups emphasizes historical solidarity. Public strategies leverage increasing societal acceptance to underscore the Act's commitment to equality for all. Thereby, each audience-specific approach forms a part of a strategic plan aimed at building a broad and even bi-partisan coalition to pass this historic piece of civil rights legislation.

# Conclusion

The journey for passage of the Equality Act represents a comprehensive effort addressing entrenched issues of discrimination within the United States. Addressing the concerns of various stakeholders — from conservative groups to religious communities and from business leaders to civil rights advocates — requires a deliberate and inclusive strategy. By fostering dialogue based on mutual respect, economic benefits, and shared values of fairness and dignity, a broad-based coalition in support of the Act can be created. Uniting diverse groups to the common goal of advancing LGBTQ rights is a lofty ambition; however, the passage of the Equality Act would signify a significant milestone, ensuring all Americans, regardless of their sexual orientation or gender identity, are treated with equality and respect.

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