

Comparing and Contrasting Two Policies of LGBT Rights: On the USA and Brazil

Name

Institution

DOANASSIGNMENT.COM

## Comparing and Contrasting Two Policies of LGBT Rights: On the USA and Brazil

### Introduction

Lesbians, Gays, Bisexuals and Transgender (LGBT) issues have continuously triggered debates and controversies among various individuals across the globe. The rising concerns leading to the differences in opinions regarding LGBT emanate from the point of perceptions, cultural beliefs, religious values and political basis. Due to the dynamics of not accepting the existence of the LGBT people by some individuals in their communities, the LGBTs have found it hard to express themselves freely and enjoy equal rights just like a regular citizen should (Dolan, 2013). For instance, in the United States, the LGBT patients did not have visitation rights until a directive from the Whitehouse was issued. In some communities, extreme measures have been taken against individuals suspected to be lesbians or gays. Because of the way the public view the LGBT people, it is disheartening and traumatizing for most of them to come out and express themselves openly. Some have been forced to lead double standards. However, the situation has changed in different nations and states in America where laws and policies have been developed to support and protect the LGBT community. As a minority group, the LGBT community has struggled over the years to have their rights respected.

Despite the existing disagreements surrounding the LGBT rights, several states in the United States of America and Brazil among others have demonstrated recognition and acceptance of the lesbian and gay community through the passing and legalization of gay marriages. Several governments have issued bans on discrimination on grounds of sexual orientation and gender identity in the workplace and other areas where the lesbians and gays got unequal treatment (Lax & Phillips, 2009). To reinforce the passed laws, human rights activists together with political leaders have taken center stage in advocating the adoption of the legalized

policies. President Obama has been on the forefront advocating it. In that regard, this paper will compare and contrast the policies of LGBT rights in the United States and Brazil.

### **Discussion**

One of the policies considered significantly within the LGBT rights is the same-sex marriage. Gay marriage is currently legal both in the United States and Brazil giving the LGBT persons the freedom to decide who they wish to share their life with. In Brazil, same-sex marriages were legalized in 2013 when the Brazil's national justice council overruled the earlier decision that only allowed same-sex civil unions. Basing on the text by Pierceson, Piatti-Crocker and Schulenberg (2013) same-sex unions had been recognizable by law since 2004 in Brazil. The 2013 decision came as a relief to most couples who had the intention of converting their union into a full marriage. The resolution barred authorities, which are authorized to legalize marriages, to recognize and conduct same-sex marriages as they did with regular unions (Unzelman, 2011). However, in 2011, the Brazil's Supreme Court made it possible for same-sex marriages to enjoy almost all the rights granted to heterosexual married couples.

These rights provided by the policy include social security, welfare benefits, inheritance tax, pension, income tax, joint property ownership, immigration, health benefits, prison and hospital visitation and adoption rights. Also, the policy allowed the gays and lesbians the right to surrogacy. As such, Brazil recognized the need for individuals in same-sex marriages to adopt children. Despite the decision by the court to grant the LGBT people their right to adopt children, it was met with a mixed response (Pierceson, Piatti-Crocker & Schulenberg, 2013). The opposition intensified given that Brazil is largely a Roman Catholic-dominated nation whose values and practices despise same-sex marriages. The Catholic system upholds a family unit made up of a woman and a man. The critics, who are against LGBT adoption, argued that kids

were better off in a proper union with a mother and father. Again, the idea of joint property ownership allows partners to accumulate resources together. In the event of divorce, either partner is entitled to a share of the wealth which is beneficial. Also, the right to inheritance provides for each partner the legality to receive properties in the event of the demise of the other partner. Such provisions have made it possible for gay unions to lead stable marriages and families.

In the United States, the Supreme Court's declaration of the legalization of same-sex marriage in June 2015 did not come as a surprise to many as the push for its legalization had been advocated widely (Supreme Court of the United States, 2015). With a 5-4 decision by the U.S Supreme Court judges, the policy took effect immediately in all the 50 states. The judges led by Justice Anthony Kennedy in a majority opinion claimed that the constitutions granted the gays and lesbians the right to enter into a marriage of their choice (Supreme Court of the United States, 2015). Notably, the policy made it possible for unions that existed to be formalized as they received little recognition before the ruling. Just like in Brazil, legalization of same-sex marriages in the United States allowed the LGBT people to enjoy the right to joint property ownership, inheritance, social security, hospital visitation and welfare benefits. Property ownership is a vital aspect in marriage whether heterosexual or same-sex union. The passage of the law acted as a security to most gay partners who amassed their properties jointly. As a result, it grants protection to both partners to inherit or split the property in case of any eventuality.

Further, immigration just like in Brazil is a great benefit generated from the passage of the policy in the United States of America. Before the Supreme Court's ruling, same-sex couples could not enjoy the privilege the way the opposite-sex couples did. The federal law now protects legally married gay couples to access it. Previously, gays and lesbians in the United States had

been sidelined; thus, accessing health services was a challenge. Through a directive by the U.S president, Obama, all health facilities offering Medicaid and Medicare were asked to allow hospital visitation by the LGBT persons. Entering into marriage became even better because the government provides several benefits to married individuals such as nursing home care or unpaid leave. Similarly, adoption rights became more apparent and practical to legally married gay couples in the U.S as it is in Brazil. Nevertheless, the contrary is evident in the United States for unmarried same-sex couples as they face a lot of legal challenges the same way opposite-sex couples do in the process of adoption. Despite the legal issues, no state can deny a legally married same-sex couple the right to adoption. Also, in the case of a divorce, both couples in a gay marriage have a right to seek custody and visitation privileges for the adopted children.

Equality and nondiscriminatory are vital aspects that the gays and lesbians have fought to attain over the years. Both the United States of America and Brazil promote equal treatment and nondiscriminatory of the LGBT people, for instance, in the workplace through the introduction of policies that govern the process of employment and remuneration (Lax & Phillips, 2009). Going by the global assumption that Brazil is among the leading liberal countries concerning LGBT policy, all individuals whether gay or heterosexual is treated equally in the employment sector. Brazilian government prohibits employers from stating a preference for a particular sex or marital status of the preferred candidate for a job. Again, the job applicants are not obligated to reveal their sexual orientation to recruiters. The government agencies have taken the approach to ensure that no individual irrespective of their sexual orientation or gender identity is discriminated. Also, the employment rights accorded to the LGBT people forbids employers from offering a lower wage to its employees just because of their sexual identity. Such violations are equated to racial discriminations and are punishable by law.

Even with a law in action to protect the lesbians, gays, bisexuals and transgendered people in Brazil, they still face difficulties. Firstly, it is not easy for the average LGBT individual to secure a job in Brazil. However, if they do get employed, their career tends to stagnate in the same position for a length of time as compared to the heterosexual employees in the same job position. As if it is not enough, some gays and lesbians, as well as, bisexuals and transsexuals encounter physical assaults and dismissals in Brazil once they reveal their sexual identity.

On the other hand, the United States has stood vehemently against discrimination of any kind in the workplace and other areas of operations. To ensure that the gays, lesbians, bisexuals and transgender persons received equal treatment, the U.S Equal Employment Opportunity Commission passed a ruling in 2015 demonstrating that workplace discrimination along sexual orientation was illegal as stipulated under the federal law (Sobel, 2015). However, the law is not explicit to discrimination against gays and lesbians but any form of unequal treatment in the work environment by sex identity whether homosexual or heterosexual (Scheiber, 2015).

In contrast with the Brazilian nondiscriminatory policy, the United States' law applies only to employment. In Brazil, the LGBT persons have equal access to housing that is contrary to what the ruling in the U.S gives weight. As it is now, the federal law is mute concerning sex discrimination in accessing funding and accommodation. Just like the dismissals in the workplace in Brazil, the same happens in the United States where an individual who comes out an LGBT has a high chance of losing their job and being evicted from their housing premises with immediate effect (Scheiber, 2015). Such issues demonstrate how the nondiscriminatory policies in both nations are still far from protecting the LGBT people.

### **Conclusion**

In light of the above, the rights of the lesbians, gays, bisexuals and transgendered persons are slowly being recognized in different countries. The pressure from the international community, particularly the human rights activists, has played a massive role in influencing the advocacy and adoption of LGBT rights across the world. However, the stereotypes, taboos, religious values and practices and cultural practices of different communities may hinder the realization of equality and non-discrimination among all people whether straight or gay. Primarily, the United States and Brazil have portrayed continued progress in protecting the rights of the LGBT community; nonetheless, the policies are not being implemented stringently to serve the intended purposes.

## References

- Dolan, P. (2013). An Uneasy Union: Same-Sex Marriage and Religious Exemption in Washington State. *Washington Law Review*, 88(3), 1119-1152. Retrieved from <http://search.proquest.com/docview/1460226449?accountid=45049>
- Lax, J. & Phillips, H. (2009). Gay Rights in the States: Public Opinion and Policy Responsiveness. *American Political Science Review*, 103 (3)
- Pierceson, J., Piatti-Crocker, A., & Schulenberg, S. (2013). *Same-sex marriage in Latin America: Promise and Resistance*. Lanham, Md: Lexington Books.
- Scheiber, N. (2015, July 17). U.S. Agency Rules for Gays in Workplace Discrimination. *New York Times*. Retrieved from <http://www.nytimes.com/2015/07/18/business/us-agency-rules-for-gays-in-workplace-discrimination.html>
- Sobel, S. L. (2015). Culture Shifting At Warp Speed: How The Law, Public Engagement, And Will & Grace Led To Social Change For LGBT People. *St. John's Law Review*, 89(1), 143-194. Retrieved from <http://search.proquest.com/docview/1759328302?accountid=45049>
- Supreme Court of the United States. (2015). Obergefell Et Al. V. Hodges, Director, Ohio Department of Health, Et Al. *Supreme Court of the United States*. Retrieved from [https://www.supremecourt.gov/opinions/14pdf/14-556\\_3204.pdf](https://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf)
- Unzelman, A. C. (2011). Latin America Update: The Development of Same-Sex Marriage and Adoption Laws in Mexico and Latin America. *Law and Business Review of the*



*Americas*, 17(1), 135-145. Retrieved from

<http://search.proquest.com/docview/863834007?accountid=45049>

DOANASSIGNMENT.COM