

Discrimination against Homosexuals with Specific Reference to Military Services

(Reconsideration of Policy Matters in Global Scenario)

Abstract

Homosexuals are subjected to various kinds of discrimination, ranging from social to legal, political to economical, personal to collective neglect of the masses, just because of their sexual orientation. There's certain kind of stigma attached to their personality that they encounter homophobic attitude of their friends & colleagues, in most of the occupations. Globally, Few occupations such as military & security services have an implied policy of not recruiting homosexuals. This research Paper is intended to study the implication & discrimination against homosexuals with specific reference to military services.

Keywords: Social & legal discrimination, legal disabilities, homosexuals life style, exclusion from certain occupation, non-preference in military services, occupational pattern, military policies, global scenario.

Introduction

The history of social policy toward homosexuals in Western culture since Christ is one of strong disapproval, frequent ostracism, social and legal discrimination, and at times ferocious punishment. One aspect of the sexual revolution of the twentieth century has been a gradual amelioration in the political, legal, and social lot of the homosexual. In the countries of northern Europe (other than England and the Irish Republic), particularly Sweden, Denmark, and the Netherlands, homosexuals today are under very few legal, and relatively few social, disabilities; for the most part they are accorded the same rights and even respect as heterosexuals. The situation in the English-speaking countries, especially the United States, is less favorable. In the United States in particular, not only is there a strong residue of hostility towards homosexuals (particularly male homosexuals), but they labor under a series of legal disabilities. About half the states make sodomy, often defined to include oral as well as anal intercourse, a crime. Frequently the laws do not distinguish between homosexual and heterosexual sodomy, and in that sense might be viewed as neutral between the two sexual orientations. But this would be an unrealistic view in two respects. First, it is generally assumed either that these laws, despite their wording, in fact apply would be homosexual sodomy, or that, if applied to heterosexual sodomy, they would be unconstitutional. Second, sodomy is a more important practice to homosexuals than to heterosexuals. Even those states that do not criminalize sodomy between consenting adults fix a higher age of consent for homosexual than for heterosexual intercourse. The armed forces have an inflexible policy, albeit erratically enforced, of banning male and female homosexuals, and this is merely illustrative of a host of formal and informal exclusions from government jobs. As a practical matter, known homosexuals are excluded from jobs involving national security, from federal judgeships, and from teaching jobs in many public elementary and secondary schools. Homosexual marriage is not recognized. And federal and most state antidiscrimination laws do not protect homosexuals against discrimination on the basis of their sexual preference, although a number of municipalities do-which is not surprising when we recall that homosexuals tend to be concentrated in cities. This research Paper is intended to study the implication so discrimination against homosexuals with specific reference to military services.



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The efficacy of the legal disabilities is a matter of fair debate. The sodomy laws are no more enforced than the equally common laws that make adultery a crime. The armed forces make little effort to exclude discreet homosexuals of either sex. Homosexual couples can by contract create an approximation to modern marriage, though at higher cost because fringe benefits and social insurance are often more generous for married than for single people. While there is discrimination against homosexuals in private job and housing markets as well as in government job markets, it is much less common in the cities in which homosexuals are concentrated than it is elsewhere; and we have seen why homosexuals, for reasons unrelated to discrimination, can be expected to congregate in their own communities-to self-segregate, as it were. And many homosexuals can "pass" quite easily as heterosexuals, though again at some cost, particularly psychic. One reason they can do so is that the most flagrant homosexual, and sometimes not even him. A homophobe is, after all, someone who believes that a homosexual is a diabolic or grotesque figure, and it is among the diabolical and grotesque, therefore, rather than the merely effeminate, let alone the altogether normal appearing, that he expects to encounter one.

The limited significance of the legal disabilities imposed on homosexuals is shown by their increasing political assertiveness. Like other minority groups they have become a political force to be reckoned with, particularly in the cities in which they form a substantial fraction of the population.

The first stirrings of homosexual attraction are usually felt in adolescence; and in those adolescents destined to become "real" homosexuals (whether or not they engaged in cross-gender behavior as young children) the feelings of homosexual attraction grow stronger, seemingly inexorably, until they come to dominate the individual's erotic life. In societies in which social disapproval of homosexuals is strong-perhaps in all societies, because there may be no society in which homosexuality is not perceived as a disadvantage, proto-homosexual will usually fight his feelings, often indeed to the extent of dating women and even marrying. But these efforts appear to be, in all but the rarest cases, futile in altering homosexual preference.

The picture is of a condition that may well be hereditary or congenital but that even if development appears to take root early in life and independently of social attitudes. Given the personal and social disadvantages to which homosexuality subjects a person in our society, the idea that millions of young men and women have chosen it or will choose it in the same fashion in

which they might choose a career or a place to live or a political party or even a religious faith seems preposterous.

When we consider how difficult-how well-nigh impossible-it appears to be to convert a homosexual into a heterosexual into a heterosexual, despite all the personal and social advantages to being a heterosexual in this and perhaps in any society, the issue of homosexual seduction, recruitment, or propaganda is placed in perspective. How much difficult it must be for homosexuals to convert a heterosexual into one of themselves! To this one might be moved to reply that there may be borderline homosexual side. One is speaking here not of convinced bisexuals, as it were, but of persons whose sexual identity is uncertain, and perhaps malleable. May be if they fall in with homosexuals at an impressionable age, they will become homosexuals. This is not an entirely plausible, commonsensical, even intuitive hypothesis; nor can it be refuted on logical or scientific grounds. There just is no evidence for it, although people have been looking for such evidence for a very long time. Such evidence as we do have bearing on the hypothesis-the twin evidence, the comparisons between tolerant and intolerant societies, and the child -development evidence, and so forth-is against it. No doubt a careful study is warranted of homosexuality in English university and intellectual circles, almost all of whose members had attended sex-segregated educational institutions from the age of 7 on. The number of homosexuals in those circles does seem disproportionate to their number in the general population; yet English universities have until recently discriminated against married men, thereby making the universities more congenial to homosexuals than would otherwise have been the case.

We might be more concerned about behavior than about preference. This would be true, for example, if the only thing that worried us about homosexuality was that anal intercourse can spread venereal diseases, such as AIDS, more easily than vaginal intercourse can. But the public's larger concern, I believe, is that if legal and social inhibitors of homosexual activity are relaxed, young men and women will succumb to the blandishments of homosexual sex and the homosexual, dislike women nevertheless do not spurn them as sex objects. Rather the contrary: for as feminists tirelessly remind us, sexual intercourse is easily viewed by men as an assertion of male dominance. But women who dislike men-perhaps because they were sexually abused as children or subjected to sexual harassment as college students or as workers, or because they work in an occupation such as prostitution which shoes men at their worst, or because they have signed on (perhaps for some of

these same reasons) to the radical feminist critique of heterosexuality-may turn away from sex with men and become practicing lesbians. This is a form of opportunistic rather than "real" homosexuality, but it differs from male opportunistic homosexuality in not resulting from a scarcity of heterosexual opportunities. It represents a deliberate commitment to a homosexual style of life and love, and thus reflects a greater degree of choice (as distinct from compulsion) than in the case of exclusively male homosexuality. And because it reflects a greater degree of choice, it should be more subject to the influence of the social environment.

The paradox is that although lesbianism seems potentially more responsive to social control, society exerts much less pressure against it than against male homosexuality. It has been made criminal far less often than male homosexuality has, and when made criminal has usually been punished less severely. Social disapproval of lesbians is also less than that of male homosexuals. The reason may be that (heterosexual) men dominate law, politics, and social codes, and find lesbianism less disgusting than male homosexuality.

If you ask men who are disgusted by homosexuals what it is, precisely, about homosexual men that makes them disgusting, the answer will not be confined to the fact of erotic attraction and expression between two men, although that is part of it. The objection is to an entire homosexual life-style, involving what are believed to be characteristics demeanors, behaviors, attitudes, destinies that the heterosexual (and no doubt many a homosexual) abhors: a life-style believed to be pervaded with effeminacy, including physical weakness and cowardice; with promiscuity and intrigue, prominently including seduction of the young; with concentration in a handful of unmanly occupations centered on fashion, entertainment, decoration, and culture-such occupations as the theater and the arts, hairdressing, interior decoration, women's fashions, ladies' shops, library work; with furtiveness and concealment; with a bitchy, gossipy, histrionic, funky, even hysterical manner; with a concern with externals (physical appearance, youth, dress); with bad health, physical and mental, including suicide and alcoholism; with a wretched old age; with a general immorality and unreliability; with an above-average IQ, education, and income (qualities that make homosexuals even more threatening, more insidious, more seductive and manipulative); and, of course, with narcissism.

Now for examples of how discrimination against homosexuals is apt to alter their behavior. Their exclusion from particular occupations will skew their occupational pattern in favor of "unmanly" occupations, where their presence will

not grate on heterosexual sensibilities, just as blacks in servile occupations do not grate on the sensibilities of white begots. The benefits of concealing homosexuality will encourage skills in concealment-but will in those homosexuals who are deficient in those skills produce a furtive and anxious manner. Forbidden to make same-sex marriages, homosexuals will lack an important device for taming sexual desire, so they will be more promiscuous than heterosexuals. To conceal their sexual relationships, moreover, they will tend to substitute the sex act, which can be performed in a very short time and in private, for courtship, which is public and protracted. This substitution-of, as it were, sex for pre sex-will reinforce the public impression of homosexuals as a promiscuous lot. And since homosexuality is a taboo subject in most homes and schools, adolescent homosexuals will find it difficult to learn about sex other than by doing it. The sex act will substitute for reading and talking about it. This is still another prod to promiscuity. Concealment also raises homosexual search costs, and one consequence of higher search costs is more mismatches. This is another reason to suppose that the instability of homosexual relationships is aggravated by intolerance. Finally at though not all despised minorities suffer deep psychological wounds from the hostility of the majority; there is evidence that homosexuals do.

Despite all these points, it is unlikely that when every legal disability of homosexuality has been dismantled and every heterosexual has been thoroughly schooled in tolerance, the homosexual life-style will cease to be a distinctive and, to a significant degree, an unhappy one.

The homosexual life-style seems fairly invariant to a society's degree of tolerance, legal and social, of homosexuality. Like most of Southeast Asia, the Philippines is (despite the Spanish and American influence) far more tolerant of homosexuals than the United States is. But the occupational pattern is similar. Philippine homosexuals dominate television and monopolize hairdressing. They form a distinctive subculture that appears, in fact, to be universal. Not all homosexuals belong to that subculture. Not all are "creative." But, on average, male homosexuals do seem more drawn to beauty, adornment, decoration, and décor than heterosexuals, and there is no social theory that explain this.

I BELIEVE that even in a tolerant society the life prospects of a homosexual-not in every case, of course, but on average-are, especially for the male homosexual, grimmer than those of an otherwise identical heterosexual, a conclusion that lends an ironic touch to the appropriation of the word gay to mean "homosexual"-usually male homosexual. Anyone in doubt should ponder the implications of a letter dated October 3, 1990, from Admiral J. R. Tichelman, the Dutch military attaché

in Washington, to Congressman Gerry Studds, responding to Studds' inquiry about Dutch policy on homosexuals in the military. The admiral's letter encloses an official statement by the Dutch Ministry of Defense that begins by stating emphatically and unequivocally: "Military personnel policy does not discriminate on the basis of sexual orientation. Homosexual orientation gives no grounds to be found unfit for service in the Netherlands armed forces.... During the medical examination and upon entering the Service no questions will be asked relating to the sexual orientation of the conscript/applicant. In the event that the sexual orientation is brought up by the conscript, it will not be recorded " But the letter ends by stating that "although until now there are no known structural problems about the functioning of homosexuals in the armed forces it has to be considered that most of the homosexuals make a secret of their sexual orientation out of fear for reactions." This in a country that is decades ahead of the United States in tolerance of homosexuality.

In a society such as that of ancient Athens in which being homosexual did not much matter, homosexuals would not have a lively sense of themselves as being "homosexual." Then the cost of "converting" would be less-but so would be the benefit.) Jews are conscious of the advantages of converting, changing their name, and otherwise obliterating as far as possible the traces of their ancestry; and many Jews might if asked say that they would have rather been born into another group. But most of them do not convert, because (I conjecture) their being Jewish is part of their identity, so conversion would have a taste of death to it-like replacing one's body with another, albeit handsomer, one. But if the hypothetical cure for homosexuality were something that could be administered- costless, riskless, without side effects-before a child had become aware of his homosexual propensity, you can be sure that the child's parents would administer it to him, believing, probably correctly, that he would be better off, not yet having assumed a homosexual identity.

And speaking of "cures" for homosexuality, it is possible though paradoxical that tolerance might reduce the incidence of homosexual preference, although probably only slightly. One of the ironies of homosexuality's taboo status is that parents are poorly informed about the development of homosexual preference. They may warn their boy to avoid the attentions of strange men yet completely ignore the boy's gender nonconformity in childhood and dispatch him to an all-boys' school in adolescence without a second thought (not that there are many such schools any more). There is a bare chance that the formation of homosexual preference can be prevented by discouraging gender-nonconforming behavior at its outset (later is too late). By condoning "sissies" behavior in infancy, a parent may make it difficult

for a little boy to become properly boyish in adolescence, and if in addition he is placed in an environment from which girls are excluded, he may find it impossible to develop a style, a personality, attractive to girls. All this is fearfully speculative, though the English experience is suggestive; but it has the paradoxical yet, I think, plausible implication that parents in a society that is tolerant of homosexuality may have more success in guiding their children along the heterosexual path than parents deprived by the homosexual taboo of accurate knowledge of where that path lies. The tolerant society may also have greater success than the repressive one in reducing the spread of venereal disease by and among homosexuals.

Discrimination against Homosexuals, With Particular Reference to Military Service

The question whether homosexuals should be permitted to serve in the armed forces is part of the larger question whether discrimination on the basis of sexual preference should be forbidden. The reason for taking the more specific question first is that the arguments for excluding homosexuals from the armed forces are stronger than the arguments for excluding them from most other jobs. Thus, if the former arguments fail, the ground is laid for a comprehensive principle of non-discrimination.

The principal arguments that are made against homosexuals in the military are fourfold. I list them in ascending order of persuasiveness. First, homosexuals are likely to be blackmailed into giving up military secrets. This is a weak argument. Not only is it inapplicable to persons who acknowledge their homosexuality-and those who conceal it can in fact rise to the highest levels of command in the armed forces, as in government generally-but only a tiny fraction of military personnel have access to military secrets.

The second argument is that homosexuals are on average less stable than heterosexuals. This point may be correct, but its relevance is unclear, and this on several counts. First, the artistic, often effeminate homosexual who is most likely to have a problem of psychological adjustment is least likely to find the military an attractive career-a decisive consideration when, as now, all our service personnel are volunteers rather than conscripts. Second, if male homosexuals are on average less suited psychologically to a military career than male heterosexuals, lesbians are more suited to such a career than heterosexual women. Corresponding to the effeminacy of a male heterosexual, as a trait that distinguishes the average homosexual from the average heterosexual, is the mannishness of a female homosexual, which makes her better soldier material than her feminine sister and which may explain why lesbians are a larger fraction of female soldiers than male homosexuals are of male soldiers. Third and most important, the military

does not hire on a first-come, first-served basis. It screens its applicants to determine their fitness for military service. Unless the screen somehow fails to identify the maladjustment homosexual, there is no reason to have a cruder filter that excludes all homosexuals. The Crittendon Report contains the flat statement, apparently by the chief of naval personnel, that there is no correlation between homosexuality and either ability or attainments.

The third argument against allowing homosexuals to serve in the armed forces is that homosexual superior officers may coerce their subordinates for sexual favors; this is the ground on which the admiral commanding the Atlantic Fleet has urged the rooting out of lesbians. The broader point is that sexual intrigue can reduce operational effectiveness. But this bridge was crossed when the armed forces admitted women over the same objection. Whenever there is sexual interest between a superior and a subordinate employee, there is a potential for sexual harassment. That potential is rarely thought an impressive ground for sexual segregation, and it seems no more impressive as ground for excluding homosexuals. This is not to deny that there are lesbian cliques in the navy and in the other services, lesbians preying on non lesbian subordinates, and all the rest. Sexual harassment is a reality. It just is not ordinarily thought a sufficiently serious problem to warrant the blanket exclusion of a whole class of workers, especially when, as in the case of the navy's lesbians, they appear to be of above-average ability.

The fourth argument for excluding homosexuals seems the worst but is the best. It is that the morale of heterosexuals, and hence the effectiveness of the military services, would suffer if homosexuals were allowed to serve. It seems the worst argument because it has the identical form as the argument for racial segregation of the armed forces, which was not ended until 1948. Because whites do not want to serve with blacks, blacks should be confined to all-black units; because heterosexuals do not want to serve with homosexuals, homosexuals should be kept out of the armed forces altogether. One might think that before giving the slightest credence to the argument, we should investigate the basis of the heterosexuals' hostility. Does it rest on ignorance and prejudice? Do they think that homosexuals cannot or will not fight, or that they will rape or seduce heterosexuals, or that homosexuals preference is contagious? There is no reason to believe that homosexuals who want to join the armed forces and who pass all the physical, mental, and psychological tests that the armed forces administer to recruits are militarily less effective than heterosexuals, or cause trouble, or otherwise degrade military performance. Many homosexuals are known to have served in the American military in the Second World War, the

Korean War, and the Vietnam War, and studies of their military records show that they did as well on average as the heterosexuals. It may seem that they must have been rather a select group, inasmuch as they were able to conceal their homosexuality. But in fact homosexuals are not required to conceal their homosexuality in order to join or remain in the armed forces; mostly they need only not flaunt it.

Although complete data are not available, it appears on the basis of a study conducted by Congressman Gerry Studds that outside Great Britain and the nations that once were colonies of Great Britain (including the United States, India, Australia, New Zealand, and Canada), a majority of nations do not attempt to exclude homosexuals from their armed forces, including several nations whose armed forces are highly regarded, such as France, Germany, Switzerland, and Sweden. During the Second World War the German army was considered, not despite but because of Nazi persecution of homosexuals, a refuge for them, because the military command was too busy to worry about trying to root out homosexuals; evidently they were not considered a threat to effective military performance. The idea that homosexuals will not or cannot fight seems a canard, on a par with the idea that Jews or blacks will not or cannot fight. And even if the presence of homosexuals did degrade military performance, one would have to ask how much it degraded it before deciding that the costs of allowing homosexuals to serve in the armed forces outweighed the benefits. Among the benefits to the military would be saving the cost of administering a policy of excluding homosexuals, expanding the supply of soldiers, reducing the incentives to fake homosexuality when a draft is in force, and bolstering the self-esteem of homosexuals by deeming them fit to serve their country in positions of responsibility and danger.

Thus, the argument about the impact on heterosexuals' morale of allowing homosexuals to serve is a good argument for exclusion rather than a despicable argument that should be dismissed out of hand because the question of morale is separable from the question of the merits of the exclusion. Suppose American soldiers harbored the irrational but unshakable belief that to attack on Friday the thirteenth would bring disaster. This belief would be a fact that their commander would be obliged to take into account in scheduling attacks. If it was very important to attack on Friday the thirteenth, he might try to educate the soldiers out of their superstition; but if it was not very important or if the superstition was extremely tenacious, he might think it best to yield. It is the same with the homosexual question. By 1981 the percentage of Dutch people who thought homosexuality was dirty, deviant, or abnormal had fallen below 10 percent. It is no surprise that the

Dutch do not exclude homosexuals from their armed forces. In one survey 62 percent of the heterosexual veterans in the sample said that homosexuals should not be permitted to serve in our armed forces, and only 12 percent that they should (the rest were uncertain). A principal reason was that heterosexuals were upset at the prospect of being seen in the nude by a homosexual. However silly a reason this may seem, one cannot simply assume that declaring homosexuals fit for service in our armed forces would create no moral problems. Remember that the armed forces were integrated only after the blacks had proved themselves in all-black units during the Second World War, and that women will remain segregated to some extent from men in our armed forces. And there is the larger public to be considered: would it become hysterical at the prospect that some of the soldiers manning our nuclear missile silos might be homosexual?

It is true that not all of the nations that allow homosexuals to serve in their armed forces are as tolerant as the Netherlands, Denmark, and Sweden. Switzerland has a conservative sex ethic, similar to that of the United States. Finland is distinctly less tolerant of homosexuals than Sweden. Spain is sexually conservative in many ways, though contemptuous tolerance of homosexuality is, as we know, a characteristic of Mediterranean cultures. None of these armed forces is anywhere as powerful as ours, however, and maybe that makes a difference (the finger-on-the-nuclear-trigger point). On the whole, it is the more tolerant nations that permit homosexuals to serve and the less tolerant that do not. The United States is among the least tolerant.

Another truth beneath the policy of our armed forces is the anxiety, itself a result in part of the hostility to homosexuality in our society, that many heterosexual men feel concerning their heterosexuality. There is a lurking fear that at bottom one may be one of them. The fear is exacerbated in a homosocial setting such as traditionally characterized the military (and still does in combat units, from which women remain excluded). In these settings men develop strong emotional, though generally not erotic, bonds. It is important to them that the line not be crossed. An official policy against retaining any "line crossers" helps to reassure that the line will be maintained.

But there is more to the story. In a 1989 Gallup Poll 60 percent of the respondents opined that homosexuals should be allowed to serve in the military. Police forces are quasi-military, yet the New York City, San Francisco, and Los Angeles police have opened their ranks to overt homosexuals without incident.

The most important reason for doubting that dropping the ban on homosexuals in the military would cause serious morale problems is simply that a large number of homosexuals already

serve without significant difficulties. Some of these men and women conceal their homosexuality from their heterosexual comrades and superiors, but many do not. Yet for the most part they are accepted, generally without fuss, unless they get arrested or otherwise misbehave in ways that would land heterosexuals in trouble for corresponding forms of sexual misconduct. It is as if, before 1948, a large number of black soldiers had served in integrated units under the fiction that they really were white men.

So there are good arguments for dropping the ban against homosexuals in the armed forces, but there are also bad arguments, such as the argument that there would be a significant educative effect, which would in time erode heterosexual soldiers' hostility toward homosexuals and indeed public hostility generally. True, the homosexuals would not do as badly as the heterosexuals expected, and might indeed do just as well as the heterosexuals. And there is evidence that working with homosexuals promotes tolerance, though the evidence is difficult to interpret because the causality could run in the opposite direction: the tolerant are more apt to work with them. But what weakens the point is precisely that homosexuals already serve in the armed forces in considerable number. The incremental educative effect of formally acknowledging their existence might be slight. And even if it would be large, this would merely pose, not answer, the question whether the armed forces should be required to serve as an agency for public enlightenment at some unknown cost in military effectiveness. Notwithstanding its excellent performance in the Persian Gulf War, the American military has a long history of problems in achieving military effectiveness, and such problems can of course be immensely costly in lives and money. If we give the military social assignments, we also give it an excuse for failing to achieve combat effectiveness, and perhaps we risk giving it a taste for meddling in nonmilitary affairs generally.

The excellent performance, by the way, is a two-edged sword in the debate over whether to continue the prohibition against homosexuals in the armed forces. On the one hand, it allayed many of the concerns about the effectiveness of our armed forces and also demonstrated their ability without loss of effectiveness to integrate large numbers of people from various racial and ethnic minorities and so why could they not do the same with homosexuals, and with equal success? (And no doubt these were a number of homosexuals in Persian Gulf expeditionary force, performing unexceptionably.) On the other hand, the better the performance of the armed forces, the stronger the argument for civilian deference to military judgements, one of which is that homosexuals should be barred from military service.

Even though homosexuals can serve in the American military, (now, as President Barak Obama raised the bar against them), the removal of the bar would do much for their self-esteem-for it is terrible to tell people they are unfit to serve their country, unless they really are unfit, which is not the case here-and would be a step forward in social justice. At what cost. This is impossible to estimate with any confidence, because of the counterfactual character of the analysis. We need an experiment, and this leads to propose that we adopt Canada's approach and, without relaxing the bar against recruitment of homosexuals to serve in our armed forces, permit them once in to remain (with or without career restrictions), provided of course that they do not engage in the sorts of misconduct that would get them kicked out if they were heterosexuals. Such a difference in treatment between new applicants and existing employees would be analogous to amnesties for illegal immigrants and to the greater scope allowed for random drug testing of job applicants than of the already employed. Experience would show whether military morale or other factors affecting military effectiveness suffered from the acknowledged presence of known homosexuals, and would therefore provide guidance for a definitive resolution of the debate over whether to allow homosexuals to serve.

However we ought to proceed, we should at least drop the weak arguments for excluding homosexuals from the military, for those arguments are used to bar them with even less justification from other jobs. A combination of the blackmail and instability concerns supplies the traditional rationale for excluding homosexuals from positions, whether in the government or in the private sector, requiring a security clearance. The rationale is weak, not only in theory but also in evidence. For when one searches the literature on espionage, sabotage, and other forms of treason, one finds-despite lurid claims, redolent of the time when homosexuality and treason were thought two sides of the same coin-little evidence that homosexuality is particularly widespread among traitors. It is difficult to make a persuasive argument that a known (hence blackmail-proof) homosexual who satisfies all intellectual, psychological and other criteria for a security clearance should be denied one.

The main argument against is that even if the homosexual is perfectly well behaved, he is an inappropriate role model for heterosexual youths who may be uncertain about their own sexual identity; his example may tip them to the homosexual side of the ledger

Conclusion

That brings me to the last concluding paragraph of this research paper, whether the laws against racial and sexual and related forms of discrimination perceived as invidious, laws such as

Title VII of the Civil Rights Act 1964, should be extended to cover homosexuals. Such an extension is not necessarily inconsistent with a belief that homosexuals may be unsuitable for some jobs; exceptions can be made. Indeed, with respect to all but racial discrimination, There are two ways to approach the question whether to extent the discrimination laws to cover discrimination against homosexuals. The fact is to ask, whether there any reason to exclude homosexuals from a protected category that already includes not only racial, religious, and ethnic groups but also women, the physically and mentally handicapped, all workers aged 40 and older, and, in some cases, even young healthy male WASPs? Is there less, or less harmful, or less irrational discrimination against homosexuals than against the members of any of these other groups? The answer is no. But the second way to approach this question is to ask whether it is good idea to have a law forbidding private discrimination in employment. I own to skepticism on this score. To conclude, let me just say that the question whether to provide legal protection to homosexuals against discrimination in employment and other area of life is part of a much larger question having little to do with anything special to sexual preference. But note that affirmative action policies, which anti discrimination laws encourage (when they are not interpreted to forbid them!), put the squeeze on white male homosexuals by reducing the job opportunities of white males without giving homosexuals any protection against being made to bear the brunt of the reduction.

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16. Michael Elmer and Marianne Lund Larsen, "Explanatory Article on the Legal Consequences Etc., of the Danish Law on Registered Partnership
17. Ake Saldeen, "Sweden: More Rights for Children and Homosexuals," 27 *Journal of Family Law* 295, 296-297 (1988-89); Mary Ann Glendon, *The Transformation of Family Law: State, Law, and Family in the United States and Western Europe* 276 (1989).
18. Theodore R. Sarbin and Kenneth E. Karols, "Nonconfirming Sexual Orientations and Military Suitability" (Defense Personnel Security Research and Education Centre, Report no. PERS-TR-89-002, December 1988); Michael A. McDaniel, "The Suitability of Homosexuals for Positions of Trust" (Defense Personnel Security Research and Education Center, Report no. PERS-TR-87-006, September 1987); McDaniel, "Preservice Adjustment of Homosexual and Heterosexual Military Accesssions: Implications for Security Clearance Suitability" (Defense Personnel Security Research and Education Center, Report no. PERS-TR-89-004, January 1989). See also the Crittendon report, "Report of the Board Appointed to Prepare and Submit Recommendations to the Secretary of the Navy for the Revision of Policies, Procedures and Directives Dealing with Homosexuals" (December 21, 1956-March 15, 1957). The official position of the Department of Defense on homosexuals in the military is at 32 C.F.R. pt. 41, App. A, H (1989). It is a brief laundry list of concerns, upon which department officials decline to elaborate. These concerns are spelled out at somewhat greater length in a study by the Canadian armed forces that, partly in reliance on the position of the American military, recommends continuing the ban against permitting homosexuals to serve.
19. Similar arguments are sometimes made to deny homosexuals the right to work as police officers. *Childers v. Dallas Police Dept.*, 513 F. Supp. 134, 146-147 (N.D. Tex. 1981
20. One newspaper headline tells it all: Jane Gross, "Navy is Urged to Root Out Lesbians Despite Abilities," *New York Times*, September 2, 1990, 9. And see note 58 below.
21. Joseph Harry, "Homosexual Men and Women Who Served Their Country," in *Bashers, Baiters & Bigots* 117 (John P. De Cecco ed. 1985).
22. Gross, *Fear of sexual intrigue is a traditional reason against permitting homosexuals to*

- work in any bureaucratic, hierarchical organization. Greenberg,
23. Ralph Slovenko, "Homosexuality and the Law: From Condemnation to Celebration," in *Homosexual Behavior*.
 24. Christie Davis, "The Social Origins of Some Sexual Taboos," in *Love and Attractions: An International Conference* 381, 384-386 (Mark Cook and Glenn Wilson eds. 1979), builds an argument that the more powerful the military of a country is, the more likely the government is to try to repress homosexuality throughout the society.
 25. The commander of the Atlantic Fleet noted that investigations of suspected lesbianism are often pursued halfheartedly because "experience has also shown that the stereotypical female homosexual in the navy is hard-working, career-oriented, willing to put in long hours on the job and among the command's top professionals." I have quoted from the text of the admiral's communiqué released by the Department of Defense.
 26. Paul Cameron, Kirk Cameron, and Kay Proctor, "Homosexuals in the Armed Forces," *62 Psychological Reports* 211, 217 (1988).
 27. David F. Duncan, "Homosexuals in the Armed Forces: A Comment on Generalizability," *62 Psychological Reports* 489 (1988)
 28. Myron Boor, "Homosexuals in the Armed Forces: A Reply to Cameron, Cameron, and Proctor," *62 Psychological Reports* 488 (1988)
 29. William P. Snyder and Kenneth L. Nyberg, "Gays and the Military: An Emerging Policy Issue," *8 Journal of Political and Military Sociology* 71, 81 (1980).
 30. Thomas Fitzgerald, "Gay Self-Help Groups in Sweden and Finland," *10 International Review of Modern Sociology* 15 (1980).
 31. Michael R. Kagay, "Homosexuals Gain More Acceptance," *New York Times*, October 25, 1989, A24, discussing Gallup report no. 289, October 1989, 14. Only 47 percent of the respondents thought that homosexuals should be allowed to teach in high school.
 32. Ramsay, Heringa, and Boorsma, Cf. William Paul, "Social Issues and Homosexual Behavior: A Taxonomy of Categories and Themes in Anti-Gay Argument," in *Homosexuality: Social, Psychological and Biological Issues* 29, 47 (William Paul et al. eds. 1982).
 33. Compare *Harmon v. Thornburgh*, 878 F.2d 484 (D.C. Cir. 1989), with *Willner v. Thornburgh*, 928 F.2d 1185 (D.C. Cir. 1991).
 34. Gregory M. Herek, "Gay people and Government Security Clearances: A Social Science Perspective," *45 American Psychologist* 1035 (1990); Note, "Security Clearances for Homosexuals," *25 Stanford Law Review* 403 (1973).
 35. John D'Emilio, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority in the United States 1940-1970* 41-49 (1983).
 36. Dorothy I. Riddle, "Relating to Children: Gays as Role Models," *34 Journal of Social Issues* 38 (1978).
 37. Martin P. Levince, "Employment Discrimination against Gay Men," in *Homosexuality in International Perspective*,
 38. "The Efficiency and the Efficacy of Title VII," *136 University of Pennsylvania Law Review* 513 (1987).