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WHY IS GAY NOT OKAY?

On August 3, 1984, three students carried the weight of thousands on their shoulders, anxiously awaiting what would impact the rights of LGBT¹ students across the nation for the next thirty-five years. The United States Court of Appeals held their breaths as the thud of the gavel echoed off the sound block, and Judge John R. Brown delivered the final verdict of the *Gay Student Services v. Texas A&M University* (1984) court case. While this decision favored the students and definitively affirmed the rights of GSS², this issue of an archived past remains relevant today as certain universities across the United States continue to undermine these same basic rights. In fact, despite legal precedents and the fifty-year civil rights struggle for LGBT citizens, many religious fundamentalists incessantly push back and perpetuate harmful policies with serious, adverse effects on the LGBT community. Because of the extent to which such discriminatory policies negatively affect college students at Christian universities and the positive change possible following their removal, all college campuses across the nation, especially those with religious affiliations, should adopt policies that treat students equally, regardless of sexual orientation or gender identity.

The Briscoe Center for American History holds the records of the Texas Human Rights Campaign from 1978 to 1992. Within this short time period, activists and civil rights enthusiasts

¹ Throughout this paper, the term LGBT serves as an abbreviated collection of the dynamic range of sexual orientations and gender identities. The alternative acronym LGBTTQIAAP+ would detract from the flow of the paper and still neglects to mention all the various subcategories of sexual orientation and gender identity.

² Gay Student Services

fought direly for the equal protection of LGBT citizens, and because of their diligence and dedication, the LGBT community saw many victories across the nation. One such victory was the *Gay Student Services v. Texas A&M University* (1984) court case, where in the early parts of 1976, a group of students known as Gay Student Services sought to hold meetings in university buildings and advertise their organization on bulletin boards, through the newspaper, and on the radio station (Coleman and Schwab 2). Because such privileges were reserved for officially-recognized clubs, the students of GSS met with Dr. Carolyn Adair, Director of Student Activities, to discuss the application process for university recognition (“Appellants Brief” 6). Prior to this consultation, Dr. John Koldus, Vice President of Student Services, requested that all “problem groups” be referred to him, so when GSS submitted its completed application to Dr. Adair, she immediately forwarded it to Dr. Koldus instead of the Student Organizational Board (Coleman and Schwab 3; “Appellants’ Brief” 7). Approximately eight months after submission, the students of GSS received a letter from Dr. Koldus, reviewed by the President of the University, the Board of Regents, and the Texas A&M legal staff, denying the club recognition because it “was not consistent with the philosophy and goals that [had] been developed for the creation and existence of Texas A&M University” (Coleman and Schwab 4). Unsurprisingly, many students of GSS felt their freedoms of speech and assembly, guaranteed by the First Amendment, had been abridged by the university, and three of them were determined to prove this in a court of law.

The years following the Stonewall Riots of 1969 were pivotal for the LGBT civil rights movement. In 1973, the American Psychiatric Association removed homosexuality from its list of mental illnesses, and later in *Baker v. Wade* (1982), the courts struck down Article 21.06 of the Texas Penal Code which outlawed homosexual intercourse (Coleman and Schwab 4).

Despite these turning tides, the Texas A&M Board of Regents stood its ground with respect to Gay Student Services, declaring that

so-called ‘gay’ activities run diabolically counter to the traditions and standards of Texas A&M University, and the Board of Regents is determined to defend the suit filed against it by three students seeking ‘gay’ recognition and, if necessary, to proceed in every legal way to prohibit any group with such goals from organizing or operating on this or any other campus for which this Board is responsible. (Coleman and Schwab 4-5)

Despite this opposition, the students of GSS remained unshaken and proceeded with their lawsuit against Texas A&M. Several advocacy groups, like the Texas Human Rights Foundation and Lambda Legal Defense & Education Fund, Inc., caught sight of the Gay Student Services case and wrote expert legal opinions supporting GSS. In one of these, Rosen and Hunter cited previous cases, such as *Healy v. James* (1972), in which the Supreme Court concluded that denying a club based on its content without extensive justification is a transgression of free speech (6-9). Texas A&M, however, did not provide a “compelling state interest” for the rejection of GSS, as required to constitute “extensive justification” according to the principles established in *Widmar v. Vincent* (1981) (18-19). On the other hand, had A&M originally cited public health concerns as a reason for club denial, their argument would have been considerably more credible in the eyes of Judge Brown given the high levels of STIs among the gay community in the 1980s, which would have been a far more compelling case for extensive justification and could have possibly swayed the verdict (19-21). Nevertheless, because A&M failed to make this claim in addition to other legal argumentation in support of GSS, the 5th Circuit Court of Appeals found Texas A&M University guilty of infringing upon the First and

Fourteenth Amendments, thus cementing Gay Student Service's constitutional right to openly discuss issues surrounding the LGBT community with full university recognition.

One may believe the presence of LGBT student groups on campuses was definitively allowed thirty-five years ago with GSS, but this is not the case. To this day, many private institutions still enforce discriminatory policies against LGBT students (Snow 58). The Student Policies and Procedures at Baylor University, for example, state all students are expected to live in a manner consistent with the biblical interpretation of human sexuality, and therefore should not affiliate themselves with organizations that promote alternate views on sexuality ("Statement on Sexuality"). The unquestionable similarities between Texas A&M's argument against Gay Student Services and the current policies at Baylor University prove this court case is just as relevant today as it was in 1984. In both instances, the core values and missions of the universities were utilized to dissuade or prevent LGBT students from actively participating in advocacy groups, but the similarities do not stop there. An LGBTQ student organization at Baylor, called Gamma Alpha Upsilon (GAU), has sought university recognition for the past eight years but has only been met with rejection and opposition from campus administrators (Najmabadi). When GAU presented a 3200-signature petition showing support for the organization, a Baylor spokeswoman trivialized the movement, stating that this number only "represent[s] about 2% of the school's students, faculty, staff, and living alumni" (Najmabadi). An opposing petition, commending Baylor's dedication to its religious values, only garnered one hundred signatures, yet Baylor's administration made no comment concerning the relative insignificance of this number with respect to the entire Baylor community. Despite broad, vocal student support for GAU, the field upon which these students are fighting is clearly not level, as the university biasedly undermines demonstrations that do not affirm their own actions and

policies. The continual administrative resistance is further evidenced with Baylor's Board of Regents refusing to meet with the students of GAU, and with President Livingstone stating the university would not act contrarily to its fundamental principles despite a recent plea from three alumni in support of Gamma Alpha Upsilon. Just as with Gay Student Services, GAU sought recognition primarily to access campus facilities, but its most recent proposal was simply "not advanced in the charter process"³ (Najmabadi). In fact, in a recent charter rejection letter, the university claimed to support its students yet denied GAU, which is now awaiting review on yet another charter request. Perhaps this "support" takes the form of the Spiritual Life Office to which the university directs students struggling with their sexuality ("Statement on Human Sexuality"); however, these students do not need some form of conversion therapy, proven to be both ineffective and harmful, but merely a community on which they can rely (Snow 59). Thus, by denying them that community, Baylor is directly contradicting its own assertion to prioritize and support its students.

Thus far, only parallels have been drawn between Texas A&M and Baylor University, but certain, distinct differences exist and merit discussion. Firstly, the ambiguous and broad language used in their Statement on Sexuality gives Baylor administrators nearly free reign to discriminate against LGBT students ("Statement on Sexuality"). Specifically, because the policy does not provide exact punishable actions, administrators can morph the interpretation of their policy to whatever means necessary in order to discipline students who fail to act in accordance with the administration's personal values. In March of 2004, over fifteen years ago, a group of two hundred students, alumni, and other supporters rallied off-campus in support of LGBTQ

³ As opposed to containing constructive feedback on the proposal or justification for rejection, GAU's most recent rejection letter from Baylor merely stated the proposal was "not advanced in the charter process" (Najmabadi).

rights at Baylor (Aguilar). Following this peaceful protest, one of the movement's co-organizers, Darrin Adams, was cited for misconduct and forced with the decision to either sign a statement of wrongdoing or undergo the university's official disciplinary process, which would include hearings by a board of faculty and students (Aguilar; Brown). Prior to this, Adams had also received a verbal warning from Baylor administrators after attending Houston's Pride Parade, carrying a "Baylor Freedom" banner from a gay student support group (Brown). Similarly, a former student named Matt Bass unenrolled after Baylor withdrew his academic scholarship because he showed support for homosexual marriage, even though this was not technically participation in an "advocacy group" as outlined in Baylor's policy (Aguilar; "Statement on Sexuality"). Bass was a student of the Truett Seminary, and following his exit from the school, Dean Paul Powell made the comment, "if a person, according to Scripture, which is our standard, is not a part of the kingdom of God, how can they be in training for a minister?" (Brown). Such sentiments reflect the ideals held by Texas A&M's administrators in 1984, but the blatant, ongoing discrimination evident in disciplining students for a peaceful, off-campus protest or a student for merely expressing his personal beliefs prove that the issues at Baylor are deeply embedded in the culture of the university. The second primary difference between the two institutions is that Texas A&M is a public university while Baylor is private. Thus, while Texas A&M was found guilty of transgressing the First Amendment rights of assembly and free speech, Baylor University is technically within its legal right to regulate this among its students and organizations with the ability to cite its religious foundations as "extensive justification," especially when considering that sexual orientation and gender identity are not protected classes at the federal or state levels. However, in addition to those classes that are protected by law, all institutions have the right to enumerate additional protected classes. To this extent, universities

all over the nation have included sexual orientation and gender identity in their nondiscrimination policies, including two of the largest private Christian universities, St. John's University and DePaul University ("Notice of Non-Discrimination on the Basis of Sex"; "Notice of Non-Discrimination, Equal Opportunity"). These two institutions forgo their legal right to discriminate against LGBT students because they recognize the detrimental nature of such policies on both their LGBT students and on their community as a whole. Baylor University, on the other hand, has not followed the precedent set by these other Christian universities and continues to enforce discriminative policies that are actually dangerous for LGBT students.

The transition to college and the four years that follow include a significant amount of stress for any student as they attempt to find a place at their institution and in the larger community, but what happens when no place exists for them? For many LGBT students at Christian universities, this is the challenge they face when going into what should be the best years of their lives (Snow 59). Instead of an enlightening time of self-discovery, they face institutional rejection, peer rejection, and disconnection which all contribute to overwhelming levels of anxiety and fear (Snow 62; Halliwell 226). Thus, it comes as no surprise that over 70% of LGBT youth report feelings of depression, worthlessness, and hopelessness (Halliwell 226). Many LGBT students who elect to attend Christian campuses seek the validation of their intersecting religious, sexual, and/or gender identities, yet they are subjected to policies that "forbid same-sex practices among students, endorse expulsion or conversion therapy for such behavior, or deny the presence of LGBTQ students on campus" (Snow 58-59). As LGBT students subsequently fail to manage the pressures induced by such sanctions as well as the overarching culture that characterizes these universities, they turn to maladaptive coping mechanisms such as the suppression of their LGBT identity, which damages their sense of

belonging and contributes to further feelings of shame and stress; reclusion; substance abuse; and suicide (Snow 59, 62; Halliwell 228-229). Accordingly, national substance abuse and suicide rates pale in comparison to those of the LGBT community, with LGBT adults being more than twice as likely to abuse substances and more than three times as likely to suffer from a serious mental health issue than their heterosexual counterparts, and LGBT youth being five times more likely to attempt suicide (Halliwell 223, 229; Medley; “Facts About Suicide”). The administrators at many religiously affiliated universities discount the unique needs of LGBT students and neglect to provide them with the resources necessary to navigate this challenging time in their lives, and in doing so, they directly detract from these students’ quality of life (Snow 58). The anxiety of everyday situations, such as someone using the wrong pronouns, for example, “affect[s] academic performance, peer and social relationships, and grossly undermine[s] one’s self-esteem and sense of self” (Halliwell 227), yet do institutions like Baylor promote the use of inclusive pronouns? No. In fact, if a professor refused to refer to a student by their preferred pronouns, that student would be subjected to these bursts of anxiety for an entire semester or be forced with the alternative of dropping the course and hoping a different professor would honor their pronoun request, which is never a guarantee. Among the transgender community, the greatest stressor is the use of restrooms, but does Baylor provide its students and campus visitors with gender-inclusive bathrooms or locker rooms? No. In fact, it does the opposite by contributing to the anti-LGBT culture that pervades the entire university. When Najmabadi, from the Texas Tribune, reached out to professors at Baylor regarding Gamma Alpha Upsilon, almost all refused to give statements in fear of university backlash. On the other hand, John-Paul Hayworth, a gay alumnus of Baylor, gladly spoke out against the university noting that he felt a “deep sense of self-hatred and fear... because of [his] sexuality; [he] was

alone, even though surrounded by friends, in large part because of Baylor's official policies towards the LGBTQ community" (Najmabadi). The discriminative policies at universities such as Baylor go far beyond regulating the actions of students by promoting an institutionalized stigma that contributes to the prevalent mental health issues, substance abuse and suicide levels, and lack of well-being among LGBT students.

The extensively negative culture at Baylor seems impossible to challenge but referring back to Texas A&M proves otherwise. Back in the 1980s, there were so few openly gay students at A&M that a Gay Student Services officer, Marco Roberts, was known around campus as "the gay" (Roberts). His classmates stripped him of his personality, disregarded his humanity, discounted every version of his existence beyond his sexuality, and singled him out on a campus of 40,000 individuals. This image sharply contrasts A&M today, where the university recently participated in the Houston Pride Festival, the same festival that Darrin Adams, the aforementioned Baylor student, was reprimanded for attending (East; Brown). A&M students felt proud to participate in Pride for the first time, took joy in showing the rest of the world that A&M welcomes all students into the Aggie community, and expressed hope for the continued growth and inclusion of the LGBT community (East). Despite the incredible progress at Texas A&M, the university still has room to grow. Six years ago, the student senate passed a bill that would have effectively reduce the amount of funding allocated for the campus's GLBT Resource Center, but the student body president vetoed the bill. This movement reveals a lingering stigma around LGBT students, but at least A&M provides proper resources for LGBT students, which does not hold true for Baylor University. Given the staggeringly positive cultural shift that has occurred at A&M over the past thirty-five years following the *Gay Student Services v. Texas A&M* (1984) court case, no reason exists as to why the same change cannot happen at Baylor

University, where they are merely electing to perpetuate harmful stigmas and the subjugation of their LGBT student population. With several innovative steps, however, the ultimate goal of cultural transformation at Baylor is realizable. Firstly, the university must remove its policies that discriminate against LGBT students. Such an action will not only reduce the stress and anxiety among LGBT students but also send a clear message to the entire student population and faculty that the university is committed to creating a safe and inclusive environment for all students. Furthermore, it is important to recognize that the removal of this policy does not, by default, endorse homosexual behavior, therefore not contradicting Baylor's religious foundation. Similarly, allowing LGBT students to organize does not affect how other students may practice their Christian religion, again highlighting the potential coexistence of both communities and sets of values. Secondly, Baylor must dedicate itself to providing "students [with] the resources for coming out to friends and family, [recognizing the] needs for LGBTQ support networks, and [attending] to policy and student climate factors fostering feelings of rejection or isolation in students" (Snow 67). Lastly, Snow recommends that college counselors become equipped with the special skills and training to adequately care for students having trouble with the navigation of their intersecting identities (69). With these steps taken together, any university can make serious strides in the right direction and foster positive college experiences among all students.

A little more than three decades ago, three students courageously stood up for their beliefs and ushered in an era of radical change at Texas A&M University. Prior to their fight, LGBT students at the institution had been tyrannized and suppressed by administrators but now have an equal seat among their peers. Despite this precedent and the truly detrimental effects of discriminative policies, many other private universities continue to legally deny the same basic human rights of LGBT students and discount the unique challenges they face; however, through

a series of systematic changes, including the removal of such policies, all universities can work to create a truly equitable environment for students regardless of sexual orientation or gender identity and help reduce the immense societal pressures already felt by LGBT students, which will surely benefit the university as a whole by bringing together all different parts of the student body.

Annotated Bibliography

Aguilar, Elvia. "Group Urges Equality at Baylor." *The Lariat*, 30 Mar. 2004,

<https://www.baylor.edu/lariatarchives/news.php?action=story&story=20154>. Accessed 17 Oct. 2019.

This article, from the archives of Baylor's official newspaper, provides an account of an off-campus protest held by Baylor students in support of LGBT equality at the university and highlights the extensive period of time over which students have fought for these changes.

"Appellants' Brief No. 82-2366." *Gay Student Services v. Texas A&M University*, 1981-1983, A Guide to the Texas Human Rights Foundation Records, 1978-1992, Box 4B32, Dolph Briscoe Center for American History, The University of Texas at Austin.

This Appellants' Brief, written by the lawyers who represented Gay Student Services, from the Briscoe Archives sets the foundation of the *Gay Student Services v. Texas A&M* (1984) court case and serves as one of the main sources of reference.

Brown, Angela K. "Baylor Student Disciplined for Gay Rights Rally." *Midland Reporter-Telegram*, 14 May 2004, <https://www.mrt.com/news/article/Baylor-student-disciplined-for-gay-rights-rally-7823040.php>. Accessed 17 Oct. 2019.

This article adds details to the events of the off-campus protest undertaken by Baylor students in 2004 and specifically describes the disciplinary actions faced by one of the protest's main organizers.

Coleman, Thomas and M. Schwab. "Amicus Curiae Brief on Behalf of Texas Human Rights Foundation No. 82-2366." *Gay Student Services v. Texas A&M University*, 1981-1983, A Guide to the Texas Human Rights Foundation Records, 1978-1992, Box 4B32, Dolph Briscoe Center for American History, The University of Texas at Austin.

This amicus curiae brief written by the legal counsel of the Texas Human Rights Foundation comes from the Briscoe archives and provides many of the details of the *Gay Student Services v. Texas A&M* (1984) court case including context and specific legal argumentation.

East, Sarah. "Aggie Pride." *The Battalion*, 30 Aug. 2017, www.thebatt.com/life-arts/aggie-pride/article_fd36ff5e-6763-11e7-b07c-abd04e8d5bff.html. Accessed 17 Oct. 2019.

This article, in the official newspaper of Texas A&M, highlights how the Gay Student Services court case is still positively impacting LGBT students 30 years later and was used to illustrate the type of change possible at Christian universities if they reverse discriminatory policies.

"Facts About Suicide." *The Trevor Project*,

<https://www.thetrevorproject.org/resources/preventing-suicide/facts-about-suicide/>. Accessed 12 Nov. 2019.

The Trevor Project, a national organization committed to reducing suicide among LGBT+ youth, provides specific statistics on suicide rates which were used to highlight the extent to which the LGBT+ community can suffer from societal expectations and discrimination.

Halliwell, Pamuela. "The Psychological & Emotional Effects of Discrimination Within the LGBTQ, Transgender, & Non-binary Communities." *Thomas Jefferson Law Review*, vol. 41, no. 2, 2019, pp. 222-237. *SSRN*, www.ssrn.com/abstract=3429358.

This scientific article objectively assesses the effects of discrimination on LGBTQ+ citizens in areas such as anxiety, depression, and suicide and provided direct support for the "adverse" quality of discriminative policies like Baylor's.

Medley, Grace, et al. "Sexual Orientation and Estimates of Adult Substance Use and Mental Health: Results from the 2015 National Survey on Drug Use and Health." *Substance Abuse and Mental Health Services Administration*, Oct. 2016, <https://www.samhsa.gov/data/sites/default/files/NSDUH-SexualOrientation-2015/NSDUH-SexualOrientation-2015/NSDUH-SexualOrientation-2015.htm>. Accessed 12 Nov. 2019.

This study, conducted by the U.S. government entity SAMHSA, shows the high levels of substance abuse and mental health issues among the LGBT+ community and was used to provide a clearer insight into how discrimination contributes to these maladaptive coping techniques.

Najmabadi, Shannon. "Rejection of LGBTQ Student Groups Leads to a Fight at 'Unambiguously Christian' Baylor." *The Texas Tribune*, 26 June 2019, www.texastribune.org/2019/06/26/lgbtq-students-baylor-university-still-pushing-recognition/. Accessed 17 Oct. 2019.

This article provides an account of Gamma Alpha Upsilon's, an LGBTQ student organization at Baylor University, extensive quest for official recognition and its continued denial by campus administrators.

“Notice of Non-Discrimination, Equal Opportunity.” *St. Paul’s University*, 13 Mar. 2018, <https://www.stjohns.edu/about/leadership-and-administration/administrative-offices/human-resources/human-resources-policy-manual/policies>. Accessed 12 Nov. 2019.

This is the nondiscrimination policy at St. Paul’s University, one of the most prominent Christian institutions in the nation, where the school specifically enumerates sexual orientation and gender identity and protected classes, proving how both religion and the LGBT community and coexist.

“Notice of Non-Discrimination on the Basis of Sex.” *DePaul University*, <https://offices.depaul.edu/student-affairs/title-ix/Pages/default.aspx>. Accessed 12. Nov. 2019.

This is the nondiscrimination policy at DePaul University, one of the most prominent Christian institutions in the nation, where the school specifically enumerates sexual orientation and gender identity and protected classes, proving how both religion and the LGBT community and coexist.

Roberts, Marco. “Guest Column: 30 Years After a Gay Rights Ruling Changed A&M, One of the Case’s Chief Advocates Examines the Impact.” *The Battalion*, 31 March 2015, www.thebatt.com/opinion/guest-column-years-after-a-gay-rights-ruling-changed-a/article_4d6b6198-d820-11e4-8254-8ff44b4cdc3d.html. Accessed 17 Oct. 2019.

This article, written by one of the main plaintiffs in the Gay Student Services court case, provides a first-person account of being gay at Texas A&M during the early 1980s and was contrasted to the average experience at A&M today as well as compared with the average experience at a Christian university.

Rosen, Steven A. and Nan Hunter. "Brief Amicus Curiae of Lambda Legal Defense & Education Fund, Inc. No. 82-2366." A Guide to the Texas Human Rights Foundation Records, 1978-1992, Box 4B32, Dolph Briscoe Center for American History, The University of Texas at Austin.

This second amicus curiae brief expounds upon the one written by the Texas Human Rights Foundation by extensively analyzing the legality of denying Gay Student Services official recognition. It references many previous court cases and provides a much more insightful legal perspective of the situation.

Snow, Kevin C. "Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning or Queer Students at Evangelical Christian Colleges as Described in Personal Blogs." *Journal of College Counseling*, vol. 21, no. 1, 2018, pp. 58-72. *Wiley Online Library*, doi: 10.1002/jocc.12087.

This study examines the personal blog posts of LGBTQ+ students at Christian universities and assesses their experiences with a specific concentration on multiple-identity challenges and the effects of school sanctions on non-heterosexual activities. It was used to give specific insight into exactly how Baylor's policy affects students and the challenges that they face.

"Statement on Human Sexuality." *Baylor University*, 2 Oct. 2009, https://www.baylor.edu/student_policies/index.php?id=32295. Accessed 17 Oct. 2019.

This is Baylor's official statement on human sexuality from its Student Policies and Procedures. It serves as the connection to contemporary society throughout the paper and provides the backbone of my argument.