



Lesson 90

The History of Marriage Equality

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In this lesson, we are going to be looking at the history of gay marriage and how conservatives fought against it. We'll see how a lesbian couple and a gay couple effectively took down the conservatives' law against gay marriage. Lastly, we'll look at Supreme Court cases that have been ruled in favor of gay marriage since the Time of the End.

Gay Marriage on the Priests' Line

Pre 1989- LGBTQ+ rights

The history of rights for LGBTQ+ people is long. Before the Time of the End, and even still now, LGBTQ+ people have not had many rights all around the world- one of the main ones being they could not get married. As we now, in 1969 the Stonewall riots took place after police raided a gay bar in New York. After that LGBTQ+ people got much more active demanding their rights and many gay organizations were formed. In the earlier years following the Stonewall riots most homosexual people were not fighting for the right to marry, they didn't think it was important and they also thought it belonged to heterosexual people. In 1973, Maryland became the first state to officially ban same-sex marriage. In 1971, in a case called Baker v. Nelson the US Supreme Court did not allow gay marriage. In other countries homosexual marriage was similarly prohibited. Same-sex marriage was not tolerated anywhere in the world prior to the beginning of our reform line.

1989- LGBTQ+ rights in the USSR

Important LGBTQ+ events took place in 1989. The 1980s were significant times for different countries, one of those countries was East Germany. The 1980s were unexpected yet notable years for LGBTQ+ people in East Germany. In 1969, East Germany decriminalized homosexuality (which, by the way, West Germany didn't), this was a start of LGBTQ+ acceptance. Previous to the 1980s, LGBTQ+ people asked the East German government to let them open queer centers where they could meet, but the government was alarmed that LGBTQ+ groups existed, and didn't grant the requests. Illegal LGBTQ+ gatherings continued to be held until the 1980s. LGBTQ+ people were tired of the government not acknowledging them, so they began organizing themselves with the support of the Protestant church. The older church leaders opposed this, but the younger progressive clergy had control over the resources, so they allowed it. LGBTQ+ people began to gather, organize, and pressure the government to take action. The government tried to stop them by sending in moles to cause problems, but that didn't work. Finally, the government decided that if they addressed the concerns, LGBTQ+ people wouldn't have a reason to organize- this decision led to a series of improvements that swept over East Germany. Newspapers started printing stories about LGBTQ+ people, LGBTQ+ groups were acknowledged, the government's official youth scouting organization authorized the youth to be taught about homosexuality, and the government even charged a psychology professor to write a book called *Homosexuality: A Call to Knowledge and Tolerance*, which was published in 1987- 50,000 copies were sold in weeks. This was a much better time for LGBTQ+ people in East Germany- while not perfect, it was still even more accepting than West Germany. One of the most significant events that happened in this time happened in 1989. It was the release of the film called *Coming Out* in East Germany. The film featured a school teacher's "coming out", or, accepting himself as gay. The film showed LGBTQ+ life at the time, and projected the

possibility of a better future. In this Movement we recognized the significance of dates. The primary date we mark in 1989 is November 9th; the fall of the Berlin (in East Germany) which marked the beginning of the collapse of the USSR. It's no coincidence that *Coming Out* was premiered on November 9, 1989. So, 1989 was a great year for LGBTQ+ people in East Germany, and it all culminated in the gay film *Coming Out* on November 9th.

1989- LGBTQ+ rights in Denmark

On June 7, 1989, Denmark passed a law legalizing gay “registered partnerships” called *The Danish Registered Partnership Act*. It took effect on October 1st of the same year. Denmark became the first country to pass a law like this. The bill was first introduced to Parliament in January 1988. In the Act, it says that at least one of the people applying for a partnership has to be Danish and have to live in Denmark. “The legislation does not fully equate gay unions with straight ones. It prohibits homosexuals from adopting children, for example, and refers to the sanctioned relationships as ‘registered partnerships’ rather than marriages.” *A Triumph for Love in Denmark; TIME*. We can mark that event as significant for the LGBTQ+ community because it took place in 1989: our Time of the End. It was the beginning of the gay marriage issue.

1991- Baehr v. Lewin

One of the first major cases in support of same-sex marriage happened in the state of Hawaii. It began in 1990. In December (December 17th) of that year three same-sex couples applied for marriage licenses in Hawaii at the Hawaii Department of Health. The leader of that department asked the attorney general what he should do and he said the US Constitution did not give the rights of marriage to homosexual people. On April 12, 1991 they were denied: they met all of the requirements but they were homosexual. So on May 1st, they sued. Their case is called Baehr v. Lewin (or now Miike). Baehr is the (last) name of one of the women that sued and Lewin is the (last) name of the State Health Director; before the case was decided Lewin was replaced by a new director- Miike. On October 1st the trial court dismissed their case. So they appealed to the Supreme Court of Hawaii. The court did not rule for or against them- instead it said that denying them the right to get married was a form of discrimination so the state had to prove that in this situation it was not discriminating. On May 5, 1993 the Supreme Court of Hawaii sent their case back to the lower courts so the state could have time to prove it wasn't doing that. These events going on in Hawaii made the other states nervous because there is a part of the US Constitution called the Full Faith and Credit Clause. This clause says that anything publicly done in one state has to be upheld in the other states: that means that if Hawaii legalized same-sex marriage then other states would have to recognize homosexual people who were married in Hawaii. The Baehr v. Lewin case wasn't fully decided until 1999: in 1996 a lower court ruled that the state was discriminating and homosexual people were allowed to marry- but that ruling was put on hold because the state deputy attorney general Eichor (who was on the side of Miike) appealed, in 1998 Hawaiian voters approved an amendment to Hawaii's constitution that specifically prohibited same-sex marriages in the state, and on December 9, 1999 the Supreme Court of Hawaii threw the case out because the actions of the Department of Health agreed with their constitution. This years long process really began in 1991, the increase of knowledge, when Baehr and others sued Hawaii; and same-sex marriage wasn't approved in Hawaii until November 13, 2013.

1996- Defense Of Marriage Act

In 1996, the conservatives fought back against increasing LGBTQ+ acceptance. Previously we saw how in the 1980s, specifically 1989, LGBTQ+ people were getting their rights acknowledged. Of course this was met with resistance by the conservative Evangelicals, and in 1996, they fought back. While the Baehr v. Lewin case was in progress, the conservatives got scared. If the Hawaii Supreme Court gave same-sex couples the right to marry, then the federal government and the states may have to start acknowledging these marriages, and might even be forced to allow same-sex marriage in all states. In response to this fear, the conservatives in Congress introduced the Defense Of Marriage Act (DOMA), which was signed into law. There are two main parts of the law: section two which says the states (in the US) don't have to recognize same-sex couples married in other states, and section three which says the federal government doesn't have to recognize them either. This blocked same-sex couples from several things like social security benefits, and it gave reason for outright discrimination. So the Defense Of Marriage Act, was conservative Evangelicals' response to the increasing acceptance of LGBTQ+ people.

2001- the Netherlands and Arkansas

On April 1, 2001, same-sex marriage was legalized in the Netherlands. They became the first country on Earth to legalize same-sex marriage. The bill passed the House of Representatives on September 12, 2000; it passed the Senate on December 19, 2000. The law was approved by the Queen on December 21, 2000, and took effect on April 1, 2001. In the bill, one partner has to be of Dutch nationality. Overall, the bill made same-sex marriage the same as heterosexual marriage except for in the case of parentage. That was later changed in 2014. While the Netherlands was promoting LGBTQ+ rights, Arkansas was doing the same thing. On March 23, 2001, Arkansas decriminalized homosexuality. The ruling stated that the law against homosexuality was unconstitutional. Both of those events are significant steps for equality for the LGBTQ+ community. They both happened in 2001, the second major waymark on the line of the Priests.

2004- Massachusetts legalizes same-sex marriage

2004 was the first step for LGBTQ+ marriage to be legalized nationwide in the US. In 2001, seven same-sex couples applied for marriage licenses in Massachusetts. The Massachusetts Department of Public Health rejected their applications because the state didn't recognize same-sex marriages, under DOMA. The couples sued the department, claiming they violated Massachusetts' state law. *Goodridge v. Department of Public Health* was first taken to the Superior Court, but the court ruled in favor of the Department of Public Health. So then the couples appealed to the Massachusetts Supreme Judicial Court. On November 18, 2003, the Massachusetts Supreme Judicial Court ruled, stating that barring LGBTQ+ people from marriage violated the state's Constitution. Massachusetts became the first state in the US to legalize same-sex marriage. Six months after the ruling, on May 17, 2004, the first marriage licenses were issued to same-sex couples. So from 2003-2004 Massachusetts made the first step toward legal LGBTQ+ marriage nationwide.

2009- Respect For Marriage Act

By 2009 many people in Congress had had enough of the discrimination against homosexual people when it comes to marriage. On September 15, 2009, a bill was introduced in the House of Representative by Jerrold Nadler, a representative from New York; it was called the Respect for Marriage Act of 2009 (RFMA). The object of this bill was to amend DOMA. Specifically, it repealed section two of DOMA; it said that states (and US territories) had to recognize same-sex marriages from other states- even if it is not legal in their state. This act also said that any federal law referring to married people applies to all married people as long as they were married in a state, territory, or any other place where their marriage was legal or their marriage could have happened in any US state or territory. This means that states had to recognize same-sex marriages. One hundred and twenty representatives ended up supporting it and all of them were Democrats. Also supporting RFMA was Bob Barr- the former congressman who introduced DOMA- and Bill Clinton, who signed DOMA. But the Respect for Marriage Act ultimately did not pass.

2012- Windsor v. USA begins

A significant court case for LGBTQ+ equality is Windsor v. USA. So far we have been looking at important LGBTQ+ events, and they have lined up with the exact dates on the Priest's line. The next major waymark after 2001 is 2014, but we know there are two little waymarks between major waymarks. The first little waymark after 2001 is 2009, which we already looked at. The next little waymark is 2012- it was the formalization for that dispensation. In 2012, an important court case took place. Edith Windsor and Thea Spyer were a lesbian couple that got married in Canada in 2007. In 2009, Thea Spyer died, leaving Edith Windsor with an estate. The federal government deals with taxes, and they imposed \$363,000 in taxes on Windsor's estate. Normally, spouses wouldn't have to pay taxes on the inheritance they got after their spouses' death, but since DOMA section three says the federal government doesn't recognize LGBTQ+ marriages, Windsor couldn't apply for tax exemption for surviving spouses. On November 9 (important day), 2010 she filed suit in the US district court for southern New York (where she lived) saying that DOMA was unconstitutional. The district court ruled that DOMA was unconstitutional and this was affirmed by the US Court of Appeals for the Second Circuit on October 18, 2012. But it didn't stop there. On March 27, 2012, the US Supreme Court began the process of reviewing the lower court's decision. We will find out whether they ruled in favor or against the lower court's decision next.

2013- Windsor v. USA decided

"On June 26, 2013, the U.S. Supreme Court ruled that section three of the so-called 'Defense of Marriage Act' (DOMA) is unconstitutional and that the federal government cannot discriminate against married lesbian and gay couples for the purposes of determining federal benefits and protections." *Windsor v. United States; ACLU*. The Supreme Court case Windsor v. the United States brought about this change. The third section of DOMA reads: "In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife" *Wikipedia*. In the case of Windsor v.

USA, Edith Windsor argued that she and the late Thea Spyer were married and that Spyer was her spouse, meaning that she did not have to pay taxes on Spyer's estate. The Supreme Court ruled in her favor 5-4.

2014- Equality in some states

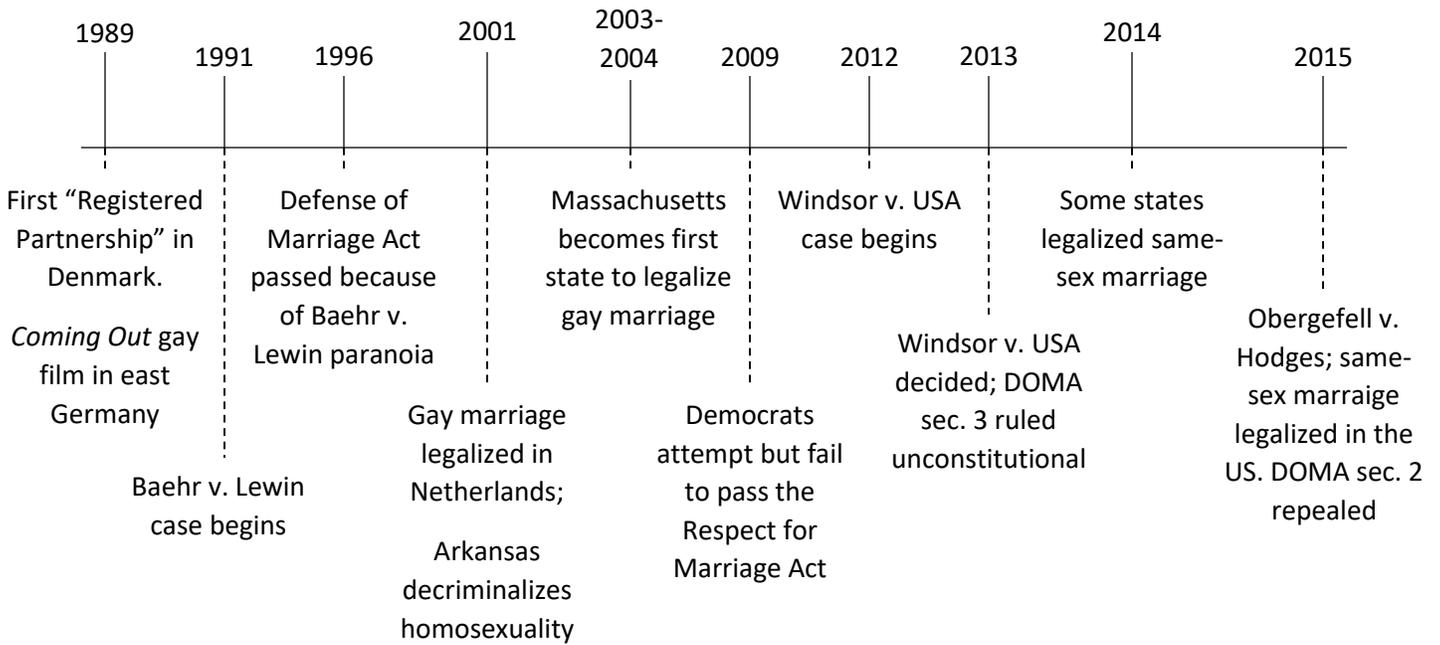
After section three of DOMA was overturned, in 2014 states started to change their rules on gay marriage. People started to accept gay marriage more. But, quietly, on January 7, 2014, Nigeria banned same-sex marriage. On the other hand, on July 7, 2014, the UN recognized any same-sex marriages of people who worked there as long as they were married where same-sex marriage was legal- this allowed those people to get more benefits. Also that year same-sex marriage was allowed in 19 more states in the US bringing the total to 35 by the end of the year. Another thing that happened in 2014 was the Presbyterian Church in the United States began performing homosexual marriages- it was one of the biggest churches to do so at that time. Also this year (on October 6th) the US Supreme Court refused to take some cases where people were appealing after same-sex marriage was allowed in their state by a lower court's decision- this allowed same-sex marriage in those states. But later, in 2014, some other lower courts did support bans on same-sex marriage, banning it in those four states who were in that court case. By the end of 2014 there were many different views of same-sex marriage in the United States; this year was our Sunday law, and you can see that, in this context, from the fifteen states that still banned same-sex marriage at the end of 2014.

2015- Same-sex marriage legalized

2015 was one of the most significant, if not the most significant event in LGBTQ+ history in the US. In 2015, the US Supreme Court ruled on a case called Obergefell v. Hodges. This case was not one single case, but instead the Supreme Court was ruling on six lower-court cases in four US states. Two of the cases were in Ohio. The first case in 2013 was Obergefell v. Kasich, which has several names. This case was filed by Jim Obergefell, who sued the district court in Ohio for not recognizing his marriage to John Author on his (John Author's) death certificate (John Author had died). The second case in Ohio called Henry v. Himes was filed in 2014. Henry v. Himes began when four same-sex couples, and one of the couples' adopted child, filed suit in the district court in Ohio. They filed when they discovered same-sex couples were only permitted to put one of the parent's names on an adopted child's birth certificate, the four couples wanted both parents' names on the birth certificate. Two more of the six cases the Supreme Court decided on in 2015 were in Kentucky. The first case also began in 2013. Gregory Bourke and Michael DeLeon filed suit in the district court for western Kentucky for the state not recognizing their marriage which took place in Canada. The second case in Kentucky began in 2014 and it was called Love v. Beshear. The case was filed by two gay couples who were denied marriage licenses, even though one of them had been living together for 30 years. The last two of the six cases decided in 2015 were from Michigan and Tennessee. The case in Michigan was DeBoer v. Snyder in 2014. It began when a lesbian couple that weren't legally married filed suit for not being able to adopt children. And lastly the case in Tennessee was Tanco v. Haslam, in 2014. It was filed by three same-sex couples who were married out of state. They sued because the state didn't recognize their marriages and thus they were blocked from marriage benefits. So, all these six cases from four states were combined and the Supreme Court ruled on them in 2015. On June 26, 2015, the Supreme Court ruled that same-sex couples in the United States have the same legal right to marry as opposite-sex couples. It said "No longer may this liberty be denied,". This

overturned section two of DOMA. It is the nationwide legalization of gay marriage in 2015 that US that this Movement talks about. It's when the LGBTQ+ community officially gained the right to marry in the entire US- the culmination of all the events we have spoken of in this lesson. As a Movement we agree with this decision to legalize LGBTQ+ marriage. This is what was taught in the formalization- it was made clear that LGBTQ+ people are equal with everyone else.

In summary:



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