

Chapter 2

Framework for Social Change

ABSTRACT

Culture shifts relating to LGBT rights were originally addressed in a 1997 article written by Thomas Stoddard titled “Bleeding Heart: Reflections on Using the Law to Make Social Change.” This chapter uses his framework for social change and examines how rule shifting and cultural shifts interact with the legalization of same-sex marriage.

INTRODUCTION

Culture refers to integrated patterns of human behavior that include the language, thoughts, actions, customs, beliefs, and institutions of racial, ethnic, social, or religious groups. Culture is the totality of learned, socially transmitted customs, knowledge, and behavior (Schaefer, 2006). The United States exists in a common culture that reflects the country’s basic values, beliefs, and customs, also known as cultural universals. These practices may be universal but vary geographically, resulting in differing political, economic, and social conditions. These value variations have created regional concepts of what is culturally considered good, desirable, and proper, or bad, undesirable and improper. These variations suggest that life patterns differ regionally, creating a political culture reflective of these divides. Values influence our behaviors and serve as criteria for evaluating the actions of others. The values, norms, and sanctions of a culture are directly related and may change, but most remain relatively stable. When a change occurs, the entire fabric of norms and sanctions in a culture are impacted.

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These turning points can produce cultural shifts and crisis. In “Bleeding Heart: Reflections on Using the Law to Make Social Change” (“Bleeding Heart”), a 1997 article by Thomas Stoddard, he offers a framework for social change—four factors necessary for a culture shift to occur. Using his model, this chapter examines elected officials’ responses to the legalization of same-sex marriage. Hunter (1997) and Sobel (2015) added a fifth dimension of social change—public engagement, which explains the speed at which cultural transformation occurs (Guinier & Torres, 2012; Balkin & Siegel, 2006).

Same-sex marriage emerged as a contentious cultural and legal issue in the context of rapid changes in marriage and family structures in late 20th-century America. In the state of Vermont, same-sex couples successfully sued for the right to all the benefits and protections of legal marriage under state law. In a 1999 ruling, the Vermont Supreme Court found that the state was obliged to provide marriage benefits to same-sex couples under the Common Benefits Clause of the Vermont State Constitution (*Baker v. State*, 1999). The court gave the state legislature the option of rewriting state marriage law to include same-sex couples or setting up a parallel legal vehicle to provide the rights and benefits of marriage to these couples. The legislature chose the latter option and set up a variation where gay couples were granted the legal benefits of marriage through civil unions, stopping short of calling it marriage. Then, in 2003, the Massachusetts Supreme Court ruled that under the state’s constitution, gay couples had the right to marry (*Goodridge v. Department of Public Health*, 2003) and began recognizing same-sex unions within six months of that decision. These breaches of formal norms rippled throughout the United States, where marriage between people of the same sex had been prohibited. Local government officials in several other jurisdictions around the country briefly issued marriage licenses to same-sex couples, until they were stopped by state courts or officials.

Using Stoddard’s (1997) model for social change, this chapter provides an overview of the factors that influence social change. These interactions are examined through judicial decisions, public opinion, and media. The chapter concludes with a discussion on how, in many instances, change creates backlash that in turn encourages greater engagement by the advocates who play a role in continued cultural transformation.

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