Homosexuals and Their Place in Multiculturalism

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1. Introduction

Multiculturalism has been prevailing in many developed countries in the world by trial and error. Particularly in American society, its concept has been gaining more strength and effect, especially on the classes. Nowadays, while there surely is a query whether accepting difference and diversity among many minority groups is on a human ethical petition or not on one hand, multiculturalism is said to be so binding that the classes in America are compelled to refrain not only from opposing it but also from doubting it on the other hand.

Originally, the concept of the multiculturalism in America, according to Daizaburo Yui (1994), is as follows. At first we must know that the national consciousness of the identity of America has changed vastly. Formerly, American citizens emphasized the unity of the nation in expressing their national identity, which was symbolized by “a melting pot.” In the course of experiencing the Civil Rights Movement in the 1960s and the awakening to ethnic identity in the 1970s, diversity replaced unity as a point in their national identity. In accordance with this change, the symbolic reference to the United States has also transformed from “a melting pot” to “a mosaic” or “a salad bowl.” Acknowledged by international law and inspired by the international awareness that there never exist the differences and distinctions among ethnicities, races and nations, the nation evolved the notion that intends to guarantee equality among races and ethnicities within the nation. This notion is what multiculturalism means.

In the way of multicultural thinking, every person has his/her “cultural right.” The multicultural right seems to be a human’s individual right of maintaining particular culture as what has been instilled in him/her in the living environment. And, it also appears that the “cultural right” has the following two phases:

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A. A political phase which determines his/her identity
B. A social and economic phase which determines his/her degree of affluence

The problem that multiculturalism poses to American society is serious. Speaking directly, the problem seems to demand a strict reconsideration of the profound proposition of whether American citizen has two phased cultural right dually or not. It could be called "the dual cultural right."

To explain "the dual cultural right" more elaborately, it seems to mean that everyone of a minority group holds or conforms him/herself, to some extent, to so-called traditional American culture—the mainstream, WASP (White Anglo–Saxon Protestant) culture—as an American on one hand, and at the same time, he/she also holds his/her own minority culture as a member of a minority group, and demand recognition and approval of dualism in various social scenes. In brief, the dual cultural right means the right to demand dualism and to accept dualism actually. It is an idea with solid volition that tries relativizing the main–stream culture in America, the sharing of which has been taken for granted implicitly for a long time, and tries appreciating the coexistence of multiple cultures.

A characteristic of multiculturalism worthy of special mention is that it granted equal value to the view points of formerly ignored minority groups such as Blacks, Native Americans, women, homosexuals, and the handicapped. And multiculturalism, in this aspect, is different from cultural pluralism that was proposed by Horace M. Kallen, a Jewish American philosopher and prospered in the 1960s. Cultural pluralism also referred to minority groups in America for the first time. But those minority groups were only racial or/and ethnic ones of Whites. Blacks, Native Americans, women, homosexuals, and the handicapped were out of consciousness.(4)

The view that globalization would proceed to unify the world was dominant worldwide right after the end of the Cold War that began with the collapse of the Berlin Wall in 1989. On the contrary, "the clash of civilizations" that was predicted by Samuel P. Huntington seems to be the coming stream of the global order. The world will be divided into several civilization units to antagonize and clash with each other. This trend seems to have gained momentum since that astounding September 11th attack. As a result, each ethnicity in the world became more aware of their ability to influence the same ethnic group inside other nations. These groups claim their rights to matters concerning national symbols.
such as anthems and holidays, as well as to the public use of their mother language, regional autonomy, political representation, decision of educational curriculum, native land, and immigration policy.\(^{(5)}\)

In this way, the existence of each ethnic group in America stands out against the background of the global trend mentioned above. Consequently, the existence of other minority groups such as Blacks, Native Americans, women, homosexuals, and the handicapped, has been downplayed. Above all, the situation of homosexuals in multiculturalism appears to be distinctive among them.

In this paper, the distinctive situation of homosexuals, and its reasons will be discussed from a religious, historic, and legal perspective.

II. Religious Reasons for Alienation of Homosexuals

A male university student was ruthlessly murdered in Laramie City, Wyoming in the United States on October 7, 1998, which made the headlines in papers all over the United States. Mathew Shepherd, the victim of the case was a gay student of Wyoming University. It was reported that he had been beaten and had his body tied to a fence along the street. He suffered a smashed skull and was found unconscious. Two suspects, a 21-year-old and a 22-year-old, were arrested afterwards for homicide. The motive for this Laramie case, according to the police, was gay bashing. The case created such a sensation that President Clinton commented saying, “American citizen should not hold hate nor prejudice.”\(^{(6)}\)

With the above crime as a backdrop, and considering the tens of thousands of homicide victims yearly in America, a great deal of attention is now being paid to the cruelty of hate crime in America.

According to the FBI, hate crime is defined as follows: A criminal offense committed against a person, property or society which is motivated, in whole or in part, by the bias against a race, religion, disability, sexual orientation, or ethnicity/national origin.\(^{(7)}\)

Why is it so?

Some Americans are occasionally said to have hate or hatred against people with particular national/racial/ethnic origin, religion, disability and sexual orientation. Moreover, it is often said that some of them have not only hate, but also even fury especially directed towards homosexuals.\(^{(8)}\) Thus attacks against homosexuals tend to be
more severe than against other minority groups. This seems mostly because the United States has Christian root and is a Christian country at base. For Christianity clearly forbids homosexuality.

Although the tendency to keep a distance from religion is generally observed among people in many industrialized countries today, and America, of course, is one of them, statistics suggests that no less than seventy-seven percent of the adult population can be classified as Christians in 2001 in America. Therefore, nobody can doubt that Christianity to a large extent supports the foundation of the American society, making itself the source of some part of American culture.

To reconfirm that America is basically a Christian country for sure, the birth and history of America is retraced here.

The beginning of contemporary America dates back to 1620 when Pilgrim Fathers who were escaped Puritans from Great Britain settled in the “New Continent.” They planned to flee from the religious oppression at the beginning of the seventeenth century in their mother country and pursue the freedom of religion abroad. They left Plymouth Port aboard a ship named the Mayflower, and arrived at New England in the American Continent in the winter of 1620. Their first historical step was landing on the rocky coast in the new settlement in the “New Continent.” The large rock near where they landed, and the new settlement became to be called afterwards “Plymouth Rock” and “the Plymouth Colony” respectively. To govern themselves, the Pilgrims created the Mayflower Compact that begins with the phrase, “In the name of God, Amen.” It was generally thought that the Mayflower Compact, which was written just before the landing by the Pilgrim Fathers, was the basis of American Constitutional Law afterwards. Furthermore, their religious doctrine — Puritanism — was the backbone sustaining capitalist development.

The Plymouth Colony and Mayflower Compact are said to have no great historical significance these days, but only a kind of legendary significance to substitute for the folklore that America does not have. For certain, Sacvan Bercovitch, for example, says in his book, The Rites of Assent, published in 1993, “...the Puritans did not found the United States.” Because “...we know that by 1690, sixty years after the Great Migration and a century before independence, not even the colony of Massachusetts was Puritan.” However, he also emphasizes the importance of Puritanism on the other hand, as an extremely great symbol in American history.
as follows:

I expected to discover the creation of a national past, the invention of a Puritan tradition commensurate with the needs of a modern republic. Instead, as I traced the act of creation back through the nineteenth into the eighteenth and seventeenth centuries, I found that its roots lay with the Puritans after all. The tradition had been made up, as suspected, but it was built out of historical materialism selected for historical reasons. The fantasy of Puritan origins had worked because these Puritans represented (among other things) the movement toward modernity, because they associated that movement with their prospects in the New World, and because they developed a rhetoric that joined both these aspects of their venture, cultural and territorial, in a vision that was simultaneously distinctive, expansive, spiritual, and secular.\(^{(11)}\)

Another piece of evidence showing that America is truly a Christian country can be found in the Declaration of Independence in 1776. It says:

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\text{We hold these truths to be self-evident, that all men are created equal, that are endowed by their Creator with certain unalienable right, that among these are life, liberty and the pursuit of happiness.}^{(12)}
\]

It declares that the right of liberty, equality and the pursuit of happiness are endowed “by their Creator” or God.

As America grew, it adopted a policy of isolating and expelling Native Americans from their settlements in the West to gain more land. In due course, they began to feel the necessity to justify this logic and/or the ethics that would support their behavior. Here, the idea of Manifest Destiny was produced. Americans believed that Manifest Destiny was a mission from God to expand across the western frontier of North America. But the fact might be that Americans only used this idea of Manifest Destiny as their motivation and justification for seizing new lands in the name of God.

In these ways, Christianity has been such fundamentally intertwined with American history.

Generally speaking, religion greatly influences social system and social value system.

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In the course of time, the society influenced by the religion comes to regard and accept its social system and social value system as its tradition, custom or common sense uncritically, and pass them down from generation to generation. Even if people in the society forget the religious root of some tradition, custom or common sense as time goes by, those are consonance with religious teaching.

America was deeply influenced by Puritanism or a faith of Protestantism. As Richard Brookhiser (1991) says in his book *The Way of the WASP*, it is very important that America developed as a Protestant country. America held the culture of WASP firmly as its mainstream culture from the age of so-called “Old Immigrants” until recently, around the time of Vietnam War when young White Americans doubted the equity of “the American Way of Life” for the first time. It has passed only one-fourth century since then. Even if we cannot recognize the direct inclination to follow the teachings of Christianity and the Bible in current American culture and value system, American mainstream culture that has been protested by multiculturalism these days is founded on Protestantism. And Protestantism or Christianity defines homosexuality as a sin. Homosexuals are sinners. This seems one of the greatest reasons why the American society and the formation of American ethics under the immense influence of Protestantism or Christianity do not accept homosexuality. Long history of hate or neglect toward homosexuals in American society has been passed down from generation to generation along with the transfer of such social value system. In short, American value system influenced greatly by the Christian doctrine makes people feel hate and fury unconsciously against homosexuals who are apostates to Christian doctrine.

The prohibition of homosexuality is written explicitly both in the Old Testament and in the New Testament. Christianity is certainly called the religion of love and tolerance. Christ forgave adulterers, murderers and so on, even spent time with them for instance. But it could be because omnipotent God and Christ knew that they would be penitent and reborn in the name of God. Christ does not say that adulterers and murderers do not have to be penitent for their deeds and that they may stay adulterers and murderers for life. This is what homosexuals want to be told. They are eager to be told by Christ that they do not have to be penitent for their homosexuality and they can be homosexuals for life.

On the contrary, most churches (with only five exceptions) do not accept homosexual priests and the sheep in them. Once a priest is unveiled to be a homosexual, he or she is
expelled from the church. Once a layman is unveiled to be a homosexual, he or she is never allowed to receive blessing of a priest personally. Christianity is not tolerant to homosexuals, in general, even today.

Besides, homosexuals are sinners not only from the Christian viewpoint but also from the Judaic viewpoint. Jewish people, practitioners of Judaism, comprise another minority group in America. Furthermore, Islam also defines them as sinners.

One of the differential characteristics of homosexuals in multiculturalism lies on this aspect. Because of their being sinners, American society based on Christianity has consistently ignored their existence, put them under taboo, and hated them. “The oldest existence in human history has been lain as the abnormal, as the detestable, and alienated from the grace of God.” What is worse, “those judgments were passed only through notional comprehension utterly without hearing the voices of the homosexual population” because no one in American society dared to face them.

No people in any other minority group in America are defined as sinners.

III. Short Existence as a Minority Group

1. In the United States

Since the end of World War II, the attitude of American society toward homosexuals has been changing by degrees. The change must have been encouraged by their awareness of appealing for human rights of their own. And their awareness must have been linked to that of feminism, the civil rights movement of Native Americans and the handicapped, both of which began gaining ground at almost the same time in the 1970s under the influence of the civil rights movement of Blacks in the 1960s. Homosexuals began resisting insult toward them, claiming general acceptance, and requiring American society to regard homosexuality as their most important identity at the heart of their existence. In other words, they have been protesting the set concept of the American mainstream culture held by WASP. Though gay liberation is often argued on the same stance as women’s liberation, partly because the latter is no more the matter of race, ethnicity, or class than the former is, as so the civil rights movement of Blacks is usually considered, there are many particular problems solely in gay liberation, by which it is separated from other minority groups and their liberation.

First of all, homosexuals had led a transparent existence until the latter half of the 20th
century. Unless they come out, they are not discriminated from heterosexuals, consequently are not hated. Unless they come out, they do not deviate from the American mainstream culture or ethics to live common lives. These facts made them conceal their own homosexuality and made their homosexuality transparent. As a result, it took a long time for them to form a group of minorities to claim their own rights explicitly. Blacks, women, Native Americans, and the handicapped, on the contrary, have been forced to belong to each minority group regardless of their wills, due to their appearances. (19) As for Blacks and women, therefore, they demanded, at first, their fundamental human rights from the United States in the late 19th century.

Looking back at the history of equalization of fundamental human rights and civil rights, it obviously started with what is called the Civil War Amendments: Amendment 13 enacted in 1865 to prohibit the system of slavery itself, and Amendment 14 in 1868 and Amendment 15 in 1870 to assure all persons the citizenship and the suffrage respectively.

Amendment 14 passed by Congress on June 13, 1866, and ratified on July 9, 1868, states as follows in Section 1:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor to deny to any person within its jurisdiction the equal protection of the laws. (20)

There became a provision that basic human rights should be protected equally in this section. Equality between races and other peculiarities were assured. (21) But even Amendment 14 that liberated Blacks from slavery and naturalized them could not change the political condition of Native Americans who were defined as “exempted Indians.” Juri Abe says that the historical relationship between Native Americans and Whites in America, since “the discovery of the New Continent” by Christopher Columbus in 1492, can be expressed with these 4 words starting with C: Contact, Conflict, Conquest, Coexistence. (22) The time when they got all the way to Coexistence with both citizenship and suffrage came as late as 1924.

As for Amendment 15, it gave the right of suffrage to Blacks, but not to women.
Suffrage was given to women in 1920.

A driving force to correct the social attitude and rectify the discrimination against Blacks was America’s entrance into the Second World War. Under a general domestic mobilization system, an appeal was made for the ideas of freedom and fairness all over the world. The Blacks’ voice became much stronger after they sacrificed as many soldiers, or maybe more, than Whites for their mother country during the Second World War.

As mentioned above, some minority groups, apart from homosexuals, began to be recognized as units and fight against legal discrimination in the late 19th century. Concerning homosexuals, the first epoch making incident happened as late as 1969. Until that year, they had reconciled themselves to live with persecution and legal or illegal restraint on their tacit society.

The first ground breaking moment occurred on the 28th of June 1969 as a police raid on the Stonewall Inn, a popular gay nightclub in the heart of Greenwich Village. It triggered off a week-long rebellion, known today as the Stonewall Riots. For the first time in American history, “homosexuals fought back together against police harassment, hurling bricks, bottles, and rocks at the startled New York Police Department officers.” Prompted by this affair, the Gay Liberation Front was formed by thirty-seven men and women, who held a candlelight march to express sympathy for the riots and demanded an immediate end to homosexual persecution. Since then, the Gay Liberation Front has fought to attain legal equal rights, and economic justice.

The second epoch making event was the announcement of the Psychology Institute of America in 1973, which determined that homosexuality should be excluded from the list of mental diseases. In accordance with the development of psychiatry, homosexuality was revealed not to be selective but to be inherent, that is to say, sexual orientation differs from sexual preference.

2. In the United Nations

International attitude toward homosexuals also implies that their liberation is different from women’s liberation, the civil rights movement of Native Americans, the handicapped and Blacks when attention is paid to the activities of the United Nations, for example.

The world is in the midst of heightened consciousness against discrimination and
striving for realization of equality with the adoption of the *International Declaration of Human Rights* in 1948 in the first place, and the *United Nations Convention on the Elimination of all Forms of Racial Discrimination* in 1965, and the *International Covenants on Human Rights* in 1966. The United Nations has held many International days, International years, and International Decades to improve the human rights of many minority groups. Homosexuals, however, have never been included in any of them. We can find here that only homosexuals are not paid attention to as a minority group either in the international world.

Here are all of the United Nations International Days, Years, and Decades related to minority groups.

**International Day**
- March 8  International Woman's Day
- March 21  International Day for the Elimination of Racial Discrimination
- October 1  International Day of Older Persons
- December 3  International Day of Disabled Persons

**International Year**
- 1971  International Year of Action to Combat Racism and Racial Discrimination
- 1975  International Woman's Year
- 1979  International Year of the Child
- 1981  International Year of Disabled Persons
- 1993  International Year of the World's Indigenous People
- 1999  International Year of Older Persons
- 2001  International Year of Mobilization against Racism, Racial Discrimination Xenophobia and Related Intolerance

**International Decade**
- 1983-92  United Nations Decade of Disabled Persons  
  Second Decade to Combat Racism and Racial Discrimination
- 1993-02  Third Decade to Combat Racism and Racial Discrimination
- 1994-03  International Decade of the World's Indigenous People
IV. Legal Position of Homosexuals

As mentioned already, multiculturalism has been prevailing particularly in American society, where it is said to be so binding that the classes there are compelled to refrain not only from dissenting from it but also from doubting it.

The point for the correct understanding of multiculturalism is that multiculturalism is argued chiefly in the realm of political culture not as the relationship itself among ethnic groups, but as an issue of a value system or social institutions such as rights, dignity or equality, and so forth. An important fact here to notice is that there has already existed the social or political foundation that can support the argument. That is, the issue of equalization of civil rights has already been argued nationally to some extent in America, and “the philosophy of ‘People are created equal’ cannot be doubted at all after undergoing the historical vicissitudes. Consequently, discrimination against race, gender, ethnicity, nationality and religion is legally and politically prohibited even though there remains some discrimination socially.”(26) This social structure in America where legal and political equality has already been realized makes it possible that the issue of the civil rights equality is argued and unfolded further for development.

Regrettably, homosexuals are excluded from the logic mentioned above. And it will be verified here after the process in which legal and political equality has been realized is confirmed.

1. Affirmative Action

As multiculturalism spread over the nation, each culture and each race were thought better of. And this process produced a new self-consciousness among every minority group: not only ethnic minorities but also women, the handicapped, homosexuals. They thought that they had been treated unfairly and discriminatively so far, and such a treatment produced the social effect as inequality or demerit on the minority groups. This was because American history had been written from the viewpoint of the male, temporarily abled, heterosexual WASP for better or for worse.(27) People began demanding an elimination of these inequalities and demerits on the minority groups. Affirmative action is the government policy to answer this demand.

It was John F. Kennedy in his presidential election campaign in 1961 who first present-
ed this ambiguous phrase "affirmative action" for the first time. At that time the power of the American public, who had become sufficiently conscious of civil rights, attempted to force the government to solve the problems of discrimination through concerted efforts. Only a few months after assuming the office, President John F. Kennedy issued Executive Order 10925 in March 1961 aimed at ending discrimination in employment by the government and its contractors. The Order reads:

The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action, to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. 

2. Civil Rights Act of 1964

The civil rights movement gained strength after the 1950s with the impetus of the judgement of the U.S. Supreme Court in the case of Brown v. Board of Education in 1954.

With operation and cooperation between Congress and the next President Linden Johnson, the civil rights movement achieved the Civil Rights Act of 1964. It partly reads as follows:

Equal Access: All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

It was the restatement and enlargement of the concept of affirmative action to assure that no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
3. Great Society Program Executive Order 11246 in 1965

On September 24th, 1965, President Linden Johnson issued, as part of the “Great Society” program, Executive Order 11246, which requires federal contractors to take affirmative action. It reads as follows in Part II Section 202:

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.\(^{(34)}\)

4. Hate Crime Prevention Act of 1968

In 1968 when the civil rights movement was in its prime, Congress passed the Hate Crime Prevention Act of 1968 that penalizes crimes due to discrimination against race, color, religion, gender, or national origin. It only applies if the crime happens when a person is attending a public school, is at work, or is participating in one of four other “federally protected activities.”

These four kinds of laws to protect minority groups accidentally excluded only homosexuals as their object. It must be because, in those days, homosexuals had not been recognized as a minority group to claim their own rights publicly. As mentioned in the previous chapter, their first explicit stand and resistance to restore their dignity and self-esteem occurred as the Stonewall Riots in New York on June 28, 1969. This incident led American society to the first recognition of an existence of another minority group. As far as this incident was regarded as the first clear encounter with a homosexual minority group, it is understandable that any law enacted before then does not include them as a minority group whose rights the law protects.
5. Sodomy Law

The sodomy law has a distinctive character in the treatment of homosexuals compared to any other law mentioned above. The prohibition of sodomy has a historical affirmation and assent in the world. Common Law defined it as a crime, the state laws of the first 13 states in America prohibited it. Even when Amendment 14 was ratified in 1868, all of the 37 states except 5 in America had a sodomy law. As of 1961, all of the 50 States had it.\(^{(35)}\) Due to the awareness of their rights prompted by the Stonewall Riots and the following gay liberation movement, there gradually appeared some states which abolished the sodomy law, starting with the State of Connecticut in 1971.

The issue whether the sodomy law is constitutional or unconstitutional became a big public concern in America in 1986. It was a problem of whether federal law could endow homosexuals with the right to engage in sodomy, consequently whether federal law could invalidate sodomy laws in many states.

The controversy started with a charge against Hardwick in the State of Georgia in August 1982. Hardwick was charged with sodomy conducted with an adult consensually in his private room in the state of Georgia where sodomy is against state law. This case of Bowers v. Hardwick, 478 U.S.1986 was contended as an issue of right-to-privacy.\(^{(36)}\) In the end, the U. S. Supreme Court upheld the right of states to prohibit sodomy conduct in a 5–4 decision. Some judges supplemented as following:

Nations, through long western history, have intervened in individual choices in regard to sexual relation between people of the same gender as observed in Common Law, Roman Law, ethical/moral criteria in Christianity and Judaism. Protecting sodomy conduct among homosexuals as their fundamental right means discontinuing ethic and morality handed down from generation to generation for some thousand years. Moreover, the fact that the majority of constituencies in the State of Georgia feel sodomy to be immoral and unacceptable is not improper.\(^{(37)}\)

In this way, it was reconfirmed to be constitutional in 1986 that state law prohibited sodomy, that is, some homosexuals having sodomy conduct could not avoid being criminals depending on which state they lived.

As of 2002, out of 50 states in America, 28 states and the District of Columbia have abolished Sodomy Laws. Many of them did it in the late 1970s. Few of them did it in the 1980s possibly because of the spreading fear of AIDS. The trend of its abolishment came back in the 1990s and ever after. In seven states, their State Supreme Courts declared the
sodomy law to be unconstitutional. However, 15 states still hold the sodomy law. The state that discontinued it most recently is Arkansas, whose State Supreme Court declared its unconstitutionality in 2002.\(^{(38)}\)

6. Defense of Marriage Act (DOMA)

In September 1996, President Clinton signed the Defense of Marriage Act into law. It prohibits the extension of federal spousal benefits to same-sex marriages. It also defines marriage in federal law as between one man and one woman.\(^{(39)}\)

7. Hate Crime Prevention Act of 1999 (not enacted)

Some bills for hate crime prevention that aim to invoke and extend the Hate Crime Prevention Act of 1968 were laid before Congress in the winter of 1997. The 1968 federal hate crime law penalizes crimes directed at an individual due to his or her race, color, religion, sex, or national origin.

A. Mar. 11, 1999, the Hate Crime Prevention Act of 1999 (House Bill HR 1082) was introduced to the House of Representatives. Parts of changes to the existing 1968 hate crime law would be:

(1) Gender, disability and sexual orientation would become additional protected classifications.

(2) Gays, lesbians, heterosexuals and bisexuals would all be protected from crimes motivated by hatred of sexual orientation.

B. Mar. 16, 1999, the Hate Crime Prevention Act of 1999 (Bill S.622) was introduced to the Senate. Its context was very similar to the House Bill HR 1082. Some other bills to enact the Hate Crime Prevention Act of 1999 were introduced both to the Senate and to the House of Representatives. None of them, however, were ever made into law.\(^{(40)}\) Even now in 2002, there is no federal law that protects homosexuals in the same way as other groups of people from discrimination due to their sexual orientation.

Looking through state laws, seven states do not have any kind of hate crime law: Arkansas, Hawaii, Indiana, Kansas, New Mexico, South Carolina, and Wyoming. 20 states have hate crime laws that do not include sexual orientation as a category to be protected, and 24 states have hate crime laws that include sexual orientation as a

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Contrary to the small number of the states with hate crime laws that include sexual orientation as a category to be protected, the number and percentage of hate crimes perpetrated against gays, lesbians, and bisexuals increase year by year, according to an FBI report. For example, hate crimes perpetrated against gays, lesbians, and bisexuals constitute 16% of all the hate crimes in 2000. But only 2.8% of all males and 1.4% of all females in the United States are homosexual according to the survey by Chicago University in 1994.\(^{(41)}\) In addition, hate crimes perpetrated against homosexuals are said to be usually more violent and crueler. If federal and state hate crime prevention laws remain as they are, it will be unavoidable that their governments will be accused of neglecting their duties to eliminate discrimination.

V. Conclusion

To summarize, on one hand, homosexuals in American society, under the ethics, morals and laws that have been formed with the great influence of Western Christian culture with a long history and tradition, have led transparent existences. On the other hand, they have also been defined as sinners by religion, as criminals by law, and as sick by medicine for centuries. What they insist on and long for is clearly different from what other minorities do. It is not to catch up with others economically, not equality of opportunity nor equality of result. Nor do they hope to obtain the right of receiving education in a language other than English. They do not hope to obtain such great alteration of social institutions, or social and economic phases of culture that need additional financial expenditure and social assent.\(^{(42)}\)\(^{(43)}\) They are only eager to be accepted and recognized in the society as what they are, that is, as homosexuals who embrace homosexuality at the heart of their identities as something most precious in themselves. Once again, it is not something that burdens the majority with some kind of sacrifice as affirmative action did or with additional financial support. It cannot be denied, however, that not only majorities but also other minorities feel it difficult, awful and repellent to accept and realize homosexuals. Accordingly, they have a mental block as a result. For their desire apparently challenges society as a whole to alter its ethics and morals offered for centuries not only by Christianity, Judaism, and Islam, but also by manifold cultures all over the world.

Their situation, in one sense, might be similar to that of Blacks out of “melting pot”
reemerging today. Recently discourse of melting pot is said to be recovering. It says that so-called “New Immigrants” are being melted in the melting pot of America after experiencing the concept of cultural pluralism to bear an ethnically new group of unhyphenated “Americans.” But Blacks alone are excluded from this discourse of melting pot on account of their “physical and racial characteristics.” It means in brief, the very color of their skin is a great mental barrier for not only majorities but also for other minority groups so that society as a whole has the tendency to avoid them.

All things mentioned so far considered, it seems impossible to think that it will not be long before the wish and claim of homosexuals — to be accepted and recognized in the society as what they are, that is, as homosexuals who embrace homosexuality at the heart of their identities as something most precious in itself — come true, even under the ongoing concept of multiculturalism because it requires the society to alter its ethic, moral, and religious beliefs, which has undergone a long history from time immemorial. It is easily predictable that they will not be altered soon. We usually wait for at least a few generations to see the alteration of this kind.

In contrast, physical, economic, and legal discrimination against them and hate crimes toward them will be restrained much more easily by legislation. The legal history seems to assure it. Undoubtedly, America has a legal history of integration: Amendment 14 and the Civil Rights Act of 1964, for instance. Concerning the sodomy law, 15 states still have it as of now, but there seems to certainly be a trend of its abolishment in spite of the Federal Supreme Court judgement in 1986. In addition, most recently, the Federal Appeals Court in San Francisco, on June 26, 2002, dared to declare the unconstitutionality of the Pledge of Allegiance owing to its phrase “one nation under God.” The Court judged the phrase violated the First Amendment’s prohibition against a state endorsement of religion. Legislation in America is, in this way, under the definite intention to preserve equality and justice.

What should be challenged and overcome is mental barrier, which has nothing to do with reason, among each person in the society. With regards to this, it is worthwhile paying attention to a gradual alteration in Christianity. Its attitude toward homosexuals is turning from anger, rejection, and disregard to sympathy and acceptance by degrees depending upon persuasion. Some try to modify the traditional interpretation of some phrases in question in the Bible. For example, the Universal Fellowship of Metropoli-
tan Community Church that was established by a homosexual priest and the Unitarian Church accept homosexuals positively, and celebrate “Union,” that is a ritual equivalent to marriage between persons of the same gender.\(^{(49)}\)

In the midst of a heated argument among churches over how to deal with homosexuals, every church has demanded to study not only the traditional mode of a family once again but also the different mode of intimacy.\(^{(50)}\) This new stream in Christianity and the current of society will influence each other to alter or reform the ethic, moral and tradition after a few generations with severe mental struggle. Everyone must definitely be accepted and respected for what s/he is, have fundamental human rights and social, economic, political equality regardless of his/her race, ethnicity, color, gender, national origin, physical and mental ability, religion, and sexual orientation.

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**Notes**

1. 河見誠, 「多文化時代の特殊、普通、キリスト教－多文化主義から自然法論へ」, 『青山学院女子短期大学総合文化研究所年報』12 (2001) 27.
3. 油井大三郎, 「米国における『国民』統合とアジア系移民.」『国民国家を問う』, 歴史研究会編 (東京：青木書店, 1994) 124-125.
5. ウィル・キムリカ (角田猛之, 石山文彦, 山崎康文監訳), 「多文化時代の市民権－マイノリティの権利と自由主義.」（東京：晃洋書房, 1998）1

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lies with a woman; that is detestable.” Leviticus 20:13 says, “If a man lies with a man as one lies with a woman, both of them have done what is detestable. They must be put to death; their blood will be
on their won heads.” 1 Corinthians6:9–10 says, “Do you not know that the wicked will not inherit the
kingdom of God? Do not be deceived: Neither the sexually immoral nor idolaters nor adulterers nor
male prostitutes nor homosexuals nor thieves nor slaveholders nor the covetous will inherit the kingdom of God.” 1
Timothy1:9–10 says, “We also know that law is made not for the righteous but for lawbreakers and
rebels, the ungodly and sinful, the unholy and irreligious; for those who kill their fathers or mothers,
for murderers, for adulterers and perverts, for slave traders and liars and...” Romans 1:26–27 says,
“Because of this, God gave them over to shameful lusts. Even their women exchanged natural
relations for unnatural ones. In the same way the men also abandoned natural relations with women
and were inflamed with lust for one another. Men committed indecent acts with other men, and
received in themselves the due penalty for their perversion.”

(14) パトリシア・バターソン (岡田則子訳), 「最前線としての北米教会。」『福音と世界』6 (1998) : 24-25.
(16) 荒谷, 37.
(17) パトリシア・バターソン (岡田則子訳), 20.
(18) K. アンソニー・アッピア（佐々木毅他訳）, 「アイデンティティ，真正さ，文化の存続。」『マルチカルチャ
ルリズム』(東京：岩波書店, 1996) 228-229.
(19) 内野正幸, 「差別の表現」（東京：有斐閣, 1990）12.
(22) 阿部珠理, 「アメリカ先住民と「アメリカ」： 接触・抗争から征服をへて，共存へ」，「The English Teachers’
(23) 田中英夫, 「英米法総論 上」（東京：東京大学出版, 1996）328.
(26) 辻内総人, 「アメリカにおける文化的多様性と平等。」『NIRA 政策研究』2 （1997）: 36.
1998.
(30) In November 1996, the inhabitants’ voting in the State of California carried Proposition 209 that was
designed to eliminate the affirmative action programs. The margin was 54% for and 46% against.
It went into effect in August 1997 and took great attention as “a turning point of American racial
policy.” A group of objectors to Proposition 209 sued the State of California for unconstitutional
legislation but the Supreme Court of the United States of America dismissed the appeal lodged by
the group demanding for the suspension of the law that abolished the affirmative action programs.
Another ten states followed suit and legislated against the affirmative action programs. For example, in the State of Washington, Washington State Initiative 200 (I-200) passed with 58% of the vote on November 3, 1998. I-200 is roughly modeled after California’s Proposition 209 and is designed to eliminate “preferences” in state and municipal hiring and recruitment to the state university system.

The Supreme Court declared in the judgement that it was a breach of the equal protection assured in Amendment 14 to educate Black students and White students at separate public schools because such a public school system gave the Black students an inferiority complex and neglected the vital role of education. It was the end of the long held idea of “Separate but Equal.”


Jones, Stephen Cahn.


芦部信喜編, 『アメリカ憲法判例』（東京：有斐閣，1998）296.

芦部信喜編，295.

芦部信喜編，297.


These are great problems especially among Blacks and Hispanics.

関根政美, “国民国家と多文化主義, 「エスニシティと多文化主義」 初瀬龍平編, （東京：同文館，1996）44.

野村達朗, 「アメリカにおける多文化主義とその限界」（公開シンポジウム「アメリカの光と影—多文化主義をめぐって」）「アメリカ研究シリーズ」19（1997）：35-37.


Pledge of Allegiance: I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

荒谷出，36.

小原克博, 「新約聖書の性倫理」 『福音と世界』10（1998）：22-23

荒谷出，36.

バトリシア・バターソン（岡田則子訳）, 25.

References

芦部信喜編.1998. 『アメリカ憲法判例』 有斐閣.
Homosexuals and Their Place in Multiculturalism——YAMAGUCHI・YAMAGUCHI


アッピア， K. アンソニー．（佐々木毅他訳） 1996. 「アイデンティティ， 真正さ， 文化の存続」 『マルチカルチャー リズム』 岩波書 228-229.


内野正幸. 1990. 『差別の表現』 有斐閣.

大西直樹. 1998. 「ビルグリム・ファーザーズという神話：作られたアメリカ建国」 講談社.


河野博子. 1998. 「同性愛者への暴力増加でも防止法まだ」 『読売新聞』 10月24日．

キムリ，ウィル. 1998. (角田猛之，石山文彦，山崎喜仕監訳) 『多文化時代の市民権マイノリティの権利と自由主義』 晃洋書房．


田中英夫. 1996. 『英米法総論 上』 東京大学出版．


中西輝政. 2000. 「解題」 『文明の衝突と21世紀の日本』 サミュエルハンチントン著（鈴木敏行訳） 集英社．


松井茂記. 1995. 「アメリカ憲法入門」 有斐閣．

水島敏夫. 1998. 「同性愛者が通う学校」 『読売新聞』 1月13日．


— (118) 203 —
Available at: http://www.law.cornell.edu/uscode/42/2000e.html

Available at: http://www.angelfire.com/on2/glf2000/page2.html

Available at: http://www.infinet.com/~eplurb/declare.htm.

Available at: dol.gov/dol/esa/public/regstatutes/ofccp/eo11245.htm

Available at: http://www.angelfire.com/on2/glf2000/page2.html

Hate Crime definition by FBI. Online. Internet. 9 Sep, 2002.
Available at: http://www.fbi.gov/ucr/Cius_988/

Available at: http://www.now.org/issues/legislat/03-08-99.html

Available at: http://www.actwin.com/eatonohio/gay/sodomy.html

Available: www.cs.indiana.edu/statecraft/cons.body.html

Available at: http://www.religioustolerance.org/hom_hat4.htm
Homosexuals and Their Place in Multiculturalism

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Multiculturalism has been prevailing in many developed countries in the world and its concept has been gaining more strength and effect particularly in American society. One of the characteristics of multiculturalism is that it grants equal value to the viewpoints of formerly ignored minority groups such as Blacks, Native Americans, women, homosexuals, and the handicapped.

The existence of each ethnic group in America stands out against the background of the global trend, leaving in consequence other minority groups being downplayed. The situation of American homosexuals in multiculturalism in particular appears to be distinctive and differential among them. Its reason can be found in the outset of American history, value system, laws and Christianity.