

Week 5

Name

Institutional Affiliation

## Week 5

I propose a ban on same-sex marriage on several grounds. First of all, the traditional definition of marriage is that of the union between a man and a woman. Secondly, the primary aim of marriage is to procreate, and such a union should not be extended to same-sex couples because they cannot procreate. Thirdly, same-sex marriages will further weaken the existing marriage institution because of the already existing high rates of divorce. Finally, I am proposing a bill on states banning same-sex marriages because children need both a mother and father for their adequate upbringing.

Despite the fact that same-sex marriage has received significant support from members of the public, recent federal court present a myriad of legal challenges to a state ban on same-sex marriage. These cases include *United States v. Windsor* and *Lawrence v. Texas*.

- a. *United States v. Windsor*, United States Supreme Court, 570 U.S. \_\_\_\_ (2013) (Docket No. 12-307)

According to the Supreme Court, the Defense of Marriage Act (DOMA) is unconstitutional. The reason is that it violates the provisions of federalism and equal protection. The implication of the court's ruling is that banning same-sex marriage is a violation of the Fifth Amendment. The reason is that a ban on same-sex marriage demeans persons engaged in a lawful same-sex marriage. Additionally, a ban on same-sex marriage creates a second class of citizens thus creating a disadvantage for these citizens (Kennedy, 2015).

- a. *Lawrence v. Texas*, United States Supreme Court, 539 U.S. 558 (2003) (Docket No. 02-102)

The Supreme Court ruled that it was illegal to criminalize sodomy because it violates the provisions of equal rights. The court held that homosexuals have the right to engage in private sexual activity because it is their moral choice (Epstein, 2014). Furthermore, the US Constitution protects the choices of every citizen regardless of their sexual orientation. Thus, same-sex couples have every right to marry just like opposite-sex couples (McAfee, Bybee & Bryant, 2006).

## References

Epstein, R. (2014). *The Classical Liberal Constitution*. New York: Harvard University Press.

Kennedy, D. (2015). *The American Spirit: United States History as Seen by Contemporaries*.

Chicago: Cengage Learning.

McAfee, T. B., Bybee, J. S., & Bryant, A. C. (2006). *Powers reserved for the people and the*

*states: A history of the Ninth and Tenth Amendments*. Westport, Conn: Praeger

Publishers.

