

Employment Non-Discrimination Act (ENDA) vote tests our values

On Protecting Gay Americans from Workplace Discrimination An incrementalist law is a blunder

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For the past few weeks, members of Congress and leaders within the lesbian, gay, bisexual, and transgender (LGBT) community have debated how best to advance the Employment Non-Discrimination Act (ENDA). This legislation was initially intended to protect LGBT Americans from arbitrary firing and other forms of employment discrimination.

While states as diverse as Iowa and California already protect LGBT Americans from employment discrimination, 31 states still do not. Thus, there is overwhelming public support for federal employment protections. Reflecting this, a 2006 Gallup Poll reveals that 89 percent of respondents favor equal employment opportunities for gay people.

However, Republicans in Congress are pandering to their extreme right wing by refusing to support basic workplace equality for LGBT people. In the face of this opposition, some ENDA advocates led by openly gay U.S. Rep. **Barney Frank**, D-Mass., have introduced a compromised version of the legislation that retains the anti-discrimination protections for sexual orientation while it excludes the more contested protections for gender identity. This incrementalist version of ENDA pragmatically embraces more mainstream gays and lesbians while it continues to leave transgender Americans vulnerable to discrimination.

And so the gospel of incrementalism is being sung all around Washington as if tentative, incremental change is inherently successful, right, and true.

Granted, the recent history of the LGBT movement suggests that incremental approaches sometimes prove effective, still American history is rife with counter-examples where the increments won were far too modest and actually slowed progress and where the sacrifices made were unconscionable by most any measure.

The example of "Don't Ask, Don't Tell" is especially instructive. During his campaign for the presidency, **Bill Clinton** vowed to overturn the military's ban on openly-gay service members. Once in office, however, Clinton hesitated.

Enter Frank. Frank worked with President Clinton and others to forge a compromise, which was adopted in 1993. It essentially says that known gay people are, indeed, detrimental to military operations and morale, and so should serve their country only to the extent that they remain repressed and invisible.

Even at that time, many within the LGBT and civil rights communities viewed the "Don't Ask, Don't Tell" compromise as an incremental step in the wrong direction. Now, it is abundantly clear that the compromise was, and remains, a fiasco.

With ENDA, Frank is again leading the charge to pass a fatally compromised bill. While most incrementalist approaches to civil rights have sought to protect an entire group or "class" of people, and gradually expand protections, Frank's ENDA compromise divides the LGBT community by protecting some members while betraying others. The scaled-back version of the bill would protect many lesbians and gays, true, but it leaves all transgender people unprotected from employment discrimination. According to several studies, unemployment among transgender people is believed to exceed 70 percent.

As a result, no national **LGBT organization** supports the Frank compromise, and hundreds of organizations around the country have risen up to oppose Frank's efforts. Even worse, President Bush already has pledged to veto ENDA under any circumstances. So if the Congress is to vote on principle, one can't help but ask: What principle?