

RPOS 346 - LAW, CIVIL RIGHTS and SEXUAL ORIENTATION

Spring 2011

Location: LC3B

Time: MWF 10:25-11:20

Instructor: Natalie Kapur

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Office Hours: MW 9:15am-10am

and by appointment

COURSE DESCRIPTION

The course is designed to examine the development law based around sexuality through the 20th century. Throughout the semester we will examine court cases, state and federal laws as well as scholarly articles. Using these three sources we will examine the legal assumptions behind current laws and historical cases that define personal sexuality and sexual orientation. We will include an examination of the current debate over the recognition of same sex relationships, employment and adoption. This course highlights one of the most politically salient issues of the current era; the modern day equivalent of the civil rights cases of the early 20th century. As such, this topical issue is going to be increasingly important in all three branches of government as the recent discussion over the military policy of Don't Ask Don't Tell has illustrated.

REQUIREMENTS

Readings for the course are mainly excerpts from State and Federal Court cases. Justices write opinions to justify the outcome of a case and explain their reasoning, but not always in an objective manner. Court cases are not always easy to read and are sometimes deliberately misleading, but they do get easier with time and practice. There are also journal articles and excerpts from books as part of the reading materials for the course, you are also expected to read these.

Participation: Along with regular attendance, participation will be assessed on your ability to interact and participate in classroom discussion and activities. I am not looking for quantity, but quality. Constructive, informed, respectful participation that contributes directly to conversations about the course material will raise borderline grades. This portion of the grade will not be based on the number of times you speak, but on the reasoned opinions, responses, and arguments you make during class. I reserve the right to call upon students at random and will make every effort to ensure that all voices are heard.

Debates: There will be two debate style in class exercises and everyone will participate once. Details will be given in class.

Papers: There will be two (2) papers due on the dates indicated in the syllabus. Details will be given in class.

Exams: There will be one midterm exam and one final exam. These exams will consist of multiple choice questions, quote ID's and short answer questions. The final exam will be scheduled by the University.

The weight of these various obligations break down as follows:

Class participation: 10%

Debates: 10%

Papers:	30%
Midterm Exam:	25%
Final Exam:	25%

POLICIES

Students with disabilities. If you have a documented disability and anticipate needing accommodations in this course, please make arrangements to meet with me soon. Please request that the Disabilities Resource Center send a letter verifying your disability.

Extensions for papers. To avoid creating inequities for other students in the class, no extensions will be given for papers. Late papers will be penalized half a grade per day for every day that the paper is late, starting at the beginning of class the day the paper is due unless the student can provide a University-approved excuse. Otherwise, grades will be graded down by 1/2 a letter grade for each day it is late. For example, if a paper is turned in and is an A paper, but was 2 days late, the paper will be given a B.

Plagiarism or cheating. This one's simple: don't do it. Don't even think about doing it. Plagiarism is the use of someone else's *words* or *ideas* without giving the original author credit by citing him or her. If you use someone else's language directly, you must use quotation marks. If you rely on another person's ideas in creating your argument, you must provide a citation. If you have any questions about plagiarism, please contact me before you submit the assignment for grading. If you plagiarize or cheat in this class, the **BEST** outcome you can hope to achieve is a failing grade from me, in addition to any mandatory university sanctions. Ignorance will not provide a defense to the application of this policy.

Attendance. Each student may have three (3) unexcused absences. Beyond this, whatever the reason, any absence will negatively affect your grade.

Emails. If there are any changes to the course/assignments/updates I will be emailing you. You need to make sure that you regularly check your email. The best way to get in contact with me is via email. If you email me, **be sure to include your name**. I will not respond to informal or disrespectful emails.

MATERIALS

There is no book for this course. However, there is a course packet available at *Mary Jane's*. Alternatively, you can print out the materials from Blackboard. Additional materials not laid out in the syllabus may also be added as I see fit throughout the semester.

SYLLABUS

(Please note, this is just a guideline. If we get substantially behind, I may omit a few topics.)

W	1/19	Introduction
F	1/21	Kinsey Institute Data from 1948 and 1953 Studies (and more recent) a. http://www.indiana.edu/~kinsey/research/ak-data.html#Findings b. http://www.indiana.edu/~kinsey/resources/FAQ.html#homosexuality
M	1/24	Gallup Polls

<http://www.gallup.com/poll/8413/Six-Americans-Say-Homosexual-Relations-Should-Recognized-Legal.aspx>
<http://www.gallup.com/poll/10432/Gay-Lesbian-Marriages.aspx>
<http://www.gallup.com/poll/27757/Americans-Rate-Morality-Social-Issues.aspx>

- W 1/26 Hunter - Marriage, Law and Gender
Hunter - The New Law of Marriage
- F 1/28 *Stoumen v. Munro* 219 Cal. App. 2d 302 (1963)
Boutilier v. INS 387 U.S. 118 (1967)
- M 1/30 *Jegley v. Picado* 349 Ark. 600 (2002)
People v. Onofre 415 N.E.2d 936 (1980)
- W 2/2 *Oncale v. Sundowner Offshore Services* 523 U.S. 75 (1998)
- F 2/4 *Bowers v. Hardwick* 478 U.S. 186 (1986)
Lawrence v. Texas 123 S. Ct. 2472 (2003)
- M 2/7 *Sherrill, Kenneth*. 1996. "The Political Power of Lesbians, Gays, and Bisexuals." *PS: Political Science and Politics* 29: 469-473
- W 2/9 *Romers v. Evans* 116 S. Ct. 1620 (1996)
Boy Scouts of America v. Dale 530 U.S. 640 (2000)
- F 2/11 Haider-Markel, Donald P., and Kenneth J. Meier. 1996. "The politics of gay and lesbian rights: Expanding the scope of the conflict." *Journal of Politics* 58: 332-349
- M 2/14 *Di Stefano v Di Stefano* 60 AD2d 976 (1978)
Alison D. v. Virginia M. 77 N.Y.2d 651 (1991) – New York
- W 2/16 *In Re B.L.V.B.* 160 Vt. 368 (1993)
In the Matter of Jacob 86 N.Y.2d 651 (1995)
Paper 1 Due
- F 2/18 Polikoff (2008) - Excerpts (sections on adoption and custody)
- M- F 2/21 - 2/26 **Classes suspended**
- M 2/28 *Perez v. Sharp* 198 P.2d 17 (1948)
Loving v. Virginia 388 U.S. 1 (1967)

- W 3/2 Donald Haider - Markel and Mark Joslyn (2005) Attributions and the Regulation of Marriage: Considering the Parallel between Race and Homosexuality, *Political Science and Politics* 38: 2: 233 - 239
Julie Novkov *Racial Union* (Epilogue)
- F 3/4 **Debate 1**
- M 3/7 *Baker v. Nelson* 191 N.W.2d 185 (1971)
Anonymous v. Anonymous 67 Misc. 2d 982 (1971)
Jones v. Hallahan 501 S.W.2d 588 (1973)
- W 3/9 *Singer v. Hara*, 11 Wn. App. 247 (1974)
Adams v. Howerton 486 F. Supp. 1119 (1980)
- F 3/11 **Midterm Exam**
- M 3/14 Scott Barclay and Shauna Fisher, "Cause Lawyers in the First Wave of Same Sex Marriage Litigation" in Sarat and Scheingold, *Cause Lawyers and Social Movements*
- W 3/16 *Hawaii*
Baehr v Lewin 74 Haw. 530 (1993)
Baehr v. Miike 80 Haw. 341 (1996)
- F 3/18 US Government's Response
1. *Federal Defense of Marriage Act* 28 USCS § 1738C (1996)
2. Proposed Federal Marriage Amendment to the US Constitution
Congressional Bill in 2004
Congressional Bill in 2006
Marriage Protection Amendment
3. Constitutionality of Federal DOMA
In re Kandu 315 B.R. 123 (2004)
- M 3/21 *New York (1996-1997)*
Storrs v. Holcomb 245 A.D.2d 943 (1997)
Vermont
Baker v. State 170 Vt. 194 (1999)
- W 3/23 Dan Pinello, *America's Struggle with Same Sex Marriage* - Introduction and Chapter on MA
- F 3/25 *Massachusetts*

Goodridge v. Dept. of Public Health 440 Mass. 309 (2003)
Cote-Whitacre v Public Health 446 Mass. 350 (2006)

- M 3/28 Arizona
Standhardt v Superior Court 206 Ariz. 276 (2003)
Connecticut
Connecticut Civil Unions Bill (2005)
Kerrigan v. Commissioner of Public Health (2008)
- W 3/30 **Debate 2**
- F 4/1 California
Lockyer v. City and County of San Francisco 33 Cal.4th 1055 (2004)
In re Marriage Cases 43 Cal. 4th 757 (2008)
- M 4/4 California Continued
Strauss v. Horton
Perry v. Schwarzenegger
- W 4/6 New Jersey
Lewis v Harris 188 N.J. 415 (2006)
Iowa
Varnum v Brien 763 N.W.2d 862 (2009)
- F 4/8 New York (2003-2008)
Langan v. St. Vincent's Hospital of NY 196 Misc. 2d 440 (2003)
People v West 4 Misc.3d 605 (2004)
Hernandez v Robles 7 N.Y.3d 338 (2006)
- M 4/11 Rosenberg, *Can the Courts...* (excerpts)
Paper 2 due
- W 4/13 Gary Segura, "Symposium on the Politics of Same Sex Marriage,"
PS: Political Science and Politics, 38: 2: 189 – 193
Evan Gerstmann "Litigating Same Sex Marriage : Might Courts
Actually be Bastions of Reality?" *PS: Political Science and Politics*, 38: 2:
217 – 220
Lui, F & Macedo, S: 2005: "The Federal Marriage Amendment and the
Strange Evolution of the Conservative Case against Gay Marriages," *PS:
Political Science and Politics*, 38: 2: 211 – 215
- F 4/15 LGBT Rights and the Military - Don't Ask, Don't Tell
Reading: TBD

M-M 4/18 - 4/25 Classes Suspended

- W 4/27 *Morrison v. State Board of Education* 1 Cal. 3d 214 (1969)
Board of Education of Long Beach v. Millette 62 Cal. App. 3d 614 (1976)
Gaylord v. Tacoma School District 88 Wn.2d 286 (1977)
- F 4/29 *Rowland v. Mad River Local School Dist* 470 U.S. 1009 (1985)
Webb v. Puget Sound Broadcasting Co. 1998 Wash. App. LEXIS 1795 (1998)
Brennan v. Metropolitan Opera Association 729 N.Y.S.2d 77 (2001)
- M 5/2 Thomas Keck - Beyond Backlash: Assessing the Impact of Judicial Decisions
on LGBT Rights
- TH 5/5 **10:30 pm -12:30 pm FINAL EXAM**