Legal Scholarship on Same-Sex Marriage
Update No. 29
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Compiled By Michael Ginsborg, MLS

I. Articles posted in 2009 on SSRN.com, BePress.com and other digital sources
II. Law review and legal newspaper articles published in 2009
III. Law review articles published in 2008 (updated)
I. Articles posted in 2009 on SSRN.com, BePress.com and other digital sources

· Report and Recommendation to NY State Bar Association on Marriage Rights for Same-Sex Couples (05/04/09)
· Marc R. Poirer, Name Calling: Identifying Stigma and the 'Civil Union'/Marriage' Distinction, 41 Conn. L. Rev. 63 (July 2009)
· Deb Wald, Shannon Minter, and Courtney Joslin, Recognition of marriages between same-sex couples performed outside of California prior to November 5, 2008 (posted 06/22/09; referenced here)
· David Novak, Why We Should Oppose Same-Sex Marriage (posted 6/19/09) [based on a publication forthcoming 98 Cal L. Rev. (2010); commented on here.]
· Lois A. Weithorn, CAN A SUBSEQUENT CHANGE IN LAW VOID A MARRIAGE THAT WAS VALID AT ITS INCEPTION? CONSIDERING THE LEGAL EFFECT OF PROPOSITION 8 ON CALIFORNIA'S EXISTING SAME-SEX MARRIAGES, 60 Hastings L.J. 1063 (May 2009)
· Kerry Abrams and Peter Brooks, Marriage as a Message: Same-Sex Couples and the Rhetoric of Accidental Procreation, Yale Journal of Law and the Humanities, Vol. 21, No. 1, 2009 (commented on here)
· Jeff Redding, Proposition 8 and the Future of American Same-Sex Marriage Activism, 14 Nexus 113 (2009) (posted 06/05/09)
· Tanya Washington, Throwing Black Babies Out with the Bathwater: A Child-Centered Challenge to Same-Sex Adoption Bans ,forthcoming in 6 Hastings Race and Pov. L.J.
· Gregory N. Johnson, We’ve Heard this Before: The Legacy of Interracial Marriage Bans and the Implications for Today’s Marriage Equality Debates, forthcoming in Vermont L.Rev. (Fall 2009)
· Further Thoughts on Proposition 8 and Retroactivity: A Response to Choper
· Marriage Rights and Parental Rights: Parents, the State, and Proposition 8 (04/16/09)
· 'Activist Courts,' Misleading Wedge Politics and the Tragedy of Proposition 8 (04/09/09)
· Judicial Regimes and Same-Sex Marriage: Enforcing Judicially Determined Personal Autonomy at the Expense of Majoritarian Democracy (04/07/09)
· Can a Subsequent Change in Law Void a Marriage that Was Valid at its Inception? Considering the Legal Effect of Proposition 8 on California's Existing Same-Sex Marriages (03/17/09)
· DOMA and the Internal Revenue Code (03/22/09)
· Marisa Silenzi Cianciarulo, *SAME-SEX COUPLES AND THE RIGHT TO MARRY IN CALIFORNIA*, NEXUS: A JOURNAL OF OPINION (posted 02/17/09) (citation not yet available?)

· Justice Grodin: On Amending and Revising the Constitution: The Issues behind the Challenge to Proposition 8

· Jesse Choper: Should Proposition 8 Be Held to be Retroactive?

· Fourteen Words that Devastate the Fourteenth Amendment and Equal Protection: Proposition 8 and the Future of Equality

· Considering the Legal Effect of Proposition 8 on California's Existing Same-Sex Marriages
II. Law review and legal newspaper articles published in 2009


Marc R. Poirer, Name Calling: Identifying Stigma and the 'Civil Union'/'Marriage' Distinction, 41 Conn. L.. Rev. 63 (July 2009)


Carlos A. Ball, INTRODUCTION TO SYMPOSIUM: UPDATING THE LGBT INTRACOMMUNITY DEBATE OVER SAME-SEX MARRIAGE, 61 Rutgers L. Rev. 493 (Spring 2009)

Judith E. Koons, Engaging the Odd Couple: Same-Sex Marriage and Evangelicalism in the Public Square, 30 Women's Law Reprtr. 255 (Winter 2009)

Lois A. Weithorn, CAN A SUBSEQUENT CHANGE IN LAW VOID A MARRIAGE THAT WAS VALID AT ITS INCEPTION? CONSIDERING THE LEGAL EFFECT OF PROPOSITION 8 ON CALIFORNIA'S EXISTING SAME-SEX MARRIAGES, 60 Hastings L.J. 1063 (May 2009)

Tun Ying, Crying Wolf?: In re Marriage Cases and Charges of Judicial Activism, 14 NEXUS A JOURNAL OF OPINION 45 (2009) [Symposium].


Ronald Steiner, Understanding the Prop 8 Litigation: The Scope of Direct Democracy and Role of Judicial Scrutiny, 14 NEXUS A JOURNAL OF OPINION 81 (2009) [Symposium].


Robin Fretwell Wilson, Same-Sex Marriage and Religious Liberty: Life After Prop 8, 14 NEXUS A JOURNAL OF OPINION 101 (2009) [Symposium].


Jeff Redding, *Proposition 8 and the Future of American Same-Sex Marriage Activism*, 14 Nexus 113 (2009) (posted 06/05/09)

Lesbian Lawyers on the Front, 19 Curve Magazine No. 5, 49 (Jun. 2009) (profiling lesbian lawyers Jenny Pizer and Kate Kendell) (online text not available as of 6/4/09)


Richard Salas, *In re Marriage Cases: the fundamental right to marry and equal protection under the California Constitution and the effects of Proposition 8*, 36 Hast. Const. L.Q. 545


Catherine Jean Archibald, *De-Clothing Sex-Based Classifications — Same-Sex Marriage is Just the Beginning: Achieving Formal Sex Equality in the Modern Era*, 36 *Northern Kentucky L. Rev.* 1 (2009)


Laura Reidel, Religious Opposition to Same-Sex Marriage in Canada: Limits to Multiculturalism, 10 *Human Rights Review* 261 (June 2009)


Should California exit the marriage business? As the high court grapples with Prop 8, some wonder if government should stop uniting everyone. Laura Ernde. The Los Angeles Daily Journal 122.59 (March 31, 2009): p1(2).


III. Law review articles published in 2008

New: Judith A. Young, Same-Sex Marriage In California: After Proposition 8 Passed and Before the California Supreme Court Decision on the Challenge to Proposition 8, 36 Lincoln L. Rev. 131 (2008-09)
Marc R. Poirier, Gender, Place, Discursive Space: Where is Same-Sex Marriage?, 3 Fl.Internat'l Univ. L. Rev.307 (2008)
Matthew W. Clark, The Gospel according to the state: an analysis of Massachusetts adoption laws and the closing of Catholic Charities adoption services (NOTES), 41 Suffolk Univ. L. Rev. 871 (Fall 2008)


State constitutional law - same-sex relations - Supreme Court of Michigan holds that public employers may not provide healthcare benefits to same-sex domestic partners of employees. *Harvard Law Review* 122.4 (Feb 2009): p1263(8).


The cultural property claim within the same-sex marriage controversy. Marc R. Poirier. *Columbia Journal of Gender and Law* 17.3 (Fall 2008): p343(76).

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**Tennessee Journal of Law & Policy**

Volume 5, Number 1, Fall 2008

**DUE PROCESS AND EQUAL PROTECTION: A CONSTITUTIONAL APPROACH TO SAME-SEX MARRIAGE**

Ashley Musselman

**South Texas Law Review**

Volume 50, Number 1, Fall 2008

- SYMPOSIUM: GAY MARRIAGE IN THE CONSERVATIVE MOVEMENT
- ARTICLES
- NOT WHETHER BUT HOW: GAY MARRIAGE AND THE REVIVAL OF BURKEAN CONSERVATISM
  
  Jonathan Rauch
  
  p.1

- CAN THE GOVERNMENT PROHIBIT GAY MARRIAGE?
  
  Jesse H. Choper & John C. Yoo
  
  p.15
· MARRIAGE AND PRACTICAL KNOWLEDGE
  Robert F. Nagel
  p.37

· THREE LIBERAL—BUT MISTAKEN—ARGUMENTS FOR SAME-SEX MARRIAGE
  Gerard V. Bradley
  p.45

· LOVE HAS NOTHING TO DO WITH IT
  Charles Murray
  p.77

· SAME-SEX MARRIAGE: UNCONSERVATIVE IN PURPOSE, IN APPLICATION, AND IN RESULT
  David Frum
  p.85

· TRANSCRIPTS
  · A TRADITIONALIST CASE FOR GAY MARRIAGE
    Dale Carpenter
    p.93

· SYMPOSIUM QUESTION AND ANSWER
  p.105

Brigham Young University Journal of Public Law
Volume 23, Number 1, 2008
homepage other issues

· ARTICLES
  · The Search for Moral Neutrality in Same-Sex Marriage Decisions
    Adam J. MacLeod
    p.1