

COURSE SYLLABUS

POLI 3426 – Sex and the State

**Department of Political Science
Dalhousie University**

Class Time: Wednesday 1:30-4:30

Location: Tupper Theatre

Instructor: Dr. Margaret Denike

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Office Hours: Monday 10-12, or by appointment

Teaching Asst.: Katie Harper

COURSE DESCRIPTION

With a focus sexual minorities, this course will consider the role of the state and other institutions in the social, moral and legal production and regulation of sex and gender, particularly in Canada and the US. It will begin with a brief historical overview of the relation between the church and the state in the development of prescriptions for sexual conduct, and in the refinement of laws and policies that have been implicated in sex- and gender-based discrimination and normative formations over the years. It will also examine strategies and initiatives of sexual minorities for social and legal reform, particularly in the past century. We will also address a range of contemporary topics such as the initiatives –and the implications– of engaging or advancing equality human rights in courts and legislatures; the politics of relationship recognition; same-sex marriage and appeals to religious freedom; and the role of the state in regulating sex and gender identity.

REQUIRED TEXTS:

- The course materials are available electronically, either through web links to library or internet resources (provided on the syllabus), or in PDF format through the BLS system.

ASSIGNMENT PROFILE

Class Participation 10%

Essay 1 30% (2000 words max; due Feb 6)

Essay 30% (2000 words max; due Mar 5)
Test 30% (March 26)

GRADING PROFILE

A+ = 88%+	B+ = 77- 79%	C+ = 67- 69%	D = 50-59%
A = 84 - 87%	B = 74 - 76%	C = 64 - 66%	F = 0 - 49%
A- = 80-83%	B- = 70 - 73%	C- = 60 - 63%	

CLASS PARTICIPATION

The preparation and participation of each and every student in the class discussions will determine the success of the course. Students are expected to attend every class, and to have completed the readings and given themselves time to think about them in advance of each class. The participation grade will be based on attendance; the completion of readings and preparation for discussion; and on the active, respectful participation in every seminar. Students are required to come to class with the reading for that week in hand, or with notes on the readings, and to be ready to use the reading or notes as a reference when answering questions about them. In advance of the classes, some discussion questions or other directions will at times be circulated by email, and students are expected to be prepared for these discussions and/or exercises.

TEST

The test will be held in class, and it will be based on the material covered in the readings and lectures. Additional details on the format of the test will be provided a week before it takes place.

WRITING ASSIGNMENTS

This course requires two papers, both equally weighted. The point of these essays is for you to show your comprehension of **a wide range of readings** on the course syllabus and of the theoretical and analytical approaches that are brought to the topics and issues covered in this course. The following provides two sets of topics and guidelines for your essays, which you can do in either order, and with whatever creative approach or twist you see fit.

You are expected to include in your discussion a consideration of both a) sex or gender and b) social and/or public policy and/or theoretical approaches to the regulation of sex.

For both essays, you are free to choose any topic that is listed at any point on the course syllabus, covered within the readings, or discussed in class. The topic you choose must be discussed by at least one of the authors on your syllabus.

In developing both of your papers, you are required to use *at least* four of the readings from the reading list (to demonstrate your coverage and understanding of a wide range of readings for this course) *and* to supplement your discussion and analysis with a selection additional *scholarly* resources (ideally peer-reviewed scholarly journals and contemporary texts).

Topic 1: Sex/Gender Analysis and Relations of Power and Difference

One of the objectives of this essay is for you to demonstrate, expand, and apply a gender analysis to this topic. For example, in discussing and/or conducting an analysis of your topic (be it polygamy; sexual identity; anti-gay violence; religious freedom and cultural practices; sexual morality; sex-change surgery, or whatever...), you are asked to elucidate how the sex and/or gender identity (or, for that matter, sexual difference, gender equality/inequality; or the like) are *produced*/effected/impacted/structured, etc. by laws, policies or state-sanctioned practices. (Consider, for example, what certain rulings, laws or policies on marriage, property ownership; gender identity, citizenship, etc. have do with gender norms, and the shape that they take in contemporary Canadian or US societies).

Alternatively, you may simply conduct a gender analysis of a selected author/theorist/philosopher. Identify or define and clarify this approach. Bring this approach to your chosen topic.

Topic 2: Interrelating and Assembling Sexual Minorities

As you can see from the syllabus, throughout this course, we will be examining a wide range of issues and debates that relate to specific sexual minorities (sex/gender identity categories such as women, transgender, gays and lesbians, and intersexed folks). One could argue that our understanding of the issues that relate to any one of these groups --be it subjection to discrimination, violence, exclusion, degradation, stereotyping, etc.-- is related to that of others, and that an understand of misogynist views of women may explain a lot about homophobia or even the medical treatment of intersexed people.

To provide your paper with a focus, choose a topic covered in this course and, in light of this topic, examine the intersections and/or points of relation between two or more of these sexual minorities.

Missed Assignments

All assignments must be submitted by the deadline, and the exam written on the date that it is scheduled class.

If you think you will not be able to submit your essay in time (because of illness) you are required to contact your instructor **IN ADVANCE** of the class, and **NOT** on the due date for the assignment, and provide appropriate medical documentation. Late essays will be penalized at 3% per day.

Plagiarism

All students in this class are required to read and understand the policies on plagiarism and academic honesty as outlined in the Policies and Student Resources sections found at www.plagiarism.dal.ca.

Ignorance of such policies is no excuse for violations.

Dalhousie University subscribes to Turnitin.com, a computer-based service which checks for originality in submitted papers. Any paper submitted by a student at Dalhousie University may be checked for originality to confirm that the student has not plagiarized from other sources.

Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the university, or even to the revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived.

At Dalhousie there are University Regulations which deal with plagiarism and, prior to submitting any paper in a course, students should read the Policy on Intellectual Honesty contained in the Calendar or on the Dalhousie website. The Dalhousie Senate has affirmed the right of any instructor to require that student papers be submitted in both written and electronic format, and to submit any paper to a check such as that performed by Turnitin.com.

As a student, you are required to keep an electronic copy of any paper you submit, and the course instructor may require you to submit that electronic copy on demand. Copies of student papers checked by this process will be retained by Turnitin.com.

Schedule of Weekly Topics and Readings

Weeks and Topics

1. Jan 9

Introduction and Overview of Course Topics and Themes Definition of Terms; Conducting Gender Analyses

- “Glossary of Feminist Terms,” available at:
<http://www.dc-sds.org/files/glossary.pdf>
- Snapshots ...In the News:
CBC New Saskatchewan, Jan. 10, 2010 (“Marriage Officials Can’t Refuse Gays”):
<http://www.cbc.ca/video/player.html?category=News&zone=canada&site=cbc.news.ca&clipid=1735394710>
- Women of Bountiful BC and Polygamy: 2006 press conference:
<http://www.youtube.com/watch?v=ZhHQzXhKG58>
- Neal Hall and Jonathan Fowlie, “BC Supreme Court Upholds Polygamy Law”
Vancouver Sun, Nov, 2001, available at:
<http://www.vancouversun.com/life/Supreme+Court+upholds+polygamy/5755787/story.html>
- Ezra Levant Interviews Bill Whatcott:
<http://www.youtube.com/watch?v=4k7wTD2Edm8>
- CBC Mark Kelley and Chris Schafer discuss Bill Whatcott
<http://www.youtube.com/watch?v=M46q-ELAMDC>
- A Great, brief press Conference on Bedford decision:
<http://www.youtube.com/watch?v=B6OKpdPs7sg>
- The Straight Dope: Terri-Jean Bedford – Ontario Court Decision 2010 finding solicitation laws to be unconstitutional:
http://www.youtube.com/watch?v=VsYzkz5_rDo
- Alan Young (legal counsel for Bedford), explaining the case and related politics:
<http://www.youtube.com/watch?v=B6OKpdPs7sg>

2. Jan 16

Regulating Sex: Heteronormativity and the Public Domain Sexuality and Early Christianity: A Genealogy

- Lauren Berlant and Michael Warner, “Public Sex,” *Critical Inquiry* 4:2, pp. 547-566
- Michel Foucault, “The Repressive Hypothesis,” chapter two in his book, *History of Sexuality: An Introduction*. Trans. Robert Hurley. NY: Vintage, pp. 135-159.
- Michel Foucault, “Introduction,” *Herculine Barbin: Being the Recently Discovered Memoires of a Nineteenth Century French Hermaphrodite*. Trans. Richard McDougall. NY: Pantheon, pp. Vii-xvii.
- Merry Wiesner-Hanks. 2000. “Christianity to 1500,” *Christianity and Sexuality in*

the Early Modern World: Regulating Desire, Reforming Practice. NY: Routledge, pp. 34-57.

Reference:

- Michel Foucault, "End of the Monarchy of Sex," *Foucault Live*, NY: Semiotexte, 1989. 137-156.
- Michel Foucault, "Scientia Sexualis," in *History of Sexuality: An Introduction*. Trans. Robert Hurley. NY: Vintage, (selections)
Sandra Lee Bartky, "Femininity and the Modernization of Patriarchal Power," in Irene Diamond and Lee Quinby, eds. *Feminism and Foucault*, Boston: Northeastern University Press, 1988, pp. 61-86. (BLS)
- Ann Laura Stoler, *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things*. Durham: Duke University Press, 1995 (a recommended text re: applications of Foucault's genealogy)
- Andrew N. Sharpe. 2010. *Foucault's Monsters and the Challenge of the Law*. NY: Routledge.
- Ladelle McWhorter, Chapter 2: "A Genealogy of Modern Racism, Part 1: The White Man Cometh" of her Book, *Racism and Sexual Oppression in Anglo-America: A Genealogy*. Bloomington: Indiana University Press, 2009, pp. 63-96.
- James Brundage, *Law, Sex, and Christian Society in Medieval Europe*. Chicago: University of Chicago Press, pp. 51-75.
- John Boswell, "Rome: The Foundation," in *Christianity, Social Tolerance and Homosexuality*. Chicago: University of Chicago Press, pp. 61-87.
- The Virgin Daughters (selected scenes), available at TopDocumentaryFilms.com at: <http://topdocumentaryfilms.com/virgin-daughters/>
- Video resource: Trailer for 'Generation M':
<http://www.youtube.com/watch?v=EZcYrF549BI>

3. Jan 23

**Historical Snapshots: Early Constitutional Challenges to Sex Discrimination
Formal Equality Claims: Engaging with Courts and Legislatures**

- Stanton, Elizabeth Cady. 1990 [1860]. "Speech Before the Legislature," in Sheila Ruth, ed. *Issues in Feminism: An Introduction to Women's Studies*. 4th edition. Toronto: Mayfield Publishing, pp. 522-526.
- Anthony, Susan B. 1990 [1873]. "Constitutional Argument," in Sheila Ruth, ed. *Issues in Feminism: An Introduction to Women's Studies*. 4th edition. Toronto: Mayfield Publishing, pp. 527-531.
- M. J. Mossman. 1998. "The Paradox of Feminist Engagement with the Law" from Nancy Mandell, ed. *Feminist Issues: Race, Class and Sexuality*. 2nd edition. Scarborough: Prentice Hall, pp. 180-207.

Reference:

- Stanton, Elizabeth Cady. "Declarations of Sentiments and Resolutions," in Sheila Ruth, ed. *Issues in Feminism: An Introduction to Women's Studies*. 4th edition.

- Toronto: Mayfield Publishing, pp. 517-519
- Truth, Sojourner. 1990 [1851]. “Ain’t I a Woman,” in Sheila Ruth, ed. *Issues in Feminism: An Introduction to Women’s Studies*. 4th edition. Toronto: Mayfield Publishing, pp. 520-521
 - Film clip: Constitute! (available through a link at: <http://constitute.ca/the-film/>)
 - Film Clip: *Not for Ourselves Alone*
 - Part 1, <http://www.youtube.com/watch?feature=endscreen&NR=1&v=YNOznB9NV-Y>
 -
 - Segment 2: http://www.youtube.com/watch?v=W_19Z5ERPrG&feature=related

4. Jan. 30

GLBT Legal History Rights Claims and Resistance to Sexual Minorities International Human Rights

- CBC Same-Sex Rights Canada Timeline. Available at: http://www.cbc.ca/news/background/samesexrights/timeline_canada.html
- Doug Saunders. 2010. “Out at the UN” (International Lesbian and Gay Association). Available at: <http://ilga.org/ilga/en/article/mgOwpcx1HB>
- Walker, Kristen. 2000. “International Law Weekend Proceedings: Evolving Human Rights Norms around Sexuality,” 6 *ILSA Journal of International and Comparative Law*, pp. 342-353. Available at: <http://www.heinonline.org/HOL/Page?handle=hein.journals/ilsaic6&id=353&type=text&collection=journals>
- The International Commission of Jurists, *Sexual Orientation, Gender Identity, and Justice*, Introduction, pp. 1-14. Report available at: <http://www.icj.org/dwn/database/Sexual%20Orientation,%20Gender%20Identity%20and%20Justice-%20A%20Comparative%20Law%20Casebook%5B1%5D.pdf>

Additional Reference

- Denike, M. “Religion, Rights and Relationships: the Dream of Relational Equality” *Hypatia: A Journal of Feminist Philosophy*. Vol. 22, no. 1 (Winter 2007), pp. 71-91.
- Nancy Polikoff. 2003. “Ending Marriage as We Know It,” *Hofstra Law Review* 32, p. 201-233. Available at: <http://www.heinonline.org/HOL/Page?handle=hein.journals/hoflr32&id=1&size=2&collection=journals&index=journals/hoflr>
- Maria Lugones, “Heterosexualism and the Colonial/Modern Gender System,” *Hypatia*, Vol. 22, No. 1 (Winter 2007), pp. 186-209. Available through Project Muse database at: <http://muse.jhu.edu/journals/hypatia/v022/22.1lugones.pdf>
- The View: “Pray the gay away,” Available at: <http://www.youtube.com/watch?NR=1&v=HIMKeSBwTHc&feature=endscreen>

- Janet Jackobsen and Ann Pellegrini. 2004. “What’s Wrong with Tolerance?,” in *Love the Sin: Sexual Regulation and the Limits of Religious Tolerance*. Boston: Beacon Press, pp. 45-73.

5. Feb 6

Intersexuality and the “One True Sex”? On the Medical and Political Construction of Sex Sexual Citizenship

- Butler, Judith. 2001. “Doing Justice to Someone: Sex Reassignment and Allegories of Transsexuality.” *GLQ* 7:4, pp. 621-636.
- Dean Spade. 2006. “Mutilating Gender,” in Susan Stryker and Stephen Whittle, eds., *The Transgender Studies Reader*. NY: Routledge.
- Jesse Ellison. 2012. “Castor Semenya and the IOC’s Olympic Gender-bender,” *The Daily Beast*, July 26, 2012. At: <http://www.thedailybeast.com/articles/2012/07/26/caster-semenya-and-the-ioc-s-olympics-gender-bender.html>
- Ellen K. Feder. 2009. “Imperatives of Normality: From ‘Intersex to ‘Disorders of Development,” *GLQ: A Journal of Lesbian and gay Studies*, 15:2, pp. 225-247 (available through project muse)
- Kessler, Suzanne. 2000. “Introduction,” *Lessons from the Intersexed*. New Brunswick: Rutgers University Press, p. 1-11.

Additional References

- Kessler, Suzanne. 2000. “The Medical Construction of Gender” *Lessons from the Intersexed*. New Brunswick: Rutgers University Press, p. 12-32.
- Elizabeth Grosz,.. On the Irreducibility of sexual difference
- Thomas Laqueur. 1990. “Discovery of the Sexes,” in *Making Sex: Body and Gender from the Greeks to Freud*. Cambridge: Harvard University Press, pp. 149-192.

6. Feb. 13

States’ Bodies: International Human Rights: Strategies, Mechanisms, Practices

- UNHCHR International Human Rights Law: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx> (please check out the main site of the UN High Commission for Human Rights, including this particular tab –on International Law—and all of the tabs to the left of this page that list international human rights mechanisms)
- Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). Available on the UNHCHR website
- Linda MacDonald and Jean Sarson, **[A Shadow Report: Canada Fails to Establish Non-State Actor Torture as a Specific and Distinct Criminal Human Rights Violation.](#)**
- The **Breakthrough**

<http://nonstatetorture.org/files/3313/4141/8179/GEARSharingBreakthroughs.pdf> (a" very brief global email outlining the making of herstory regarding the genderization of torture by non-state actors")

- Jean Sarson and Linda MacDonald. 2009., "Defining Torture by Non-State Actors in the Canadian Private Sphere," pp. 29-31 in Canadian Centre for Victims of Torture, *First Light: Genocide, War Crimes and Crimes against Humanity*
<http://ccvt.org/wp-content/uploads/2011/08/firstlight2009.pdf>

7. Feb. 20

What Happens to Women and What Warrants Asylum? Refugee Status and Politics of Sex and Citizenship

- Constance McIntosh, "Domestic Violence and Gender-Based Persecution," *Refuge*, Vol 6, no. 22.
- Catharine MacKinnon, "Rape Genocide and Women's Human Rights"

Additional Resources:

- *Convention on Refugees*
- Susan Berger, "Production and Reproduction of Gender and Sexuality in Legal Discourses of Asylum in the United States," *Signs* 34:3 (Spring 2009), pp. 659-685
- Sonja K. Katyal, "The Dissident Citizen," *57 UCLA Law Review* (2010) pp. 1415-1476.
- Documentary on Uganda and Fundamentalist Intervention in Anti-Gay Legislation

8. Feb. 27 Spring Break

9. Mar 6

Reproductive Technologies: The Politics of Life? Surrogacy and the Limits of Criminalization

- Sonya Norris. 2006. "Surrogacy, and Egg and Sperm Donation," Ottawa: Parliamentary Information and Research Service.
- Karen Busby and Delaney Dunn. 2010. "Revisiting the Handmaid's Tale: Feminist theory Meets Empirical Research on Surrogate Mothers," *Canadian Journal of Family Law* 26, pp .13-93.
- National Association for Women and the Law, Final Report, Assisted Human Rights Project," 2009(?)
- Campbell, Angela. "Defining a policy rationale for the criminal regulation of reproductive technologies. " *Health Law Review.* 11.1 (Winter 2002): 26(6).

10. Mar 13

What's Wrong With Polygamy? Anatomy of the Reference Hearings

- Kim Brooks. 2010. "Polygamy; Introduction" in Kim Brooks and Carissima

- Mathen, eds, *Women, Law and Equality: A Discussion Guide*. Toronto: Irwin.
- Calhoun, Cheshire. 2010, “Who’s Afraid of Polygamous Marriage? Lessons For Same-Sex marriage Advocacy From the History of Polygamy,” in Kim Brooks and Carissima Mathen, eds, *Women, Law and Equality: A Discussion Guide*. Toronto: Irwin.
 - Statement of the BC Attorney General . 2010.
<http://stoppolygamyincanada.files.wordpress.com/2010/11/statement-of-agbc.pdf>
 - Decision of the BC Supreme Court (Nov. 2011): <http://www.courts.gov.bc.ca/jdb-txt/SC/11/15/2011BCSC1588.htm>: you are not expected to read all of this, but please glance at it to get a sense of what a reference case might look like. Read the first section (paragraphs 1-32) and the concluding disposition (paragraphs 1358-1367)

Reference:

- Baines, Beverley. 2010. “Polygamy’s Challenge: Women, Religion and the Post-Liberal State,” in Kim Brooks and Carissima Mathen, eds, *Women, Law and Equality: A Discussion Guide*. Toronto: Irwin.
- BC Reference Hearing. 2010. Background. Update on the BC Supreme Court Reference Hearings.
<http://stoppolygamyincanada.files.wordpress.com/2010/09/chief-justice-bauman-re-reference-re-criminal-code-s-293-09-24.pdf>
- Martha M. Ertman, “They Ain’t Whites, They’re Mormons: An Illustrated History of Polygamy as Race Treason,” University of Maryland School of law Legal Studies Research paper No. 2008-37 (October 2008).
Available at: <http://ssrn.com/abstract=1270023>

11. Mar. 20

**Law and Sexual Morality: Obscenity and Harm
Swinging: Challenging Heteronormative Sexuality**

- *R. v. Labaye* [2005] 3 SCR 728. Available at:
<http://scc.lexum.umontreal.ca/en/2005/2005scc80/2005scc80.pdf>
- James R. Robertson, “Obscenity: The Supreme Court Decision,” Available at:
<http://publications.gc.ca/Collection-R/LoPBdP/BP/bp289-e.htm>.
- Craig, Elaine.2009. “The Political Morality of Public Sex,” *McGill Law Journal*. 54: 325. Available at:
<http://web.ebscohost.com/ehost/pdfviewer/pdfviewer?hid=104&sid=6bd92209-dfa9-41c2-9458-593da6246f0d%40sessionmgr114&vid=4>

Reference:

- Devlin, Patrick *The Enforcement of Morals* (Oxford: Oxford University Press, 1965) (excerpt)
- Dworkin, Ronald. “Lord Devlin and the Enforcement of Morals” (1965) 75 *Yale LJ* 986 Available at:
<http://www.jstor.org/stable/pdfplus/794893.pdf?acceptTC=true>
- Resource: Martha Nussbaum on the Politics of Disgust:
http://www.youtube.com/watch?v=LWCe_b_8ZIM

12. Mar 27 Test

**13. Transgender Subjects, Identity Politics, and Rights Claims
Inclusion, Self-Determination and the Architecture of Trans Jurisprudence**

- Talia Mae Bettcher. 2007. "Evil Deceivers and make Believers: On Transphobic Violence and the Politics of Illusion," *Hypatia* 22:3, pp. 43-63.
- Carissima Mathen. 2004. "Transgendered Persons and Feminist Strategy," *Canadian Journal of Women and the Law*. Vol. 16, pp. 291-316.
- Sheila Jeffreys, "They know it when they see it: The UK Gender Recognition Act 2004. *British Journal of Politics*, 2008, vol 10 (Ebsco Host) 328-345:
- <http://web.ebscohost.com.ezproxy.library.dal.ca/ehost/pdfviewer/pdfviewer?vid=8&hid=110&sid=de098755-d98c-41be-88c4-474badc8e706%40sessionmgr113>

Reference

- *Vancouver Rape Relief Society v. Nixon* [2005] BCJ No. 2647.
- Lori Chambers, "Unprincipled Exclusions: Feminist Theory, Transgender Jurisprudence and Kimberley Nixon," *Canadian Journal of Women and the Law*. 19:2, pp. 305-334.
- Katrina Rose. 2004. "The Proof is in the History," *Deakin Law Review* 9:2, pp. 400-459.
- Andrew Sharpe. 2006. "From Functionality to Aesthetics: The Architecture of Transgender Jurisprudence," in Susan Stryker and Stephen Whittle, eds., *The Transgender Studies Reader*. NY: Routledge, 2006, pp. 621-631.

14. Apr 3

Configuring the Future: Going Gaga?

- Judith Halberstam, *Gaga Feminism*, selections.