

Abstract

Queer rights are equally dependent on progressive legal decisions as they are on cultural developments. In the U.S., the Supreme Court's pro-LGBTQ+ landmark cases *Obergefell v. Hodges* (2015) and *Bostock v. Clayton County* (2020) have introduced the fundamental right to marry, and employment discrimination protection for sexual minorities. On a state level, however, the proposal and introduction of various forms of anti-queer legislation has been growing with record numbers of anti-LGBTQ+ laws introduced since 2020. This seemingly mismatch corresponds to an increasing politicization and polarization of minority rights in cultural and constitutional discourses.

The U.S. Supreme Court has the power to address discriminatory regulations concerning sexual orientation with a constitutional tool, derived from the Fourteenth Amendment's Equal Protection Clause: suspect classification. Classifying sexual orientation as a legal category against which any kind of discrimination is suspect would effectively render anti-queer legislation unconstitutional, and signal the Court's willingness to challenge existing legal hierarchies. This, in turn, would influence sociocultural orders acting analogous to legal ones as I argue in this book.

Cultural narratives such as the guarantee of legal equality for everyone, and constitutional imaginaries that marriage equality is indicative of a tantamount status for queer couples contribute to a marred perspective on LGBTQ+ rights claims. Post-*Obergefell* and -*Bostock* demands for equal rights are thus met with a lack of understanding by the general public: Why would the LGBTQ+ community need *more* equality if there already are these fundamental legal victories? This view mistakenly equates *de jure* equality gains with *de facto* legal, social, and cultural equality, leading to an affectively felt lifted responsibility to stand in for more rights.

This book analyzes how cultural narratives and constitutional imaginaries work together by examining some of the twenty-first century's most important

U.S. Supreme Court decisions for LGBTQ+ individuals. I argue for a heightened constitutional protection for sexual orientation in the U.S. ('suspect classification') by deconstructing legal categories, processes of categorization, and cultural inkings of law in connection to sexual orientation. In this analysis, law and culture are mutually dependent on each other.

Shedding light on the entanglements of law and culture, this book also advocates for a more prominent place of queer cultural analyses of law. The affective power of cultural-constitutional imaginaries supports the hypothesis that constitutional protections for LGBTQ+ people have a higher cultural-legal authority than legislative acts. Calling for a strengthening of sensibilities for cultural-legal entanglements, I conduct a cultural analysis of law and establish what I call a queer hermeneutics of law.