

What are the Civil Rights issues that affect women and what standards has the Court applied to gender based laws.

Briefly describe the history of same sex marriage as a political issue and explain how Obergefell v. Hodges finally made same sex marriage legal in all states.

## **WOMEN'S RIGHTS - AM19**

This topic is already covered in “page 343-345,360-361”, however there is some parts to add:

1. AM19 text: The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.
2. In 1963, the **Equal Pay Act** was passed, which required employers to pay women and men the same amount of money for the same job (although it was still legal to not give women the job in the first place). The CRA64 then closed that loophole, barring discrimination in employment based on sex, amongst a number of other factors.
3. This was coupled with an author named B. Friedan, urging women to speak their minds, apply for nontraditional jobs and to push for equality in the public sphere. She ended up forming the interest group **National Organization for Women (NOW)**.
4. KEY TERM: around the 1970s, there were a number of laws that were supposed to protect women’s right in education. Groups pressured the court to apply **strict scrutiny**, the procedure of carving out a law that fits within all the parameters without violating any laws. In this case, the scrutiny was to be applied to laws that treated the two sexes differently. **Title 9** of the 1972 CRA64 Amendments, which is covered in the last notesheet, is an example of this. This title is located in 362-365.
5. An attempt at amending the Constitution: sometime in the late 1960s, the **Equal Rights Amendment** was proposed to declare complete equality between the sexes. It passed both chambers and went onto states for ratification, but it eventually expired. This is an example of a political structure being used to further an interest.

## **WOMEN’S RIGHTS - ROE V. WADE**

A powerpoint presentation about this court case is available in the same directory. In summary, Roe sued Wade over a TX law that outlawed abortions, saying the law violated the Due Process Clause’s privacy protection, amongst other civil liberties. The court ruled 7-2 in a landmark case in favor of Roe, making it illegal to outlaw abortion.

## **LGBTQ RIGHTS**

Sodomy can mean any non pro-creative sexual activity, and laws outlawing this and thus same sex sexual activities were commonplace. Furthermore, any homosexual behavior was punishable at one point.

In **Lawrence v. TX** of 2003, the SC shot down a law that barred same sex intercourse, under the EQ protection clause. This is another example of the EQ protection clause being used to argue something.

### **LGBTQ RIGHTS - MILITARY**

As is with many minority groups, the military has been a spot of change for LGBTQ people. At one point, being an open homosexual in the military was forbidden, but this all changed with the compromise that Bill Clinton and Congress at the time passed: one side wanted to lift the ban, the other not, so they made this compromise: **DON'T ASK, DON'T TELL**. This essentially means "I can't ask if you are a homosexual" but also meant that "no homosexuals allowed" was still a rule, meaning that gays could serve in the military, just not openly.

This was taken down in 2010 by Obama.

### **LGBTQ RIGHTS - MARRIAGE (the book is all out of order).**

It is well known that at one point same sex marriage was forbidden. However, in 1971, the Minnesota Supreme Court heard a case involving a state's refusal to issue a marriage license to a same sex couple. The question was simple: should the state accept same-sex marriage as marriage? Should the state accept same-sex relationships?

This question appeared to be up to the states, with some saying YES and some NO. In Vermont, they answered YES, passing the **Civil Unions Law**, which stated that same sex couples had the same protections and rights as not same sex couples. It did not however see this as marriage.

In MA, they also answered YES, declaring the old definition of marriage invalid, which would eventually lead to them accepting SS marriage.

At some point in time, HI's supreme court ruled it legal to have same sex marriage. However, the other states were not very fond of this idea and thus set out to make laws that would prevent this from happening. National lawmakers ended up passing the **1996 Defense of Marriage Act**, which

- defined marriage as hetero only nationwide
- that states would not have to accept same sex marriage, even if another state did (sounds like a violation, one state has it and the other doesn't)
- forbade the federal government's various social services from accepting same sex marriage (example would be Social Security)

By 2000, 30 states had made laws explicitly prohibiting acceptance of same-sex marriage. This, as is very visible, was horseshit: not only was it homophobic but it also barred same sex couples from the benefits and services that they would have otherwise gotten were they in a hetero relationship.

By 2011, public opinion has shifted, and some to many states had laws in place offering various protections. In a case heard by the SC, someone who had to pay up their inheritance taxes as a result of their same sex marriage not receiving federal protection had the case ruled in their favor: the DOMA was in fact horseshit created a disadvantage to a certain population.

In 2015, after another series of cases, it was time to hear **Obergefell v. Hodges**. The court heard two questions: does the EQPC require a state to issue a marriage license to people of the same sex? AND does the EQPC require a state to accept a marriage between two people of the same sex when their marriage was done lawfully out of state? (if the first question is YES, then the second question becomes moot, which is basically “N/A doesn’t apply here”). The court’s decision was YES: barring same sex marriage did violate the EQPC.

Of course, people are full of horse shit, so they challenged it like with all major rulings from the SC. A bunch of state anti LGBTQ bills were pushed through their respective legislative bodies, although most of them did not pass. This is an example of how people can refuse to uphold SC rulings.

### **LGBTQ RIGHTS - 2020 CASE**

The CRA64 did not include protections for sexual orientation and gender identity. These protections were taken up in 22 states + D.C. as state level discrimination, however, these were seen as unequal as some states had protections and some did not.

The 2020 case **Bostock v. Clayton County** upheld the “workplace discrimination is illegal” under CRA64.

Finally, public opinion appears to be changing in favor of LGBTQ rights which is good, and this will for sure influence policymaking and future rulings by justices.