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Book Review: Sex, Sexuality, Law, And (In)Justice

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***Sex, Sexuality, Law, And (In)Justice*, by Henry F. Fradella and Jennifer M. Sumner. New York, NY: Routledge 2016.**

Whenever I have had the opportunity to teach an LGBTQIA+-themed course or speak to students on any topic relevant to sexual minorities, I always point out that one cannot discuss these topics and their attendant issues, particularly in the context of American society, without accounting for two important phenomena: religious doctrine and the law. After exploring Fradella and Sumner's expansive anthology, *Sex, Sexuality, Law, And (In)Justice*, I will certainly place even more emphasis in my advice to students on the importance of the law in contextualizing our study of LGBTQIA+ subject matter, for it is through the law—it's traditions, it's inertia, it's innovations, and it's evolution—that we find the religio-cultural dimensions of American attitudes toward sexual minorities—indeed to so much about sex itself—most crucially reflected.

As I read *Sex, Sexuality, Law, And (In)Justice*, I found myself wishing that this collection had been available for the LGBTQIA+-themed courses I have taught over the years, and I certainly wish it had been available to complement my own research and writing. The selections it contains represent both a breadth and depth that is at once practical while, more importantly, encouraging the reader to “dig deeper” and learn more about the history, the evolution, and the intricacies of American law as they relate to *Sex, Sexuality . . . And (In)Justice*.

Before I discuss some of the content especially worthy of mention, I would like to point out several features of the collection's organization that makes it useful both for students as well as for scholars, researchers, and interested lay-persons who may not have an extensive background in study of the law, as well as to those who are unfamiliar with current understandings of sexuality, gender, and gender and sexual identity. First, each chapter begins with a brief, real-world case study—high-profile in some instances—relevant to the content of the chapter that lays bare the complex issues at play in each scenario. These case studies function as an excellent schema activation exercise, as well as a topic for discussion which invites readers to apply what they know—and indeed what they feel—to the set of well-thought-out questions that follows each case study. In addition, the “Learning Objectives” immediately following the opening case study and questions are particularly helpful, and not only in terms of preparing the reader for what is to come in the chapter. Readers for whom a particular chapter's content is new, and especially so within the context of law, will find the Learning Objectives helpful guideposts to which to refer throughout the reading, and especially in those many instances when one

might feel overwhelmed with new information, however fascinating it is and however engagingly it is presented.

Each chapter also contains a series of “Boxes” which provide further illustration of concepts and/or application of them. These provide helpful exercises for considering new information, and in the classroom context provide wonderful opportunities for engaging discussion. Similarly, the “Law in Action” sections within each chapter provide real-world examples of the concepts and complexities discussed in the text. For example, in Chapter 7—“The Regulation of Sex Work and Sex Workers”—the “Law in Action” box on page 228—“Interpreting The Law of Pandering”—employs an actual case to illustrate the difficulties of applying the law to behaviors and actions that may be interpreted differently by different observers and actors. After presenting the outcome of the case, the editors and authors provide questions challenging readers and students to consider how they would have made the hard decisions and interpretations in each case. By incorporating actual cases that include dilemmas of interpretation and application, the editors and authors present law not as a fixed set of clear-cut rules to be followed and sentences to be meted out, but as an organic, evolving part of the life of our society, and the living expression of our collective dialogue about—in the context of this volume—one of the most sensitive areas of our individual and communal lives.

Finally, each chapter includes at the end a helpful glossary of key terminology used in the chapter, as well as a very useful—and indeed motivating—list of suggestions for “Further Reading.”

The volume’s first chapter—“An Overview of Sex, Gender, and Sexuality”—is a clear and thorough introduction to key terminology and concepts important to understanding much of what follows. Chapter 1 is an outstanding introductory chapter for those new to the study of sex, gender, and sexuality, while at the same time may serve as a much-needed refresher for those who have not had the opportunity to keep up with the latest in terminology and concepts. For any reader, Chapter 1—as well as Chapter 2, “Historical Perspectives”—provides a firm foundation for the chapters that follow. The opening two chapters are followed by two valuable chapters examining the Fourteenth Amendment in the context of the subject matter of the book. Chapter 3, “Sex and the Fourteenth Amendment: Part I: Due Process of Law,” and Chapter 4, “Sex and the Fourteenth Amendment: Part II: Equal Protection of the Law,” valuably unpack the Fourteenth Amendment in terms of its historical and contemporary application to sex, gender, and sexuality. With clarity and thoroughness, Owen and Burke not only reveal the complex and evolving

relationship of the Fourteenth Amendment to issues of sex, gender, and sexuality, in the process they also reveal the complexity within the seemingly clear language of the Fourteenth Amendment, as well as the challenge faced over the decades since its ratification by jurists as they have sought to interpret and apply the Fourteenth Amendment to actual cases.

Subsequent chapters grapple with “Rape and Related Offenses,” “The Criminal Regulation of Sex Acts: The Limits of Morality and Consent,” which includes a fine discussion of the criminalization of HIV, as well as chapters on sex work and workers, obscenity and pornography, sexuality and gender within the context of marriage, sex offenders, sex while incarcerated, and victimology. Of these, Chapter 6, “The Criminal Regulation of Sex Acts: The Limits of Morality and Consent,” is particularly timely given the CDC’s recent “admission” that, for those infected with HIV, undetectable status equals non-infectious. Fradella and Grundy demonstrate that those states which persist in criminalizing HIV do so based on “science” from the first decade of the HIV pandemic, much of which has been either repudiated or otherwise made irrelevant by the safe and effective drug therapies available today. The assumptions upon which HIV criminalization rests are by today’s best practices considered nothing more than ‘80s AIDS paranoia. And yet these laws remain on the books in a number of recalcitrant states, with the inherent consequences to which they inevitably lead. Now that the CDC has officially fallen into line with best practice and knowledge concerning the implications of undetectable status worldwide—that undetectable is non-infectious—HIV criminalization has not a shred of validity upon which to stand. This reviewer is eager to know how Fradella and Grundy will integrate the CDC’s long-awaited admission into their analysis of HIV criminalization, and can only hope that a second edition of *Sex, Sexuality, Law, And (In)Justice* is in the works.

Sex, Sexuality, Law, And (in)Justice is necessarily interdisciplinary and would be useful in a variety of academic contexts, from Pre-Law and Political Science to Social Work and Counseling, and of course to any study of sex, sexuality, and gender in social and socio-historical context. This is a volume that will benefit both students and researchers, and no doubt will serve to open the eyes of many graduate-program-bound students to possibilities for academic research—especially research in the service of social justice—that they had not considered, much less known was possible.