

Gods & Governments

Fall 2004

Marriage: The *Menage-à-Trois* of Law, Religion & the State *Discussion Questions for Wednesday, September 29th*

For Wednesday's class, you must read the Massachusetts Supreme Judicial Court's (SJC) decision in *Goodridge* (in reader) as well as the two brief articles I provided in class last week. In class we will discuss the ways in which individual rights, church and state intersect in the debate over same-sex marriage. Print out these questions and write out notes or answers to them to the extent possible prior to class (some questions will require additional readings that we will distribute, read, and discuss in class). You should have no problem answering questions one through three before class.

1. What are the major issues in question in the *Goodridge* decision? How do they frame the debate? Do you agree that this is simply a matter of individual rights and equality, or is something more at stake? If there is something more, what is it?
2. How does the SJC define marriage (both in the dissent and the majority opinions)? To answer this second question, take notes as you read the opinion as to the many ways the justices describe marriage and its benefits. What other ways do people define marriage?
3. In the *Goodridge* opinion, Justice Marshall points to the historical example of interracial marriage to support her position. Does this comparison hold up? Is there a distinction to be made between interracial marriage and same-sex marriage? If you allow same-sex marriage, must the state also allow polygamy?
4. How does religious doctrine define marriage? If you are religious, try to find out how your religious institution defines it (look on the web). Is this a reasonable basis for defining *civil* marriage? Why or why not? Does the involvement of religious organizations in the debate over gay marriage violate your sense of the proper distinction between church and state (recall the end of last week's class)?
5. Currently, religious leaders may perform the solemnization of vows that make a civil marriage legal. Should this practice be abolished as a violation of church-state separation?
6. What is the future of this issue in the United States? How do you think the matter will be resolved?