



The Constitutional Underclass: Gays, Lesbians, and the Failure of Class-Based Equal Protection

Evan Gerstmann

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When the Supreme Court struck down Colorado's Amendment 2—which would have nullified all state and local laws protecting gays and lesbians from discrimination—it was widely regarded as a victory for gay rights. Yet many gays and lesbians still risk losing their jobs, custody of their children, and even their liberty under the law. Using the Colorado initiative as his focus, Gerstmann untangles the complex standards and subtle rhetoric the Supreme Court uses to apply the equal protection clause.

The Court divides people into legal classes that receive varying levels of protection; gays and lesbians and other groups, such as the elderly and the poor, receive the least. Gerstmann reveals how these standards are used to favor certain groups over others, and also how Amendment 2 advocates used the Court's doctrine to convince voters that gays and lesbians were seeking "special rights" in Colorado.

Concluding with a call for wholesale reform of equal-protection jurisprudence, this book is essential reading for anyone interested in fair, coherent, and truly equal protection under the law.

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