



## INTRODUCTION

Welcome to Volume 16 of *The Dukeminier Awards: Best Sexual Orientation and Gender Identity Law Review Articles*. Each year, hundreds of scholars, lawyers, judges, and law students publish articles on law and policy regarding sexuality, sexual orientation, and gender identity. *The Dukeminier Awards*, produced by The Williams Institute and students at the UCLA School of Law, recognizes the best among these articles.

We publish *The Dukeminier Awards* to advance the following goals:

- To encourage scholars to begin or continue writing about sexuality and gender identity law and public policy and to provide valuable support and recognition for those who do so;
- To disseminate outstanding scholarship regarding sexuality and gender identity to the general public, as well as to lawyers, judges, legislators, and policymakers; and,
- To stimulate critical thought on cutting-edge topics and inform ongoing legal, political, and academic debates.

Producing *The Dukeminier Awards* also offers a unique educational experience to students here at UCLA School of Law. The journal provides a forum for students to read, think critically about, and assess the merits of articles thought to constitute the best sexuality and gender identity scholarship of the year.

The process for selecting this year's *Dukeminier Award* winners began in fall of 2016, when the editors of the journal and I reviewed articles and essays related to sexual orientation and gender identity law published between September 2015 and August 2016. From an initial pool of well over 100 articles, informed by nominations from students and professors from all over the country, we selected fourteen articles to advance to the final stage of review. At that point, the journal editors and a committee of legal scholars—from UCLA as well as from other institutions—evaluated the finalist articles, deliberated, and chose three articles as *Dukeminier Award* winners.

Each of these three articles breaks new ground in ongoing debates among legal scholars and practitioners in the LGBT community and beyond. The winners are:

- **Courtney Megan Cahill, *The Oedipus Hex: Regulating Family After Marriage Equality*, 49 U.C. DAVIS L. REV. 183 (2015).**

Cahill focuses on what she terms the “incest prevention justification” for limiting family formation through assisted reproductive technologies (ART). According to the incest prevention justification, which Cahill observes in both conservative and progressive

argumentation, the law should regulate ART so as to reduce the possibility for accidental incest between individuals conceived with donor gametes. Cahill shows how the justification presents itself as a rational and apolitical response to current developments but in fact is part of a longstanding effort to “establish the family”—that is, to discipline modes of family formation in ways that privilege traditional kinship. Using the marriage equality precedents, Cahill argues that the regulations of assisted reproduction authorized by the incest prevention justification are out-of-step with contemporary constitutional law, both normatively and doctrinally.

- **Lily Kahng, *The Not-So-Merry Wives of Windsor: The Taxation of Women in Same-Sex Marriages*, 101 CORNELL L. REV. 325 (2016).**

Kahng brings to the surface the inequalities that the federal tax system continues to inflict on women and same-sex couples, even in an age of marriage equality. Relying on empirical work on gender, coupling, employment, and income, she shows that as compared to women and men in different-sex marriages and men in same-sex marriages, women in same-sex marriages achieve less benefit and suffer greater harm in a system of marital taxation. Kahng links this argument to a broader feminist critique of the tax system, which continues to privilege the traditionally gendered model of the breadwinner-homemaker marriage. Ultimately, Kahng argues that true equality requires eliminating taxation on the basis of marital status.

- **Danaya Wright, *Inheritance Equity: Reforming the Inheritance Penalties Facing Children in Nontraditional Families*, 25 CORNELL J.L. & PUB. POL’Y 1 (2015).**

Wright argues that state inheritance laws, which tend to prioritize the traditional family and biological parent-child relationships, are not only outdated but harmful. These laws detrimentally affect the wellbeing of children who have parents that do not map onto conventional norms—children being raised by LGBT parents, as well as those in blended families and single-parent families. Wright’s comprehensive collection of state laws on inheritance exposes the breadth and severity of the “inheritance penalty.” In response, Wright proposes statutory language aimed at remedying the harms inflicted on nontraditional families.

This volume of *The Dukeminier Awards* also recognizes the winner of the Williams Institute’s annual student writing competition: **Jessica Franey, *Dependency is Different: Why Religious Accommodations in Adoption Violate the Constitutional Rights of Same-Sex Parents*.**

Franey’s comment takes issue with efforts to enact religious exemptions specifically in the area of adoption. She argues that current models of religious accommodation in this



domain are detrimental to children's wellbeing, contrary to policies that government seeks to promote in the child welfare system, and antithetical to emergent constitutional commitments to LGBT equality.

A final word regarding the online publication format for these outstanding articles and the student comment: *The Dukeminier Awards* is published exclusively online. The winning articles appear as they did in the journals that first published them. The winning student comment is published on the Williams Institute website and is also available via WestLaw and Lexis.

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