

WOMEN AND LAW

Pol. Sci. 514
Mon. and Wed. 8:30-10:18

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COURSE DESCRIPTION

This course examines how gender and law in the United States are used to confer rights, create obligations and define identities. We explore the theoretical, historical and empirical bases for gender in law, and pay particular attention to how and when gender-based laws have changed over time. We analyze the relationship between gender politics, legal theory, legal doctrine and social policy. We also ask whether the gender of legal actors (litigants, lawyers and judges) makes a difference in their reasoning or decision-making.

REQUIRED BOOKS AND READINGS

Daniels, Cynthia R. *At Women's Expense: State Power and the Politics of Fetal Rights*. Harvard University Press, 1993 (hereinafter, "Daniels").

Goldstein, Leslie F. *The Constitutional Rights of Women: Cases in Law and Social Change*. University of Wisconsin Press, 1988 (hereinafter, "Goldstein").

Guinier, Lani. *Becoming Gentlemen: Women, Law School and Institutional Change*. Beacon Press, 1997 (hereinafter, "Guinier").

Strossen, Nadine. *Defending Pornography: free Speech, Sex and the Fight for Women's Rights*. 2000 (hereinafter "Strossen").

Required texts are available at the Student Book Exchange, 1806 N. High St. All assignments not contained in the required books may be downloaded, as indicated on the syllabus, from the Findlaw database (available on the internet), or the Lexis/Nexis or JSTOR databases (both available through the library's web site).

REQUIREMENTS AND GRADING

The requirements for the class are: two in-class exams; a 10-page take-home final exam; and five pop quizzes. The first exam will count for 20% of the grade. The second exam will count for 25% of the grade. The take-home final exam will count for 30% of the grade. The take-home exam will be cumulative. Each pop quiz will count for 5% of the grade. The purpose of the pop quizzes is to ensure that you are keeping up with the reading. Students are also expected to rigorously participate in class discussions. The professor reserves the right to raise a student's final grade based on outstanding class participation.

EXTRA CREDIT

At the beginning of the quarter, someone from the Political Science Department will be coming to class in order to seek volunteers for political psychology experiments conducted in the Political Science Department. Participation is voluntary and usually requires no more than one hour of your time. Anyone who completes participation in an experiment will receive a 2% increase in your grade. Thus, for example, if your final grade calculates to 89, and you participated in an experiment, I will raise your grade 1.78 points, giving you an A- instead of a B+.

ACADEMIC INTEGRITY

All of the work you do in this course is expected to be your own. Cheating or plagiarism will not be tolerated. All cases of cheating or plagiarism will be referred to the University's Committee on Academic Misconduct ("COAM") and handled according to university policy. For additional information, please visit the COAM website at <http://oaa.osu.com/code.html>.

MAKE-UP EXAMS

Unless arranged with the professor PRIOR to an exam, there will be absolutely NO make-up exams in this class. Failure to show up for an exam (unless otherwise pre-arranged with the professor) will result in an automatic F for that test. For those who have obtained permission from the professor for a make-up test, those make-up tests will be given at a time arranged with the professor. The only acceptable reason for missing an exam without prior permission from the professor will be a medical excuse or death in the family, and adequate documentation will be required for either excuse.

POLICY ON CELLULAR TELEPHONES

All students MUST turn off their phones prior to the beginning of class. If your phone should ring during class, you will have two points automatically deducted from the next exam. If your phone should ring during an exam, you will have four points deducted from that exam.

CLASS SESSIONS

TOPIC I: Historical Approaches to Gender, Law and the Constitution

Class 1(1/4):

Introduction and Overview of the Class

Class 2 (1/9) The 18th and 19th Centuries: Coverture and the Married Women's Property Acts

State v. Hussey, 44 N.C. 123 (1852)(available on Lexis)

State v. Rhodes, 61 N.C. 453 (1868) (available on Lexis)

Frazier v. State, 48 Tex. Crim. 142 (1905) (available on Lexis)

Goldstein book, pp. 3-9, 66-72

Class 3 (1/11) The Early 20th Century: Substantive Due Process and Early Attempts at Equality

Goldstein book, pp. 19-49

Jan. 16: No Class

Class 4 (1/18) The Mid-20th Century: Early Approaches to Gender and Equal Protection Clause

Goldstein book, pp. 88-98, 106-125

TOPIC II: Gender and Jurisprudence

Class 5 (1/23) Intermediate Scrutiny

Goldstein book, pp. 165-195, 249-266

Classes 6-7 (1/25, 1/30) Pregnancy and the Equality Crisis

Goldstein book, pp. 49-64, 455-456, 464-469, 488-489, 496-497

Class 8 (2/1) *Exam 1*

TOPIC III: Statutory Issues

Class 9 (2/6) Employment: Title VII

Goldstein book, pp. 498-501, 504-512

Price Waterhouse v. Hopkins, 490 U.S. 228 (available on Findlaw)

UAW v. Johnson Controls, 499 U.S. 187 (available on Findlaw)

Class 10 (2/8) Education: Title IX and the Equal Protection Clause Revisited

Goldstein book, pp. 286-296, 542-552

U.S. v. Virginia (the VMI case), 518 U.S. 515 (available on Findlaw)

Class 11 (2/13) Athletics: Title IX continued

Goldstein book, pp. 544-552

Cohen v. Brown University, 991 F.2d 888 (available on Lexis)

Lipsyte, Robert, "A Memorable Victory for a Female Kicker," *New York Times*, Oct. 19, 2000 (available on Nexis)

TOPIC IV: Violence

Class 12 (2/15) Sexual Harassment

Goldstein book, pp. 552-561

Harris v. Forklift Systems, 510 U.S. 17 (available on Findlaw)

Oncale v. Sundowner Offshore Services, 523 U.S. 75 (available on Findlaw)

"Low-Life Sleazy Big-Haired-Trailer Park Girl v. The President: The Paula Jones Case and the Law of Sexual Harassment," 9 *American University Journal of Gender, Social Policy and Law*, pp. 283-302 (available on Lexis)

Class 13 (2/20) Rape, Statutory Rape and Pornography

Goldstein book, pp. 267-282

State v. Rusk, 424 A.2d 720 (available on Lexis)
Strossen book, *Defending Pornography*, Chs. 1 and 3

Class 14 (2/22) Pornography Continued

Strossen book, Chs. 6, 9, 12 and 13

Class 15 (2/27) **Exam # 2**

TOPIC V: Reproductive Rights

Class 16 (3/1) Abortion

Goldstein book, pp. 360-373
Planned Parenthood v. Casey, 505 U.S. 833 (available on Findlaw)

Class 17 (3/6) The Politics of Fetal Rights

Daniels book, Intro, Chs. 1,2 and 4 pp. 1- 56, 97-132

TOPIC VI: The Family

Class 18 (3/8) Custody, Divorce, Gay Marriage

Goldstein book, pp. 232-239
Bottoms v. Bottoms, 457 S.E.2d 102 (available on Lexis)
Goodridge v. Massachusetts Dept. Of Health, 798 N.E.2d 941 (2003) (available on Lexis)
Lecture on Divorce Reform

TOPIC VII Women in the Courtroom

Class 19 (3/13) Women Lawyers

Guinier book, pp. 1-102

Class 20 (3/15) Women Judges

Davis, Sue, Susan Haire and Donald Songer, "A Reappraisal of Diversification in the Federal Courts: Gender Effects in the US Courts of Appeals," 56 *Journal of Politics* pp. 425-439 (1994) (available on JSTOR)

Gruhl, John, Cassia Spohn and Susan Welch, "Women as Policymakers: The Case of Trial Judges," 25 *American Journal of Political Science* pp. 308-322 (1981)(available on JSTOR)