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Hunter College, CUNY
Department of Political Science
POLSC 219: Women and the Law
MTH 9:45-11:00AM
Hunter West Building 1729

Course Description: This course examines how gender shapes and is shaped by the law and politics. While much of the course material focuses on the United States, the course also includes discussions of how gender is shaped through transnational law. In this course, we will analyze the relationship between law, gender, and politics on a variety of topics, including gender and labor politics; the politics of reproductive control; trans-inclusive healthcare access; gender-based violence; and inmate treatment in prisons and immigration detention centers. We also will explore how contemporary debates in gender and sexuality studies intersect with legal approaches pursued by the social movement activists in the past and present.

Throughout the course, we will examine key federal cases that delve into legal responses to social problems and engage in feminist critiques of using legal avenues to accomplish social change. Consequently, this course will explore the following questions:

- How has the law regulated gender over time and in different contexts?
- How does the law shape and frame our understandings of identity?
- What role has equality played in framing the law's conception of gendered subjects?
- How might we conceive of solutions to gender-based power hierarchies in ways that are inclusive of difference?
- What are the limits of traditional legal approaches in movements for social change?

The goal of the course is to both introduce students to how gender is constituted through the law and to help students develop critical and analytical skills that they can use to address significant questions about the law as a strategic tool for implementing reform or dismantling gender relations constructed through power. The course does not assume prior background in legal studies or gender and sexuality studies.

Course Text:

Rickie Solinger, 2007, *Pregnancy and Power: A Short History of Reproductive Politics in America*. New York, NY: New York University Press (Paperback List Price \$26.00) (**Available at Shakespeare & Co.**)

Course Readings: Online course materials can be accessed through Blackboard. The course syllabus, short readings, study questions, and other materials can be found there. Two types of texts are required for this class:

1. Course Book (Available at Shakespeare & Co., Amazon.com, etc.): One required book is available at Shakespeare & Co.: Rickie Solinger's *Pregnancy and Power: A Short History of Reproductive Politics in America*, New York, NY: New York University Press (2007).
2. Course Readings (Available Online): Most of the readings for the course will be available as PDF files through Blackboard. Some of the readings are excerpts from opinions written by Supreme Court justices and federal judges (i.e., excerpts of federal cases) while other readings are academic articles (law review and social science articles), book excerpts, or activist publications. Some of the excerpts come from constitutional law textbooks or from the course instructor. You can print them all at once, print them each day, or read them in electronic format. But you must keep up with these readings and I require you to bring the scheduled readings, in some format, to class each day. Some additional short texts (e.g., timely news articles) may be emailed to you and/or added to Blackboard during the course.

In addition to the required texts, students are strongly urged to keep current with national and local events. *The New York Times*, the *Wall Street Journal*, the *Washington Post*, the *Los Angeles Times*, and the *Christian Science Monitor* are highly recommended along with local news sources. These and other resources available on the Internet are also very useful and will be referenced in class.

Will the Course Materials and Conversation Evoke any Strong Emotional Responses?

Probably. If you are strongly pro-life, strongly pro-choice, or have experienced gender-based violence or harassment, you might experience difficulty as you read some of our materials and participate in the course lectures. If your ancestors were held in conditions of slavery, or were part of a population that had genocide inflicted on it, you may experience strong emotions while reading and discussing many of these texts. In short, if you are a human living on this earth in the contemporary period, our readings and conversations and films might evoke feelings of panic, hopelessness, anger, and anxiety. They might also evoke feelings of efficacy, joy, enthusiasm, and commitment. Your emotional response to readings and conversations impacts your learning and being aware of your emotional response is an important part of personal growth. In this course, it is essential that all of us recognize the different impact that the material and course discussions will have on each hearer. For this reason, I ask all members of the class commit to doing what they can to constructively help people who are having difficulty and to assume positive intent behind comments made by peers.

Online Resources: Online resources will be made available through Blackboard. The course Blackboard page will have information about the course, course readings, links to assignments, and study questions. Students are responsible for information that is made available during lecture even when that information is not available on Blackboard.

Grading: Grading for this course will be based on written assignments, exams, and in-class participation. Your final grade will be calculated based on the below percentages.

Case Brief:		Due Sept. 7th (Part of Participation Grade)
Research Paper Proposal	10%	Due November 9th
Midterm:	25%	October 23rd
Research Paper:	20%	Final paper Due December 7th
Final Exam:	30%	
Participation:	15%	

The assignments listed here are the only assignments for the class. **There will be no extra-credit assignments.**

Midterm & Final Exam: The quiz and exam will test your knowledge of the assigned cases, related political controversies, and your understanding of concepts discussed in lecture. The exams will consist of short answer and short essay questions and must be taken at the scheduled times.

Written Assignments: The written assignments will ask you to write a case brief and a short research paper. For the case brief assignment, you will be asked to construct and explain constitutional arguments in your own words. The research paper will ask you to select a topic in gender and sexuality law and politics. The topic may build upon something we cover in class or be based upon something we do not cover such as a comparative examination of a topic in gender and law in other countries. I will provide a list of suggested topics at the beginning of the term. Clear and effective writing are essential for receiving a good grade on the assignment.

Participation: Students must keep up with class readings and show intellectual engagement with the material. I expect each student to participate in thoughtful discussion and respect others' opinions. Participation is based on active engagement not mere attendance. Class activities that will be counted towards participation credit include case briefs, free writes, and group activities. If you are in class and participate in the day's activity, you will earn full points for the day. *I will give pop quizzes if I feel that the class is not completing/grasping the assigned material.*

Penalty for Late Assignments: The penalty for late papers is 10 points (on the 100 point scale) per calendar day. This substantial penalty is established as a deterrent to make sure that you submit your work on time. The penalty is not supposed to be fair compensation for extra time spent on the paper. You are much better off handing in work on time and avoiding the penalty. Please respect assignment deadlines.

A Word of Warning on Assignments, Grading, and Expectations: I try hard to make expectations for the class clear and to set standards that are applied fairly to all students in the class. It is your responsibility to meet these expectations during the entire quarter. The assignments are weighted to reflect both their importance and the expected learning curve over the term. I do not allow do-overs for poor grades on assignments. I do not give extra credit under any circumstances.

Class Organization: This course will include lectures and group activities. These activities are meant to facilitate student understanding of the material and prepare students for the exams and written assignments. Group activities might include debates, small group discussions of difficult course concepts, and large group discussions of the course materials. In class, I encourage students to ask questions. Your questions can prove vital to your own and your classmates' understanding of the course material and will contribute to provocative discussions.

Laptop and Cell Phone use: When you are in lecture, please refrain from using a laptop unless you are using one only to take notes for this class. *Do not use a cell phone or smart phone for any reason during class.*

Office Hours and Email: My office hours and email are listed at the top of the syllabus. I am also sometimes available by appointment at other times. If you would like to make an appointment, please contact me by email. I encourage all students to take advantage of my office hours.

Preparing for Class: The readings for the class consist of excerpts from judicial opinions in federal court cases in addition to academic articles in gender and sexuality studies. Because judges write in the peculiar legitimating language of the law, these opinions can be difficult to understand. Judges do not write opinions in order to explain the issues in case clearly or honestly. They are not trying to write so that it is easy for a college student to study for an exam. They write opinions in an attempt to justify their rulings. They are producing arguments in favor of a particular outcome not creating an accurate record for their reasoning in the case. Judges will sometimes deliberately obscure important issues in a case, offer misleading justifications, and omit very important facts or considerations.

Because of the way judges write, you will need to read carefully and read between the lines to develop and adequate understanding of the cases. You will need to read each case more than once before you will understand it. For most students, it takes considerable time and practice to learn to read and understand cases. Reading court cases should get easier as the term progresses. To help you prepare for class and exams, you should take the time to answer the study questions and write briefs as you read the cases.

Case Brief: A brief is a short (about two page) written summary of the case. In this course, I will ask you to turn in a brief for one of the assigned court cases. There is no universally accepted format for a brief. However, you can find a good model brief format, as well as additional information about naming and briefing cases, at: <http://www.lib.jjay.cuny.edu/research/brief.html>. You might also want to read a handout called, "How to Read a Case," prepared by Professor Julie Novkov at SUNY Albany (<http://www.albany.edu/~jn293713/profession/caseguid.pdf>).

Academic Conduct: I will enforce Hunter College, CUNY's student conduct code, including the policy on plagiarism. The CUNY policy on academic integrity can be found at: <http://www.hunter.cuny.edu/studentaffairs/student-conduct/academic-integrity/cuny-policy-on-academic-integrity>.

Students with Disabilities: All students with disabilities and medical conditions are encouraged to register with the Office of AccessABILITY for assistance and accommodation. For information and an appointment contact the Office of AccessABILITY located in Room E1214, or call 212-772-4857 /or VP 646-755- 3129 or email accessability@hunter.cuny.edu. If you have a letter from this office indicating that you require accommodations, please present the letter to me as soon as possible so that I can make the necessary arrangements.

Readings Schedule/Course Outline:

The online readings are identified the course Blackboard page by the date of the corresponding lecture or are available in the course text. You should complete each set of readings **before** the class meeting for the date listed there and on this schedule. I will try and stay on this schedule, but will make adjustments as necessary. Adjustments in the reading schedule will be announced in class.

GENDER, LAW, AND POLITICS **READING SCHEDULE**

* = Reading Online

Rickie Solinger, *Pregnancy and Power* = Course Text (Rickie Solinger, 2007, *Pregnancy and Power: A Short History of Reproductive Politics in America*. New York, NY: New York University Press

August 28 **Introduction to the Course**

Aug 31 *****No Class; Out of Class Assignment*****

Rights, Equality, and Their Limits

Sept 7-11 **Gender and Human Rights in the United States**

*Lorde, "The Master's Tools Will Never Dismantle the Master's House" (Online)

* Merry, Rosen, Levitt, and Yoon, "Law From Below: Women's Human Rights and Social Movements in New York City" (Online)

*CEDAW (The Convention on the Elimination of All Forms of Discrimination Against Women) (Online)

*Proposed US Equal Rights Amendments (Online)

Sept 14 **Formal Legal Equality**

*Baer and Goldstein, "The Constitutional and Legal Rights of Women" (Online)

**Mississippi University for Women v. Hogan* (1982) (Online)

**United States v. Virginia (1996) (Online)*

Gender, Labor, and Discrimination

Sept 18-Sept 25 Women and Protective Labor Legislation (The Due Process Clause)

**Novkov, "Liberty, Protection, and Women's Work: Investigating the Boundaries between Public and Private" (Online)*

**Pool, "The Politics of Mourning: The Triangle Fire and Political Belonging" (Online)*

**Lochner v. New York (1905) (Begin Reading at "Liberty of Contract") (Online)*

**Muller v. Oregon (1908) (Online)*

**Adkins v. Children's Hospital (1923) (Online)*

Sept 21 * No Class*****

Sept 28-Oct 2 Sex-Based Discrimination (The Equal Protection Clause)

**Reed v. Reed (1971) (Online)*

**Frontiero v. Richardson (1973) (Online)*

**Craig v. Boren (1976) (Online)*

**United States v. Virginia (1996) (Online)*

Oct 5-12 Sexual Harassment as Sex Discrimination

**Sexual Harassment in the Workplace (Online)*

**Harris v. Forklift Systems (1993) (Online)*

**Rene v. MGM Grand Hotel (2003) (Online)*

Oct 16 Domestic Labor and Human Trafficking

**Romero, "Immigration, the Servant Problem, and the Legacy of the Domestic Labor Debate: 'Where Can You Find Good Help These Days!'" (Online)*

**Tizon, "My Family's Slave" (Online)*

Rickie Solinger, *Pregnancy and Power* pp. 1-26

Reproductive Law and Politics

Oct 19 Nation Building and the Politics of Motherhood

Rickie Solinger, *Pregnancy and Power* pp. 127-62

**Roberts, "Reproduction in Bondage"*

**Lawrence, "The Indian Health Service and the Sterilization of Native American Women" (Online)*

Oct 23 *Celebration of Knowledge (Midterm)*****

Oct 26 Rickie Solinger, *Pregnancy and Power*, pp. 63-130
**Buck v. Bell* (1927) (Online)
**Skinner v. Oklahoma* (1942) (Online)

Oct 30- Nov 2 Rickie Solinger, *Pregnancy and Power*, 131-229
**Griswold v. Connecticut* (1965) (Online)
**Roe v. Wade* (1973) (Online)

*****Research Paper Proposal Due November 9th*****

Nov 6-9 Luker, “Emergence of the Right to Life Movement”
**Harris v. McRae* (1980) (Online)
**Planned Parenthood v. Casey* (1992) (Online)

Marriage

Nov 13 **Anti-Miscegenation Laws**
*Sohoni, “Unsuitable Suitors: Anti-Miscegenation Laws, Naturalization
Laws, and the Construction of Asian Identities” (Online)
**Loving v. Virginia* (1967) (Online)

Nov 16 **Same-Sex Marriage**
**United States v. Windsor* (2013) (Online)
**Obergefell v. Hodges* (2015) (Online)
*Cummings and NeJaime, “Lawyering for Marriage Equality” (Online)

Nov 20 **Critiques of Marriage**
*Kandaswamy, “State Austerity and the Racial Politics of Same-Sex
Marriage in the US” (Online)
*Murray, “Marriage as Punishment” (Online)

Gender-Based Violence

Nov 27-30 **Domestic Violence and The Violence Against Women Act**
*Schneider, Hana, Sack, and Greenberg, “Domestic Violence in Historical
and Social Context” (Online)
**United States v. Morrison* (2000) (Online)
**Town of Castle Rock v. Gonzales* (2005) (Online)

*****Research Paper Due Dec 7th*****

Dec 4-7 *Merry, “Rights Talk and the Experience of Law” (Online)
*Clifford and Silver-Greenberg, “Foster Care as Punishment: The New
Reality of Jane Crow” (Online)
*Gonzalez Settlage, “Uniquely Unhelpful: The U-Visa’s Disparate
Treatment of Immigrant Victims of Domestic Violence” (Online)

Dec 11

Gender-Based Violence in Prison

*Robinson, "Masculinity as Prison: Sexual Identity, Race, and Incarceration" (Online)

*Spade, "The Only Way to End Racialized Gender Violence is to End Prisons: A Response to Russell Robinson's 'Masculinity as Prison'" (Online)

*****Celebration of Knowledge (Final Exam)*****