

Political Science 356
Constitutional Law: Women, Gender and Privacy
Spring 2012

Gender and Women's Studies 356, African-American Studies 356

Professor Kevin Lyles

version 1/4/2012

9:30 – 10:45, TR, 210 LH

Office hours T, Th 8-9:15 by appointment only

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Google Site: <https://sites.google.com/a/uic.edu/kevin-lyles/> (required)

UIC Blackboard: (<https://blackboard.uic.edu/>) (required)

facebook: <http://www.facebook.com/pages/Professor-Lyles-POLS-353-354-356-358-451-564/321357097879309> (recommended)

twitter for class [professor_lyles](#) (recommended)

Lyles' graduate teaching/research assistant: Danny Bloom (dmbloom2@uic.edu)

Course Information: 3 hours. Same as AAST 356, and GWS 356. Prerequisite(s): Grade of C or better in POLS 101 or grade of C or better in POLS 112 or grade of C or better in AAST 100 or grade of C or better in AAST 103 or grade of C or better in GWS 101; or consent of the instructor.

Catalog Description: A multidisciplinary examination of U.S. constitutional law and politics in shaping issues of gender, privacy, race, and sexual orientation; including reproduction, labor, sexual harassment, political participation, and women and crime.

The Anglo-American legal tradition purports to value equality, by which it means, at a minimum, equal application of the law to all persons. Nevertheless, throughout this country's history, women have been denied the most basic rights of citizenship, allowed only limited participation in the marketplace, and otherwise denied access to power, dignity, and respect. Women have instead been largely occupied with providing the personal and household services necessary to sustain family life.

...the law has furthered male dominance by explicitly excluding women from the public sphere and by refusing to regulate the domestic sphere to which they are thus confined. ... the law has legitimized sex discrimination through the articulation of an ideology that justifies differential treatment on the basis of perceived differences between men and women. Taub and Schneider,

The Politics of Law

"Historically, woman suffrage and abolition had been connected.... [However] the unified National American Women's Suffrage Association turned away from universal suffrage in favor of literacy qualifications, excluded southern blacks from their organization, and argued that giving women the vote would restore white supremacy by enlarging the white voter base, making it impossible for blacks to gain a majority. Educational qualifications that would give most white women the vote would render the black women's vote too small to matter, as a consequence of their lower educational rates. In this way white supremacy could be maintained without dependence on the state constitutional changes and segregation laws then being put into place... 'Though historians usually focus on the race issue as a prime obstacle to the suffragists' success, there is considerable evidence to indicate that the race issue was, in fact, a major causative factor in the emergence in the 1890s of the woman suffrage movement in the South.' It is, indeed, one of the ironies of history that racism was part of a move toward gender equality." Darlene Clark Hine and Christie Ann Farnham, "Black Women and the Right to Vote."

BRIEF COURSE DESCRIPTION

This course provides a survey of the legal history of women in the United States and their continuing struggle for equal rights and protections under the yoke of a Constitution that rationalized both slavery and patriarchy. We will explore the extent to which women in the United States have used the federal courts to secure basic freedoms, including “freedom from inferior constitutional or juridical status,” “freedom from fertility and family discrimination,” and “freedom from fear.” In short, we will survey the extent to which women in the United States have achieved “emancipation” through law. “Emancipation,” paraphrasing Joan Hoff, means equitable treatment that is not grounded in dominant male values of any time period and that does not violate women's sense of community, commonality, and/or culture by demanding assimilation or acceptance of stereotypic “feminine” roles as the price for full participation in U.S. society and equal protection under the law.

These issues will be discussed in the overall framework of the role and participation of courts, primarily the U. S. Supreme Court, in the formulation and implementation of public policy. This discussion should allow us to consider such factors as:

- A. The nature, characteristics, and dynamics of the political system and the policymaking process; e.g., system features, values and structures; participants in the policy process; the development and implementation of public policy.
- B. The nature of civil liberty conflict, including how and why such conflicts begin; and the role and participation of various actors in such conflict; for example, the participation of organized groups and the roles of law enforcement, prosecutors, lawyers, and judges.
- C. The role of courts in dealing with civil liberty conflict, especially the necessity and propriety of court action given the nature of issues submitted for judicial determination, and, the capacity and limitations of courts and the judicial process in dealing with such issues.
- D. The relation and interrelation of courts to other governing institutions in dealing with civil liberties; e.g., the role and participation of the Congress, the President, the executive and administrative agencies, and the role and participation of state and local governments.
- E. The political and social impact of court determinations, law and social change, factors affecting compliance and non-compliance, and the consequences of court actions.

How the courts have responded to issues of constitutional equality for women is the major concern in this seminar. These issues include: (1) gender discrimination, (2) women’s rights, (3) privacy (as it relates to contraception and sex), (4) sexual orientation (e.g., gay and lesbian issues), (5) sexual harassment, (7) pornography, rape and other forms of violence against women, and (8) political participation (as it relates to women’s suffrage, participation, and representation).

The broad categories above include a plethora of legal issues including: employment discrimination, affirmative action, gender based work classifications, women’s suffrage, Title VII of the Civil Rights Act of 1964, all-male juries, male-only estate administration, gender based G.I. benefits and veteran preferences in hiring, gender based survivor benefits, military promotion, social security contributions, divorce and child support payments, social security taxes and calculations, fathers’ rights and the rights of unwed fathers, marriage and alimony, the draft, education and single-sex admission policies, rape laws, miscegenation, procreation and the right of privacy, sterilization, contraception, pregnancy and pregnancy leave (for both men and women), abortion, the “oppression” of pornography, sexual orientation, homosexual sodomy, sexual harassment, poverty, etc.

Students will also be encouraged to explore the parallels and contradictions between the Supreme Court’s denial or promotion of “women's rights,” “white women’s” rights, and, “African-American

women's rights." The sexualization of "race" occurred within the context of changing legal practices [see PoLS 358]. During the African slave trade, for example, the sexual exploitation of female slaves was commonplace. In fact, African women, especially young girls, were often given greater *freedom* on slave ships to make them available for the ship's male crews' sexual exploitation. "White men of every social rank slept with Negro women. The Colonists, as well as European travelers in the colonies frequently pointed to this facet of American life." In fact, for the greater part of this nation's history, the laws have encouraged the sexual exploitation of African-American women and the castration of African-American men. The Supreme Court, for example, recognized and defended—as one of the primary justifications for racial segregation and discrimination—the need to prevent black men from having sex with white women; i.e., to "preserve the purity of blood." Thus, our study of the legal evolution of women's rights in the United States must acknowledge both the similarities as well as the glaring contradictions between and among the everyday experiences of African-American women and "white" women.

COURSE FORMAT

The class will be conducted in a formal seminar format utilizing the Socratic method. This format lends itself to continuous active engagement and dialogue between the professor and students and among students themselves. Accordingly, students are encouraged and expected to attend and participate in class. **Meaningful participation, however, requires that students must come to class prepared.** Should this occur, the class will be an interesting, challenging, and an exciting learning experience. A word of caution: it is important that students prepare for each class since material is cumulative and the workload increases dramatically as the semester proceeds. Attendance in class and participation in discussion seminars is both mandatory and essential. I will randomly take attendance. Your attendance grade will be calculated based on the percentage of days you are present when attendance is taken. For example, if attendance is taken 10 times and you are present 8 of the ten times, then your attendance is 80%. Lastly, Students are REQUIRED to "brief" every required case and bring their written briefs to class.

Course Objectives

By the end of the semester, students should be able to:

- Explain many of the complex relationships between law and public policy.
- Utilize landmark decisions of the United States Supreme Court as vehicles to survey and explain developments relating to women (women's rights) in the United States.
- Apply the interaction of law and politics in discussing the boundaries and constraints of gender, race, privacy, reproduction, violence, power, class, and political participation in defining citizenship in the United States.
- Relate the legal process and judicial policymaking to the larger American political process and the constitutional experiences of women.

COURSE REQUIREMENTS

All students must utilize the UIC Blackboard Learning system. You can enter UIC Blackboard Learning System from the UIC homepage, go to "learning at UIC," or go directly to <http://blackboard.uic.edu/>.

Caution: I will send many notes to you during the semester using Blackboard; these notes are automatically routed to you UIC email account. I also suggest checking the wiki and facebook from time to time.

Students should be familiar with UIC's policies regarding academic integrity. These guidelines can be found at the following URL: www.uic.edu/depts/sja/integrit.htm

The tape recording of any part of my class (or the use of any other electronic recording device) is strictly prohibited.

Students with disabilities who require accommodations for access and participation in this course must be registered with the Office of Disability Services (ODS). Please contact ODS at 312/413-2103 (voice) or 312/413-0123 (TTY). If you have a documented disability and wish to discuss academic accommodations, please contact me immediately (lyles@uic.edu, 1102a BSB).

A. Readings/Case Law.

Readings under the various topic areas are only suggestive of the vast and growing literature and case law available. All assigned cases must be read prior to the class session for which they are assigned. **Be prepared to review and discuss all assigned cases and readings in class.**

Required Texts:

The Constitutional and Legal Rights of Women: Cases in Law and Social Change, Third Edition (2006/2007). Judith A. Baer and Leslie Friedman Goldstein. ISBN 9781933220222. 650 pages.

Optional

(1) Barker, Lyles, et. al. *Civil Liberties and the Constitution* (9th edition), if you have already purchased my text (Barker/Lyles), make note that **we will only use about 1/3 of this book for PoLS 356** this semester, the other 2/3 is *required* for PoLS 354 (Civil Liberties and the Constitution) which I often teach during the Fall semester.

(2) [CL&C Suppl.]. Barker/Lyles Supplement (2011) <http://www.pearsonhighered.com/barker9e>

(3) Lawrence Baum. *The Supreme Court* (any edition, preferably 7-10)

Recommended:

(2) You may find <http://www.feminist.org/> helpful in keeping up with current events discussed in class.

Book Review Essay Options (select one from this list):

bell hooks. *Feminist Theory*

Kevin Lyles, *The Gatekeepers: Federal District Courts in the Political Process*

Ronald Fiscus. *The Constitutional Logic of Affirmative Action*

Linda Kerber. *No Constitutional Right to Be Ladies*

Vicki Crawford, editor. *Women and the Civil Rights Movement*

Joan Hoff. *Law, Gender and Injustice: A Legal History of Women*

Sandra F. VanBurkleo. *Belonging to the World: Women's Rights and American Constitutional Culture*

Mary Lindon Shanley. *Just Marriage*

B. Assignments.

In addition to written examinations at the mid-term and final grading periods, students will prepare a written book review. Additionally, throughout the semester there may be several short out-of-class research assignments, required case briefs (turned in), and frequent review quizzes (both in-class and take-home). These will be discussed later.

Computation of Course Grade

Midterm Exam	40%
Final Exam	25%
Attendance Quizzes (iclicker)	25%
Online Participation (weighted/curved)	10%
Optional (extra-credit Book review essay)	0-5 points added to your total class score.

SEMINAR SCHEDULE

Readings/Case Law.

Readings under the various topic areas are only suggestive of the vast and growing literature and case law available. All assigned cases must be read prior to the class session for which they are assigned. **Be prepared to review and discuss all assigned cases and readings in class.**

Use the following Syllabus Key to locate class materials:

[Blackboard] the "UIC Blackboard Learning System"

[Baer&Goldstein] see Baer and Goldstien, *The Constitutional and Legal Rights of Women*

[Barker&Lyles...] see Barker, Combs, Lyles, and Perry: *Civil Liberties and the Constitution* (8th edition)

[Lyles] see *The Gatekeepers: Federal District Courts in the Political Process*

***Readings that are preceded by an asterisk (*) are highly recommended but are not required.**

@Readings preceded by an "at" sign "@" are **REQUIRED** and may also be critiqued for optional **extra credit**. You may earn 0-3 points per critique. Critiques should include a detailed summary of the reading as well as your own analysis (agree/disagree and why?). Be creative. Critiques are limited to no more than four typed double-spaced pages. These points will be added to your next exam (either midterm or final exam—whichever comes next). Due dates are posted throughout the syllabus. You must also post a comment to the Google Docs page. Your typed extra credit critique is due via email attachment before 10 pm on the day before it is listed on the syllabus. Late extra-credit is not accepted for any reason. For example, "Women's Subordination and the Role of Law," by Nadine Taub and Elizabeth M. Schneider (1-12-12) is due no later than 10 pm on 1/11/12.

Tentative Semester Schedule

- Date headings are merely suggestive of when discussion might begin for each topic area and are subject to change (keep on track).
- Not all "required" material listed on the syllabus will be discussed in class, however said materials are "fair game" for the midterm and final examinations.
- Additional material will be added to the syllabus during the semester (like the Constitution, the syllabus can be amended).

PART I

WEEK ONE

Tuesday January 10

*If you have previously taken PolS 353, 354 or 358 with me, then your physical attendance on **January 10, 12, 17, 19 and 24 is optional.** DO THIS AT YOUR OWN RISK. I cover essentially the same material in all four classes (PolS 353, 354, 356 and PolS 358 on the first few days). You will not be marked absent on these days if you send an email to me explaining your absence. If you*

are currently taking both 356 and 358 with me this semester, and this is your first class with me, then you must attend one or the other; but, you need not attend both. Email me if you are not clear about this.

Review of course requirements and introductory materials.

Constitutional Law with Lyles (handout and Blackboard)

Read the Political Science 356 Spring 2011 Syllabus (Blackboard).

Note: students are required to check the online syllabus for weekly updates.

Book Review Guidelines [Blackboard]

Thursday January 12

Lecture: Courts as policymaking institutions

*Hoff. Introduction: Toward a Theory of Women's Legal History, pp. 1-20.

*Lyles, *The Gatekeepers*: ch. 1, p. 1-9.

*Barker&Lyles... pp. 3-12. (skim)

*Baum, chapters 1-3

*"Understanding the Federal Courts" <http://www.uscourts.gov/UFC99.pdf>

Melone, pp. 104-114. "Why and How to Brief a Case." [Blackboard]

O'Brien, "The How, Why, and What to Briefing and Citing Court Cases" [Blackboard]

Courts as policymaking institutions.

*Dahl, Robert. "Decision-making in a Democracy: The Supreme Court as a National Policy-Maker," *Journal of Public Law*, vol. 6. (1957).

*Casper, Johnathon D. "The Supreme Court and National Policy Making," *70 American Political Science Review* (1970): 50-63.a

*Barker, Lucius. (1967). "Third Parties in Litigation: A Systemic View of the Judicial Function," *29 Journal of Politics* 41-69.

In the Supreme Court of the United States, *Barbara Grutter v. Lee Bollinger*, Brief of the American Bar Association as Amicus Curiae in Support of Respondents," pp. vii and 17 (only)

http://www.vpcomm.umich.edu/admissions/legal/gru_amicus-ussc/um/ABA-gru.pdf

*Funston, Richard. "The Supreme Court and Critical Elections," *APSR*, September, 1975.

*Lyles, *The Gatekeepers: Federal District Courts in the Political Process*, ch. 1, p. 1-9.

@ "Women's Subordination and the Role of Law," by Nadine Taub and Elizabeth M. Schneider in *The Politics of Law*, David Kairys, ed., (1990), reprinted in D. Kelly Weisberg, ed., *Feminist Legal Theory: Foundations* (1993), pp. 9-21. [Blackboard] This is a required reading. However, it can also be critiqued for extra credit points. See the Syllabus Key (page 5) for details.

WEEK TWO

Tuesday January 17

Lecture: Courts as policymaking institutions

~Continued The Federal Courts

Nature, Structure, and Operation of the Supreme Court

*Baum, chapters 4-6

@ Leslie Bender, "A Lawyer's Primer on Feminist Theory and Tort," *38 J. Legal Education* 3 (1988), as reprinted in D. Kelly Weisberg, ed., *Feminist Legal Theory: Foundations* (1993), pp. 58-74.

[Blackboard]. This is a required reading. However, it can also be critiqued for extra credit points. See the [Syllabus Key \(page 5\) for details.](#)

Thursday January 19**Lecture: Courts as policymaking institutions**

- *Lyles. *The Gatekeepers*, ch. 2, p. 11-35.
- *Baum. chapters 4-6
- *Alexander Hamilton, et al. *The Federalist Papers*, No. 78-81
- *"Rules of the Supreme Court" <http://www.supremecourtus.gov/ctrules/rulesofthecourt.pdf>
- *"Understanding the Federal Courts," www.uscourts.gov/UFC99.pdf
- *Gender and Law in the American Colonies: An Overview, 1600–1776. [not available at this time]
- *Hoff. Chapter One: The Masculinity of U.S. Constitutionalism, pp. 21-48.
- @Mary Wollstonecraft, "A Vindication of the Rights of Woman," Miriam Schneir, *Feminism: The Essential Historical Writing*, pp. 5-16. [Blackboard]. This is a required reading. However, it can also be critiqued for extra credit points. See the [Syllabus Key \(page 5\)](#) for details

WEEK THREE**Tuesday January 24****Lecture: Courts as policymaking institutions**

- Marbury v. Madison* (1803) [Blackboard]
- Incorporation of the Bill of Rights, Selective Incorporation, Fundamental Rights
- The Selective Nationalization of the Bill of Rights and Other Fundamental Rights*, in David M. O'Brien, *Constitutional Law and Politics*, vol. 2, pp. 306-315. [Blackboard]
- Cases Incorporating Provisions of the Bill of Rights into the Due Process Clause of the Fourteenth Amendment [Blackboard].
- Barron v. Baltimore* (1833) [Lyles, CL&C Suppl.] skim, not required *per se*
- **Hurtado v. California* (1884)
- **Twining v. New Jersey* (1908)
- **Palko v. Connecticut* (1937), CL&C, pp. 21-23

Thursday January 26**Today is the first day of REQUIRED attendance for ALL students**

- *Hoff. Chapter Two: Women and the American Revolution, pp. 49-79.
- Abigail Adams writes to her Husband John Adams, asking him to "remember the ladies" in the new code of laws. Miriam Schneir, *Feminism: The Essential Historical Writing*, pp. 2-4. [Blackboard]
- 1827. "Education for Black Women," by Matilda. Excerpted from *Civil Rights Since 1787*, edited by Jonathan Birnbaum and Clarence Taylor (2000), pp. 45-46. [Blackboard]
- @Sarah and Angelina Grimké, 1836. Letters on the Equality of the Sexes and the Condition of Woman, in Miriam Schneir, *Feminism: The Essential Historical Writing*, pp. 35-48. [Blackboard] This is a required reading. However, it can also be critiqued for extra credit points. See the [Syllabus Key \(page 5\)](#) for details

Unequal Rights for Women and Gender Based Discrimination

- 1830 "How should men treat their wives? How should wives treat their husbands?" by Mathew Carey [Blackboard]
- *Barker&Lyles... pp. 707-714 (skim)
- *Kathleen M. Brown. *Good Wives, Nasty Wenches & Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill: University of North Carolina Press, 1996).
- *Hoff. Chapter Three: From British Subjects to U.S. Citizens pp. 80-116.
- Frederick Douglas, Editorial From the North Star, in Miriam Schneir, *Feminism: The Essential Historical Writing*, pp. 83-85. [Blackboard]
- Married Women's Property Act, 1848 and Married Women's Property Act 1860, in Miriam Schneir, *Feminism: The Essential Historical Writing*, pp. 72-74, 122-124 [Blackboard] (skim)

*"Women's Rights." Sojourner Truth. Excerpted from Civil Rights Since 1787, edited by Jonathan Birnbaum and Clarence Taylor (2000), pp. 127-129. [Blackboard]
 Brief Overview of the 13th, 14th and 15th Amendments. Excerpted from *African-American Legal History: Cases and Commentaries*, Chapter 3 (Lyles) [Blackboard]
 1873. *Slaughterhouse Cases* [Blackboard]

WEEK FOUR

Tuesday January 31

@"The Subjection of Women" An Essay by John Stuart Mill, excerpts, in Miriam Schneir, *Feminism: The Essential Historical Writing*, pp. 162-178 [Blackboard]. This is a required reading. However, it can also be critiqued for extra credit points. See the Syllabus Key (page 5) for details.

*Baer and Goldstein, pp. 1-25 (skim) Strongly recommended.

Brief of Bradwell's Counsel, excerpt, [Baer and Goldstein, 3rd ed.] pp. 14-15.

1873. *Bradwell v. State of Illinois* [Baer and Goldstein, pp. 14-18]

Early Struggle for the Ballot

Baer and Goldstein, pp. 23-25 "Women and Modern Citizenship, Part One: The Vote by Constitutional Amendment.

Feminist Jurisprudence: An Overview. http://www.law.cornell.edu/topics/feminist_jurisprudence.html

*Introduction: The Varieties of Feminist Thinking, Rosemarie Tong, in *Feminist Thought: A Comprehensive Introduction* (Boulder, CO: Westview Press, 1989).

*Biography, Virginia Minor, see internet.

*Hoff. Chapter Four: Constitutional Neglect, 1787-1872, pp. 117-150.

1875. *Virginia Minor v. Reese Happersett* [Baer and Goldstein] pp. 19-22.

1876. *United States v. Reese* [Blackboard]

1876. *United States v. Cruikshank* [Blackboard].

*1883. *Civil Rights Cases* [Blackboard]

Thursday February 2

*1892. "The Higher Education of Women" by Anna Julia Cooper. Excerpted from Civil Rights Since 1787, edited by Jonathan Birnbaum and Clarence Taylor (2000), pp. 249-251. [Blackboard]

*1896. *Plessy v Ferguson*, Barker&Lyles... pp. 463-468 or [Blackboard].

Economic Substantive Due Process

*Hoff. Chapter Five: Constitutional Discrimination, 1872-1908, pp. 151-191.

Substantive due process handout, *The Oxford Companion to the Supreme Court*, Kermit Hall ed., pp. 237-239 [Blackboard]

Baer and Goldstein] pp. 25-57

1905. *Lochner v. New York* [Baer and Goldstein], pp. 25-32.

1908. *Muller v. Oregon* [Baer and Goldstein] pp. 32-34, or [Barker&Lyles...], 717-719 .

*[Schneir] Senate Report—History of Women in Industry in the United States, pp. 254-267. (skim).

1911. Triangle Shirtwaist Factory Fire in New York City [Blackboard]

*1915. "Woman Suffrage and the Fifteenth Amendment" by Mary Church Terrell. Excerpted from Civil Rights Since 1787, edited by Jonathan Birnbaum and Clarence Taylor (2000), pp. 260-261. [Blackboard]

[Blackboard]

1917. *Bunting v. Oregon* [Baer and Goldstein] p. 34-35.

*1917. "Woman Suffrage and the Negro" from *The Messenger*. Excerpted from Civil Rights Since 1787, edited by Jonathan Birnbaum and Clarence Taylor (2000), pp. 262-263. [Blackboard]

1920. The 19th Amendment [Barker&Lyles..., p. 870] or internet.

*"The Passage of the 19th Amendment, 1919-1920, Articles from the New York Times."

<http://www.fordham.edu/halsall/mod/1920womensvote.html>

@“*Black Women and the Right to Vote*,” by Darlene Clark Hine and Christine Anne Farnham. Excerpted from *Civil Rights Since 1787*, edited by Jonathan **Birnbaum** and Clarence Taylor (2000), pp. 252-259.

See the [Syllabus Key \(page 5\)](#) for details. There may be an in class quiz on this reading next class session. [\[Blackboard\]](#)

1923. *Adkins v. Children’s Hospital* [Baer and Goldstein] pp. 35-43.

WEEK 5

Tuesday February 7

*Hoff. Chapter Six: Constitutional Protection, 1908-1963, pp.192-228.

1924. *Radice v. New York* [Baer and Goldstein] pp. 43-44.

1937. *West Coast Hotel Company v. Parrish* [Baer and Goldstein] pp. 44-46

*1938. *U.S. v. Carolene Products Co.* See *The Gatekeepers*

*1941. *U.S. v. Darby* [\[online\]](#)

Compelling Levels of Equal Protection

Judicial Standards and Equal Protection Review [\[Blackboard\]](#)

Baer and Goldstein] pp. 46- 51

1948. *Goesaert v. Cleary* [Baer and Goldstein] pp. 51-53.

Interpreting the Equal Protection Clause

Baer and Goldstein, pp. 58-60.

1971 *Reed v. Reed* Baer and Goldstein] pp. 60-61, or [Barker&Lyles., pp. 719-720]

Thursday February 9

1973 *Frontiero v. Richardson* [Baer and Goldstein] pp. 61-68, or [Barker&Lyles...], pp. 720-722.

Compensating Women for Past Discrimination

1974. *Kahn v. Shevin* [Baer and Goldstein] pp. 68-69.

@Kimberle Crenshaw, “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,” *U. Chi. Legal F.* 139 (1989), reprinted D. Kelly Weisberg, ed., *Feminist Legal Theory: Foundations* (1993), pp. 383-395.

[\[Blackboard\]](#). This is a required reading. However, it can also be critiqued for extra credit points.

See the [Syllabus Key \(page 5\)](#) for details.

*Lyles, *The Gatekeepers*: ch. 3, pp. 37-72.

Unequal Benefits for Men and Women

1975. *Stanton v. Stanton* [Baer and Goldstein] pp. 266-269.

WEEK 6

Tuesday February 14

1975. *Weinberger v. Wisenfeld* [Baer and Goldstein] pp. 73-77.

1976 *Craig et al. v. Boren, Governor of Oklahoma* Baer and Goldstein] pp. 77-85, or [Barker&Lyles..., pp. 723-725].

1977. *Califano v. Goldfarb* [Goldstein and online]

*1977. *Califano v. Webster* [Goldstein and online.

*1980. *Wengler v. Druggists Mut. Ins. Co.*

All-Male Private Social Clubs

*1987. *Board of Directors of Rotary International, et. al., v. Rotary Club of Duarte* [Barker&Lyles...], pp. 271, 276 and <http://laws.findlaw.com/us/481/537.html>

*Hooray for Hootie [\[Blackboard\]](#)

Unwed Fathers and Their Children

1972. *Stanley v. Illinois* [Baer and Goldstein] pp. 297-303

1979. *Caban v. Kazim and Maria Mohammed* [Baer and Goldstein] pp. 304-311

**Parham v. Hughes*, [Baer and Goldstein] pp.311-312.

Thursday February 16

1983. *Lehr v. Robertson* [Baer and Goldstein] pp. 312-317

1998. *Miller v. Albright* [Baer and Goldstein] pp. 116-117, or [Barker&Lyles...], pp. 749-752

*2001. *Tuan Anh Nguyen v. INS*, [Baer and Goldstein] pp. 117-128.

Marriage and Alimony

1979. *Orr v. Orr*, [Baer and Goldstein] pp. 269-271, or [Barker&Lyles... 725-726].

@”The Politics of Black Feminist Thought, by Patricia Hill Collins. See

<http://www.hsph.harvard.edu/grhf/WoC/feminisms/collins1.html> OR [Blackboard] **Warning:** Take caution if you attempt print this pdf file. There is 2 inch solid Black border on every page. This is a **required reading**. However, it can also be critiqued for extra credit points. See the [Syllabus Key \(page 5\) for details](#).

Women and the Armed Forces

1981. *Rostker v. Goldberg* [Baer and Goldstein] pp. 104-116, or [Barker&Lyles...], pp. 732-735.

1975. *Schlesinger v. Ballard* [Baer and Goldstein] pp. 69-73.

WEEK 7

Tuesday February 21

1979. *Personnel Administrator of Massachusetts v. Feeney* [Baer and Goldstein] pp. 128-134, or [Barker&Lyles...], pp. 727-731.

Women and Title VII (Pay and Benefits)

The Equal Pay Act of 1963. <http://www.dot.gov/ost/docr/regulations/library/EQUALPAY.HTM>

“How Sex Got Into Title VII: Persistent Opportunism as a Maker of Public Policy”, by Jo Freeman, in *Law and Inequality: A Journal of Theory and Practice*, Vol. 9, No. 2, March 1991, pp. 163-184:

<http://www.inform.umd.edu/EdRes/Topic/WomensStudies/ReadingRoom/AcademicPapers/sex-in-title-vii>. (skim article, time permitting)

Title VII of the Civil Rights Act of 1964: Main Provisions [Blackboard]

[Lecture] Understanding interstate commerce and Title VII

*1964 *Heart of Atlanta Hotel v. U.S.* (Title II) as discussed in class) [Blackboard]

Cushman, pp. 119–122, “Title VII of the Civil Rights Act of 1964: Legislating Equality in the Workplace,” see [Blackboard]

The U.S. Equal Employment Opportunity Commission [online]

*1969. *Weeks v Southern Bell*. [Baer and Goldstein] pp.142-145.

1971. *Phillips v. Martin Marietta Corp.*, 400 U.S. 542 (1971) [Baer and Goldstein] pp. 147-149, and see also the discussion in the “Cushman” reading above on [Blackboard]

*1971. *Griggs v. Duke Power Company* [Barker&Lyles...], pp. 512-515, OR [Blackboard] (as discussed in class).

*1974. *Corning Glass Works v. Brennan* [Blackboard]

Thursday February 23

*1976. *Washington v. Davis* [Barker&Lyles...], p. 513 (as above in Lyles), OR [Blackboard].

1977. *Dothard v. Rawlinson*, [Baer and Goldstein] pp. 177-183.

*1978. *Los Angeles Department of Water and Power v. Manhart*, [Baer and Goldstein] [645...]

*1983. *Arizona Governing Committee v. Norris*, [Baer and Goldstein] [141, and 641...]

*1981. *County of Washington v. Gunther*, [Baer and Goldstein] [141-142].

*Hoff. Chapter Seven: Constitutional Equality, 1963-1990, pp. 229-275.

Women and Affirmative Action

Affirmative Action (lecture)

- *(skim over) *Regents of the University of California v. Bakke* [Barker&Lyles...], pp. 529-538 or [Blackboard]
- *Transcript of Edited and Narrated Arguments in *Regents of the University of California v. Bakke*, as published in May It Please the Court... edited by Peter Irons and Stephanie Guotton (1993), pp. 305-314.

WEEK 8

Tuesday February 28

- “Affirmative Action” in Cushman, pp. 134–140 (including the *Johnson* case below).
1987. *Johnson v. Transportation Agency, Santa Clara County, Ca.* [Baer and Goldstein] pp. 222-240.
- Wendy Wygant v. Jackson Board of Education* [Blackboard] and [Barker&Lyles...], pp. 517, 539, 540, 542, 548, 557, 612-613.
- Notes from Ronald J. Fiscus, *The Constitutional Logic of Affirmative Action*, Duke University Press, 1992. [Blackboard]
- “Bush style” affirmative action [Blackboard]
- *1989. *Patterson v McLean Credit Union*. Baer and Goldstein] pp. 149-150.

Education and Single Sex Admission Polices

1982. *Mississippi University for Women et al. v. Hogan* [Baer and Goldstein] pp. 510-517.
- Title IX, Education Amendments of 1972 [Baer and Goldstein] pp 533-535 and [Blackboard]
1984. *Grove City College v. Bell* [Blackboard] or Barker&Lyles...pp. 4, and 742-744, and [Baer and Goldstein] pp 534-535.
- *“Making Partner,” in Cushman, pp. 128–134, including *Price Waterhouse v Hopkins (1989)* [Blackboard]. Also, Baer and Goldstein] pp.167-175.
1996. *United States v. Virginia*, [Baer and Goldstein] pp 517-533, or [Barker&Lyles...], pp. 745-749.

Thursday March 1

- *Lyles, *The Gatekeepers*: ch. 4, pp. 73-115.
- “UIC Invites Daughters To Work For A Day” [Blackboard]
- Title IX and Educational Equality, [Baer and Goldstein] 533-534, and “Leveling the Playing Field, Rosemary Rood-Tutt ” [Blackboard].
- Find (and post to the wiki) the link and a short summary of an article/book/story/ etc. on gender discrimination and NCAA sports [Title IX]. See also for example “Duke loses discrimination case,” [Blackboard]. Students may also find the following web site. <http://www.feminist.org/> helpful. Post your summary and link as a comment. Your summary should be no longer than 1-2 sentences. EVERYONE us required to do this.
- *National Women’s Law Center, <http://www.nwlc.org/display.cfm?section=athletics> @The Intersection of Racial and Gender Bias [Blackboard]. This is a required reading. However, it can also be critiqued for extra credit points. See the Syllabus Key (page 5) for details.

The midterm exam will cover all material up to this point...BUT NOTHING BEYOND THIS POINT

WEEK 9

Tuesday March 6

Iron Jawed Angles (in class presentation): class will start 5 minutes early

Thursday March 8

Iron Jawed Angles (in class presentation): class will start 5 minutes early

WEEK 10

Tuesday March 13

Review for midterm exam today.

Thursday March 15

Midterm Exam

**You may NOT take the exam early; you may not take the exam late
TODAY is the DAY**

**WEEK 11
SPRING BREAK**

**WEEK TWELVE
Tuesday March 27**

Women, Procreation and the Right of Privacy

Barker&Lyles... pp. 753-755 or [Blackboard]

Baer and Goldstein, pp. 343-345

The Right to Privacy

Sterilization

1927. *Buck v. Bell* [Baer and Goldstein] pp. 345-347

1942. *Skinner v. Oklahoma*, [Baer and Goldstein] pp. 347-352

**Stump v. Sparkman* [Baer and Goldstein] pp.351

"Scarred by Sterilization," by Jack Lessenberry. *The Washington Post*, [Blackboard]

Contraception

"Woman and the New Race," by Margaret Sanger, in Miriam Schneir, *Feminism: The Essential Historical Writing*, pp. 325-334 [Blackboard].

*1958. *NAACP v. Alabama* [Barker&Lyles...], pp. 271-274.

@The Catholic Church and Contraception (biased and undocumented) [Blackboard]

1965 *Griswold et al. v. Connecticut* [Baer and Goldstein] pp. 352-360, or [Barker&Lyles...], pp. 756-759.

"High Court Overturns Anti-Birth Control Law," *Los Angeles Times*, June 8, 1965 [Blackboard]

1972 *Eisenstadt v. Baird* [Baer and Goldstein] pp. 361-367.

*@Robin West, "Jurisprudence and Gender," *Univ. of Chicago Law Review* 55, no. 1 (Winter 1988): 1-72.

This is an optional reading. However, it can also be critiqued for extra credit points. See the Syllabus Key (page 5) for details. You will have to find this article on your own.

*Hoff. Chapter Eight: The Limits of Liberalism: Marriage, Divorce, Pregnancy and Abortion, pp. 276-315.

Thursday MARCH 29

Pregnancy

Baer and Goldstein, pp. 183.

1974. *Cleveland Board of Education v. LaFleur* [Baer and Goldstein] pp. 183-188.

1974. *Geduldig v. Aiello* [Barker&Lyles...], p. 712 and [Baer and Goldstein] pp. 197-201

1976. *General Electric Company v. Martha Gilbert* [Baer and Goldstein] pp. 201-208

1977. *Nashville Gas Company v. Satty* [Baer and Goldstein] pp. 208-210

1978. The Pregnancy Discrimination Act (Amends Title VII) See:

<http://www.afscme.org/wrkplace/wrfaq06.htm> or <http://www.eeoc.gov/facts/fs-preg.html>

1983. *Newport Shipbuilding and Drydock v. EEOC* [Baer and Goldstein] 209-210

*Lyles, *The Gatekeepers*: ch. 5, pp. 117-154.

*1987. *California Federal Savings and Loan v. Guerra* [Baer and Goldstein] pp. 210- 221

**Wimberly v. Labor and Industrial Relations Comm.* [1987] [Baer and Goldstein] pp. 221-222.

"Fertile Women Need Not Apply," see Cushman, pp. 178-181, including *Automobile Workers v. Johnson Controls* [Blackboard]

1991. *Automobile Workers v. Johnson Controls, Inc.* [Baer and Goldstein] pp. 189-197.

**The Family and Medical Leave Act of 1993*. <http://www.dol.gov/asp/programs/handbook/fmla.htm>

**Nevada v Hibbs* (2003). Baer and Goldstein] pp. 221-222.

@Lucinda M. Finley. "The Story of *Roe v Wade*: From a Garage Sale for Women's Lib, to the Supreme Court, to Political Turmoil." [Blackboard] This is a required reading. However, it can also be critiqued for extra credit points. See the [Syllabus Key \(page 5\) for details](#).

Week Thirteen Tuesday April 3

Abortion

Baer and Goldstein] pp.368-383.

1973. *Roe v. Wade* [Baer and Goldstein] pp. 368-383 or [Barker&Lyles...], pp. 759-763

1973. Transcript of Edited and Narrated Arguments in *Roe v. Wade*, as published in May It Please the Court... edited by Peter Irons and Stephanie Gutton (1993), pp. 343-354 [Blackboard]

@Issue 16. "Should Abortion Be Restricted: Robert Bork vs. Mary Gordon?" in *Clashing Views on Controversial Political Issues*, 12th Edition, McKenna and Feingold eds., (Guilford, Court: McGraw-Hill, 2001), pp. 280-299. [Blackboard]. This is a required reading. However, it can also be critiqued for extra credit points. See the [Syllabus Key \(page 5\) for details](#).

1973. *Doe v. Bolton* [Baer and Goldstein 370-382]

Restrictions on Abortion.....See generally [Baer and Goldstein] pp.368-497...skim this section

1976. *Planned Parenthood v. Danforth* [Baer and Goldstein] pp. 383-391]

1977. *Frank Beal et. al. V. Ann Doe et. al* [Baer and Goldstein] pp. 89, 396

1977. *Edward Maher v. Susan Roe et. al* [Baer and Goldstein]p. 89, 396-397, 413, 414

1977. *Poelker et. al. V. Jane Doe, etc.* [Baer and Goldstein] pp. 89, 397

1980. *Patricia Harris, Secretary of Health and Human Services v. Cora McRae* [Baer and Goldstein], pp 89, 398, 413-414, 424-425.

1983. *City of Akron v. Akron Center for Reproductive Health* [Baer and Goldstein] pp. 392-444

1986. *Thornburgh v. American College of Obstetricians and Gynecologists* [Baer and Goldstein] pp.394-458.

1989. *Webster v. Reproductive Health Services, et al.* [Baer and Goldstein] pp. 396-444.

1991. *Rust v. Sullivan* [Baer and Goldstein] pp. 402-404, or [Barker&Lyles..., p. 7, 755], [Gatekeepers], p. 189 n.18.

1992. *Planned Parenthood v. Casey* (1992) [Baer and Goldstein] pp. 404-431, 433-462.

*1997. *Schenck v. Pro-Choice Network of Western New York* (1997) [PoIS 354]

Presidents and Abortion, excerpts from *The Gatekeepers, Federal District Courts in the Political Process* (Lyles, 1997). Also see footnote 66 [Lyles, Gatekeepers] describing partial birth abortion. [\[this information is on the wiki: Google Site\]](#).

2000. *Stenberg v. Carhart*. [Baer and Goldstein] pp. 433-446

2007. *Gonzales v. Carhart*. Find the case on your own and see also the following: http://www.reproductiverights.org/crt_pba.html

*Lyles, *The Gatekeepers*: ch. 6, pp. 155-201.

Thursday April 5

Part III. Privacy in Varied Contexts

The 1st Amendment and Pornography (for more complete coverage, take PoIS 354 with Lyles)

*Barker&Lyles... pp. 238-243 or [Blackboard](#).

*@Andrea Dworkin, "Against the Male Flood: Censorship, Pornography, and Equality," 8 *Harvard Women's L.J.* 1, 10-28 (1985). This is an [optional](#) reading. However, it can also be critiqued for extra credit points. See the [Syllabus Key \(page 5\) for details](#).

**Regina v. Hicklin*, 3 Queens Bench 360 (1868).

**Roth v. United States* (1957) [[LexisNexis](#)], as discussed in class

**Jacobellis v. Ohio*, 378 U.S. 184, 1964, as discussed in class

**Memoirs v. Massachusetts* (1966) [LexisNexis], as discussed in class

1973. *Miller v. California* [Barker&Lyles..., pp. 243-247] OR [Blackboard]

1991. *Barnes v. Glen Theatre* [Barker&Lyles..., pp. 247-254] OR [Blackboard].

@1984. "Should Pornography Be Protected by the First Amendment?" *Taking Sides*, 5th edition. Judge Sarah Evans Barker, from *American Booksellers Association, Inc. v. William H. Hudnut III*, U.S. Court of Appeals for the Seventh Circuit (1984), and, Andrea Dworkin, "The Oppression of Pornography." [Blackboard]. This is a required reading. However, it can also be critiqued for extra credit points. See the Syllabus Key (page 5) for details.

*Hoff. Chapter Nine. The Epitome of Liberal Legalism: The ERA and Pornography, pp. 316-349.

WEEK FOURTEEN

Tuesday April 10

Sexual Orientation

@Issue 17. "Should Gay Marriage Be Legalized: Andrew Sullivan vs. James Q. Wilson?" in *Clashing Views on Controversial Political Issues*, 12th Edition, McKenna and Feingold eds., (Guilford, Court: McGraw-Hill, 2001), pp. 300-313. [Blackboard]

State map on same sex marriage [find the most recent on your own]

Find an article on "Same Sex Marriage." Turn in the article and a typed summary (no more than one page) in class today. This assignment will count for two points on the final exam. This is required.

*1967. *Loving v. Virginia* [Blackboard]

*Transcript of Edited and Narrated Arguments in *Loving v. Virginia*, as published in May It Please the Court... edited by Peter Irons and Stephanie Gutton (1993), pp. 277-286. [Blackboard]

Homosexual Sodomy

1986. *Bowers v. Hardwick* [Barker&Lyles], OR [Blackboard].

*1986. Transcript of Edited and Narrated Arguments in *Bowers v. Hardwick*, 478 U.S. 186 (1986), as published in May It Please the Court... edited by Peter Irons and Stephanie Gutton (1993), pp. 361- 369 [Blackboard]

*1996. *Romer v. Evans* [Barker&Lyles, or, Lexis-Nexis].

2003. *Lawrence v. Texas* [Blackboard]

Thursday April 12

It is possible that class will be cancelled today (Midwest Political Science Association Meetings)

2000. *Boy Scouts of America v. Dale* [Blackboard]

UIC Professor's Work Gets a Supreme Compliment [Blackboard]

Sexual Harassment

1986. *Meritor Savings Bank v. Vinson* [Baer and Goldstein] pp. 150-151

1993. *Harris v. Forklift Systems, Inc.*, Baer and Goldstein] pp. 157-159

*2004. *Burlington Industries, Inc. v. Ellerth* (1998) and *Pennsylvania State Police v. Suder* (2004), Baer and Goldstein] pp.163-166

EEOC Sexual Harassment Guidelines (find on your own)

UIC: Prohibiting Sexual Harassment <http://www.uic.edu/depts/oea/Harassment.html>

Same-sex Sexual Harassment

1990. *Oncale v. Sundowner Offshore Services, Inc.* Baer and Goldstein] pp. 159-162, and [Barker&Lyles..., pp. 786-788]

Sexual Harassment In Schools: Teachers Harassing Students

*1992. *Franklin v. Gwinnett County Public Schools*[lexis-nexis]

*1998. *Gebster v. Lago Vista Independent School District* [lexis-nexis]

*1998. *Jones v Clinton*, Baer and Goldstein] pp.162-163.

Sexual Harassment In Schools: Students Harassing Other Students

1999. *Davis v. Monroe County School Board of Education* [lexis-nexis]

WEEK FIFTEEN
Tuesday April 17

All male juries

- *1880. *Strauder v. West Virginia* [Blackboard]
- *1965. *Swain v Alabama* (Pols 355) or [Blackboard]
- 1967. *Hoyt v. Florida* [Baer and Goldstein] pp. 53-57, 95-97, or 106-109
- 1975. *Billy Taylor v. Louisiana* [Baer and Goldstein] pp. 97-104
- *1986. *Batson v Kentucky* (Pols 355) or [Blackboard]
- 1994. *J. E. B. v. Alabama ex. rel. T.B. Baer and Goldstein*] pp. 104

Rape Laws

- 2000. *United States v. Morrison* Baer and Goldstein] pp. 617-630
- *For extra credit, Compile information (data) on “gender and rape” in the United States. You will earn extra points added to your MIDTERM exam score. (0-3 points). Post your data as an attachment or a comment to the Google page.
- 1981. *Michael M. v. Superior Court of Sonoma County* Baer and Goldstein] pp. 85- 95, or [Barker&Lyles..., pp. 735-738].
- @Frances Olsen, “Statutory Rape: A Feminist Critique of Rights Analysis.” 63 *Texas L. Rev.* 387 (1984), reprinted in D. Kelly Weisberg, ed., *Feminist Legal Theory: Foundations* (1993), pp. 485-495. [Blackboard]. This is a required reading. However, it can also be critiqued for extra credit points. See the [Syllabus Key \(page 5\)](#) for details.
- *1977. “Women and Lynching” by Jacquelyn Dowd Hall. *Southern Exposure*. Excerpted from *Civil Rights Since 1787*, edited by Jonathan Birnbaum and Clarence Taylor (2000), pp. 280-282. [Blackboard]
- *Lyles, *The Gatekeepers*: ch. 8, “Does Race Make a Difference?”

Thursday April 19

- @Lyles, *The Gatekeepers*: ch. 9, “Does Gender Make a Difference?” [Blackboard]. There will be a quiz on this material today. This is a required reading. However, it can also be critiqued for extra credit points. See the [Syllabus Key \(page 5\)](#) for details.
- 1998. “Fear of a Black Feminist Planet,” by Barbara Ransby. Excerpted from *Civil Rights Since 1787*, edited by Jonathan Birnbaum and Clarence Taylor (2000), pp. 874-877. [Blackboard]
- *Hoff. Chapter Ten. Beyond Liberal Legalism: From Equality to Equity, pp. 350-376.

WEEK SIXTEEN
Tuesday April 24

We will use this session to catch up if we are behind

The Poor in Court [time-permitting]

- Welfare Benefits (as discussed in class)
- Barker&Lyles... pp. 748-780 [9th edition, 2011]
- 1969 *Shapiro v. Thompson* [Barker&Lyles, 9th edition].
- 1999 *Rita L. Saenz, Director, California Department Of Social Services, Et Al., Petitioners V. Brenda Roe And Anna Doe Etc.* [Barker&Lyles, 9th edition].
- 1970 *Goldberg v. Kelly* [Barker&Lyles, 9th edition].
- 1971 *Wyman v. James* [Barker&Lyles, 9th edition].
- Poverty, Public Schools, and the Property Tax [TAKE PolS 358]
- Barker&Lyles... pp. 818 [blackboard]
- 1973 *San Antonio Independent School District v. Rodriguez* [Barker&Lyles, 9th edition].

- *Transcript of Edited and Narrated Arguments in *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1972), as published in *May It Please the Court...* edited by Peter Irons and Stephanie Guotton (1993), pp. 321-330.
- *1982. *Plyler v. Doe* [Barker&Lyles, 9th edition].

Thursday April 26

[Baer and Goldstein] pp. 638-639.

Assisting Suicide

- *1990. *Cruzan v. Missouri Department of Health* [Blackboard]
- *1997. *Washington v. Glucksberg* [Barker&Lyles..., pp. 788-792] **OR** [Blackboard].
- *Justices Accept Oregon Case Weighing Assisted Suicide [Blackboard].

Personal Liberty

- *1976. *Kelley, Commissioner, Suffolk County Police Dept. v. Johnson* [Barker&Lyles...], p. 755, and [Blackboard]
- *Lyles, *The Gatekeepers*: ch. 7, pp. 203-221.
- *@bell hooks, *Feminists Theory: From Margin to Center*, chapter one, "Black Women Shaping Feminist Theory [Blackboard]. This is an optional reading. However, it can also be critiqued for extra credit points. See the Syllabus Key (page 5) for details

Final Exam Schedule:

http://www.uic.edu/depts/oar/current_students/calendars/final_exam_schedule.html