

Constitutional Law: Women, Gender, Privacy and the Law

Political Science 257
African-American Studies 257
Gender and Women's Studies 257
Spring Semester 2005, Professor Lyles
Version 1.28

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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 251 and 252]. 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%, which equals 12 out of 15 points.

COURSE REQUIREMENTS

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.

All students must utilize the UIC Blackboard CoursInfo system. You can enter UIC Blackboard CoursInfo from the UIC homepage, go to “learning at UIC,” or go directly to <http://courseinfo.uic.edu/> and login.

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.

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

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:

Mariam Schneur, *Feminism: The Essential Historical Writings*

Recommended:

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

Barker, Lyles, et. al. *Civil Liberties and the Constitution* (8th edition), **OR**, Leslie Friedman Goldstein: *The Constitutional Rights of Women*

Lawrence Baum. *The Supreme Court* (8th edition)

“Understanding the Federal Courts” <http://www.uscourts.gov/UFC99.pdf>

Students may find <http://www.feminist.org/> helpful in keeping up with current events discussed in their class.

Most cases can also be located at one of the following web sites:

<http://www.uscplus.com/>

<http://www.findlaw.com/>

<http://supct.law.cornell.edu/supct/index.php>

Book Review Essay Options (select one):

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

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*

bell hooks. *Feminist Theory*

Computation of Course Grade

Midterm Exam	35%
Final Exam	35%
Book Review Essay	15%
Attendance, Quizzes, and Participation	15%

SEMINAR SCHEDULE

DATE HEADINGS ARE MERELY SUGGESTIVE OF WHEN DISCUSSION MAY
BEGIN FOR EACH TOPIC AREA AND ARE SUBJECT TO CHANGE

Use the following key to locate class materials:

[blackboard] the “UIC Blackboard”

[Goldstein] see Leslie Friedman Goldstein: *The Constitutional Rights of Women*

[Schneir] see *Feminism, the Essential Historical Writings*

[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 ampersand “@” are **required**; however, they may also be critiqued for optional credit. You may earn 0-3 points per critique. Points earned for critiques submitted prior to the midterm will be added to your midterm exam score. Points earned for critiques submitted after the midterm will be added to your final exam score. Critiques should include a detailed summary of the reading as well as your own analysis (agree/disagree). Critiques are limited to no more than three typed pages.

WEEK ONE

Tuesday January 11

Introduction.

A comparison of constitutional law courses offered at UIC by Dr. Lyles [blackboard]

The PolS 257 Syllabus [blackboard] Note: students are required to check the on-line syllabus weekly for updates.

Review of course requirements and introductory materials.

Book Review Guidelines [blackboard]

Thursday January 13

Lecture: Courts as policymaking institutions, introduction.

*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>

@“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]

Melone, pp. 104-114. “Why and How to Brief a Case.” [blackboard]

WEEK TWO

Tuesday January 18

Lecture: Courts as policymaking institutions, continued...

*Lyles. *The Gatekeepers*, ch. 2, p. 11-35.

*Baum. chapters 4-6

*Gender and Law in the American Colonies: An Overview, 1600–1776. [not available at this time]

@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].

*Hoff. Chapter One: The Masculinity of U.S. Constitutionalism, pp. 21-48.

Thursday January 20

PART I. Unequal Rights for Women and Gender Based Discrimination

*1776 Declaration of Independence

*Plato, Aristotle, Locke, Rousseau, etc.

*Hoff. Chapter Two: Women and the American Revolution, pp. 49-79.

[Schneir] pp. 2-4. 1776 Abigail Adams writes to her husband, John Adams, asking him to “remember the ladies” in the new code of laws.

*[Schneir] Mary Wollstonecraft, “A Vindication of the Rights of Woman,” pp. 5-16

*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]

Marbury v. Madison (1803) [blackboard]

1830 “How should men treat their wives? How should wives treat their husbands?” by Mathew Carey [blackboard]

*Barker&Lyles... pp. 707-714 (skim)

Goldstein, pp. 3-8 [blackboard]

*@[Schneir] Sarah and Angelina Grimké, 1836, pp. 35-48. Letters on the Equality of the Sexes and the Condition of Woman

*Kathleen M. Brown. *Good Wives, Nasty Wenches & Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill: University of North Carolina Press, 1996).

WEEK THREE

Tuesday January 25

*Hoff. Chapter Three: From British Subjects to U.S. Citizens pp. 80-116.

*[Schneir] Frederick Douglas, Editorial From the North Star, pp. 83-85.

[Schneir] 1848. Married Women’s Property Act, 1848, pp. 72-74; and Married Women’s Property Act 1860, pp. 122-124. (skim)

*1867. “Women’s Rights.” Sojourner Truth. Excerpted from *Civil Rights Since 1787*, edited by Jonathan Birnbaum and Clarence Taylor (2000), pp. 127-129. [blackboard]

*@[Schneir] 1869. “The Subjection of Women” An Essay by John Stuart Mill, excerpts, pp. 162-178. Brief Overview of the 13th, 14th and 15th Amendments. Excerpted from *With Liberty and Justice for Some*, Chapter 3 (Lyles) [blackboard]

1873. *Slaughterhouse Cases* [blackboard]

Brief of Bradwell’s Counsel, excerpt, [Goldstein] pp. 66-69, **OR** [blackboard]

1873. *Bradwell v. State of Illinois* [Goldstein] pp.70-72, **OR** [Barker&Lyles...], pp. 715-717 **OR** [blackboard]

Early Struggle for the Ballot

Goldstein, pp. 73-76, **OR** [blackboard]

Thursday January 27

Feminist Jurisprudence: An Overview. http://www.law.cornell.edu/topics/feminist_jurisprudence.html
OR [blackboard]

- *"Introduction: The Varieties of Feminist Thinking," Rosemarie Tong, in *Feminist Thought: A Comprehensive Introduction* (Boulder, CO: Westview Press, 1989).
- *Biography, Virginia Minor, see http://search.eb.com/women/articles/Minor_Virginia_Louisa.html
- *Hoff. Chapter Four: Constitutional Neglect, 1787-1872, pp. 117-150.
- 1875. *Virginia Minor v. Reese Happersett* [Goldstein] pp. 76-83 **OR** [blackboard].
- 1876. *United States v. Reese* [blackboard]
- 1876. *United States v. Cruikshank (1876)* [blackboard].
- *1883. *Civil Rights Cases* [blackboard]
- *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* (1896), Barker&Lyles... pp. 463-468 **OR** [blackboard].

WEEK FOUR

Tuesday February 1

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]
- 1905. *Lochner v. New York* [Goldstein], pp. 8-19 **OR** [blackboard]
- 1980. *Muller v. Oregon* [Goldstein] pp. 20-22, **OR** [Barker&Lyles...], 717-719 or [blackboard]
- [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]
- 1917 *Bunting v. Oregon* [Goldstein] pp. 23-25 **OR** [blackboard]
- "The Ballot Through Constitutional Amendment: Women Take to the Streets" [Goldstein, pp. 83-87] **OR** [blackboard]
- *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.
- 1923. *Adkins v. Children's Hospital* [Goldstein] pp. 24-36 **OR** [blackboard]
- @ "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. [blackboard]. There *may* be an in class quiz on this reading today.
- *Hoff. Chapter Six: Constitutional Protection, 1908-1963, pp.192-228.

Thursday February 3

- 1924 *Radice v. New York* [Goldstein] pp. 37-40 **OR** [blackboard]
- 1937 *West Coast Hotel Company v. Parrish* [Goldstein] pp. 41-48 **OR** [blackboard]
- *1938. *U.S. v. Carolene Products Co.* See *The Gatekeepers*
- *1941 *U.S. v. Darby* [blackboard]
- Compelling Levels of Equal Protection
- 1948 *Goesart v. Cleary* [Goldstein] pp. 101-103 **OR** [blackboard]
- Judicial Standards and Equal Protection Review [blackboard]
- The Equal Pay Act of 1963. <http://www.dot.gov/ost/docr/regulations/library/EQUALPAY.HTM> **OR** [blackboard]
- Title VII of the Civil Rights Act of 1964: Main Provisions [blackboard]

"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. This article is available at: [blackboard] **OR**
<http://www.inform.umd.edu/EdRes/Topic/WomensStudies/ReadingRoom/AcademicPapers/sex-in-title-vii>.

WEEK FIVE

Tuesday February 8

Gender and estate administration

1971 *Reed v. Reed* [Barker&Lyles...], pp. 719-720, **OR**, [Goldstein] pp. 113-114, **OR** [blackboard]

1973 *Frontiero v. Richardson* [Goldstein] pp. 115-126, **OR** [Barker&Lyles...], pp. 720-722, **OR** [blackboard]

1974 *Kahn v. Shevin* [Goldstein] pp. 128-132 **OR** [blackboard]

1975 *Weinberger v. Wisenfeld* [Goldstein] pp. 152-158 **OR** [blackboard]

1975. *Stanton v. Stanton* [Goldstein] pp. 159-163 **OR** [blackboard]

@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]

Thursday February 10

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

More Rigid or Strict Scrutiny

Goldstein pp. 125-166 or [blackboard]

1966. *Craig et al. v. Boren, Governor of Oklahoma* [Barker&Lyles..., pp. 723-725], **OR** [blackboard]

1977 *Califano v. Goldfarb* [Goldstein] 179-191 **OR** [blackboard]

1977 *Califano v. Webster* [Goldstein] pp. 192-195 **OR** [blackboard]

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]

WEEK SIX

Tuesday February 15

Fathers' Rights and Equal Protection

1972 *Stanley v. Illinois* [Goldstein] pp. 196-203 **OR** [blackboard]

1979 *Caban v. Kazim and Maria Muhammed* [Goldstein] pp. 208-221, **OR** [blackboard]

1983 *Lehr v. Robertson* [Goldstein] 222-232 **OR** [blackboard]

1998 *Miller v. Albright* [Barker&Lyles...], pp. 749-752, **OR** [blackboard]

Marriage and Alimony

1979 *Orr v. Orr*, [Barker&Lyles...], 725-726, **OR** [blackboard]

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

<http://www.hsph.harvard.edu/grhf/WoC/feminisms/collins1.html> **OR** [blackboard] Take caution if you print this pdf file at home. There is 2 inch solid border on every page.

Thursday February 17

The Military, Promotion, and Veteran Preferences

1975 *Schlesinger v. Ballard* [Goldstein] pp. 133-139 **OR** [blackboard]

1979 *Personnel Administrator of Massachusetts v. Feeney* [Barker&Lyles...], pp. 727-731, **OR** [blackboard]

The Draft

1981 *Rostker v. Goldberg* [Barker&Lyles...], pp. 732-735, **OR** [blackboard]

Women and Affirmative Action

- Goldstein, pp. 562-565 **OR** [blackboard]
 1971 *Griggs v. Duke Power Company* [Barker&Lyles...], pp. 512-515, **OR** [blackboard].
 1976 *Washington v. Davis* [Barker&Lyles...], p. 513 (above), and [blackboard].
 *Hoff. Chapter Seven: Constitutional Equality, 1963-1990, pp. 229-275.

WEEK SEVEN

Tuesday February 22

- (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. [blackboard]
 (skim over) *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]
Johnson v Transportation Agency, Santa Clara County, Ca. [Goldstein], pp. 562-583 **OR** [blackboard]
 “Bush style” affirmative action [blackboard]
Education and Single Sex Admission Polices
 1982 *Mississippi University for Women et al. v. Hogan* [Barker&Lyles...], pp. 739-741, **OR**, [Goldstein] pp. 286-296, **OR** [blackboard]
 1984 *Grove City College v. Bell* [Barker&Lyles...], pp. 4, and 742-744, **OR** [blackboard].
 1996 *United States v. Virginia*, [Barker&Lyles...], pp. 745-749, **OR** [blackboard].

Thursday February 24

- *Lyles, The Gatekeepers: ch. 4, pp. 73-115.
 “UIC Invites Daughters To ‘Work For A Day’” [blackboard]
 Title IX: Leveling the Playing Field, Rosemary Rood-Tutt ” [blackboard] **AND** any article on Title IX and women’s sports (bring a copy of your article to class to turn in)
 Find (and bring to class) your “own” article on gender discrimination and NCAA sports. See also for example “Duke loses discrimination case,” [blackboard]. Students may also find the following web site. <http://www.feminist.org/> helpful.
 *National Women’s Law Center, <http://www.nwlc.org/display.cfm?section=athletics>
 Catch up and review
 @The Intersection of Racial and Gender Bias [blackboard]

WEEK EIGHT

Tuesday March 1

Midterm Exam

Thursday March 3

PART II. Women, Procreation and the Right of Privacy

- Barker&Lyles... pp. 753-756 **OR** [blackboard]
 Goldstein, pp. 298-303 **OR** [blackboard]
 The Right to Privacy
Sterilization
 1927 *Buck v. Bell* [Goldstein], pp. 304-305 **OR** [blackboard]
 1942 *Skinner v. Oklahoma*, [Goldstein] pp. 306-309 **OR** [blackboard]
 “Scarred by Sterilization, by Jack Lessenberry. *The Washington Post*, [blackboard]
 Goldstein, pp. 310-312 **OR** [blackboard]
Contraception
 [Schneur] Excerpt: “Woman and the New Race,” by Margaret Sanger, pp. 325-334.

- *1958. *NAACP v. Alabama* [Barker&Lyles...], pp. 271-274.
 1965 *Griswold et al. v. Connecticut* [Barker&Lyles...], pp. 756-759 **OR** [blackboard]
 “High Court Overturns Anti-Birth Control Law,” *Los Angeles Times*, June 8, 1965 [blackboard]
 1972 *Eisenstadt v. Baird* [Goldstein] pp. 323-332 **OR** [blackboard]
 *@Robin West, “Jurisprudence and Gender,” *Univ. of Chicago Law Review* 55, no. 1 (Winter 1988): 1-72.
 *Hoff. Chapter Eight: The Limits of Liberalism: Marriage, Divorce, Pregnancy and Abortion, pp. 276-315.

WEEK NINE

Tuesday March 8

- *The Invention of Substantive Due Process [Blackboard]

Pregnancy

- Goldstein, pp. 455-456, **OR** [blackboard]
 1974 *Cleveland Board of Education v. LaFleur* [Goldstein] pp. 456-463 **OR** [blackboard]
 1974 *Geduldig v. Aiello* [Barker&Lyles...], p. 712 and [Goldstein] pp. 465-469 **OR** [blackboard]
 1976 *General Electric Company v. Martha Gilbert* [Goldstein] pp. 470-480 **OR** [blackboard]
 1977 *Nashville Gas Company v. Satty* [Goldstein] pp. 481-488 **OR** [blackboard]
 1978. The Pregnancy Discrimination Act (Amends Title VII) See:
<http://www.afscme.org/wrkplace/wrfaq06.htm> **OR** [blackboard].
 1983 *Newport Shipbuilding and Drydock v. EEOC* [Goldstein] 489-497 **OR** [blackboard]
 *Lyles, *The Gatekeepers*: ch. 5, pp. 117-154.

Thursday March 10

Pregnancy Leave

- Goldstein, pp. 49-51, **OR** [blackboard]
 1987 *California Federal Savings and Loan v. Guerra* [Goldstein] pp. 52-64 **OR** [blackboard]
 Goldstein, p. 65 (*Wimberly v. Labor and Industrial Relations Comm.* [1987]) **OR** [blackboard]
The Family and Medical Leave Act of 1993. <http://www.dol.gov/asp/programs/handbook/fmfla.htm>
 @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]
 1973 *Roe v. Wade* [Barker&Lyles...], pp. 759-763, **OR** [blackboard].
 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 Guotton (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]

WEEK TEN

Tuesday March 15

Restrictions on Abortion

- Goldstein, pp. 360-361 **OR** [blackboard]
 1976 *Planned Parenthood v. Danforth* [Goldstein] pp. 361-373, 413-414 **OR** [blackboard]
 1977 *Frank Beal et. al. V. Ann Doe et. al* [Goldstein] pp. 415-419 **OR** [blackboard]
 1977 *Edward Maher v. Susan Roe et. al* [Goldstein] pp. 421-432 **OR** [blackboard]
 1977 *Poelker et. al. V. Jane Doe, etc.* [Goldstein] pp. 434-436 **OR** [blackboard]
 1980 *Patricia Harris, Secretary of Health and Human Services v. Cora McRae* [Goldstein] pp. 438-454 **OR** [blackboard]

Thursday March 17

- 1983 *City of Akron v. Akron Center for Reproductive Health* [Goldstein] pp. 375-394 **OR** [blackboard]
 1986 *Thornburgh v. American College of Obstetricians and Gynecologists* [Goldstein] pp. 396-412 **OR** [blackboard]
 1989 *Webster v. Reproductive Health Services, et al.* [Barker&Lyles..., pp. 763-765] **OR** [blackboard].

*1991 *Rust v. Sullivan* [Barker&Lyles..., p. 7, 755], [*Gatekeepers*], p. 189 n.18.
 1992 *Planned Parenthood v. Casey* (1992) [Barker&Lyles..., pp. 766-771] **OR** [blackboard].

WEEK ELEVEN

Spring Break (March 22 & 24)

WEEK TWELVE

Tuesday March 29

1997 *Schenck v. Pro-Choice Network of Western New York* (1997)[blackboard]
 2000. *Stenberg v. Carhart*. [blackboard]
 Presidents and Abortion, excerpts from *The Gatekeepers, Federal District Courts in the Political Process* (Lyles, 1997). Also see footnote 66 describing partial birth abortion. [blackboard].
 *Lyles, *The Gatekeepers*: ch. 6, pp. 155-201.
 In class assignment. Abortion: Interests, Values, and Judicial Policymaking

Thursday March 31

Part III. Privacy in Varied Contexts

The 1st Amendment and Pornography

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

WEEK THIRTEEN

Tuesday April 5

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]
 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.
 **Loving v. Virginia* (1967) [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

Barker&Lyles... pp. 771-776, **OR** [blackboard].
 1986 *Bowers v. Hardwick* [Barker&Lyles... 776-781], **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..., 781-786] **OR** [blackboard].
 2000 *Boy Scouts of America v. Dale* [blackboard]
 2003 *Lawrence v. Texas* [blackboard]
 UIC Professor's Work Gets a Supreme Compliment [blackboard]

Thursday April 7*Sexual Harassment*

1986 *Meritor Savings Bank v. Vinson* [Goldstein] pp. 553-561 **OR** [blackboard]

EEOC Sexual Harassment Guidelines (find on your own)

UIC: Prohibiting Sexual Harassment <http://www.uic.edu/depts/oe/Harassment.htm>

Same-sex Sexual Harassment

1990 *Oncale v. Sundowner offshore Services, Inc.* [Barker&Lyles..., pp. 786-788], **OR** [blackboard].

Find an article on “Homosexual Inheritance” 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. State map on same sex marriage [blackboard]

WEEK FOURTEEN**Tuesday April 12**

All male juries

1967 *Hoyt v. Florida* [Goldstein] pp. 106-109 **OR** [blackboard]

1975 *Billy Taylor v. Louisiana* [Goldstein] pp. 140-152 **OR** [blackboard]

Rape Laws

2000 *United States v Morrison* [blackboard]

*For extra credit, Draft a short paper compiling information (data) on “gender and rape” in the United States. The paper must be turned in at the start of class today. You will earn extra points added to your MIDTERM exam score. (0-2 points)

1981 *Michael M. v. Superior Court of Sonoma County* [Barker&Lyles..., pp. 735-738], **OR** [blackboard].

@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]

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 14*Assisting Suicide*

1990 *Cruzan v. Missouri Department of Health* [blackboard]

1997 *Washington v. Glucksberg* [Barker&Lyles..., pp. 788-792] **OR** [blackboard].

In class assignment. “A Supreme Court Justice Defines Death.”

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.

WEEK FIFTEEN**Tuesday April 19**

The Poor in Court [time permitting]

Welfare Benefits

Barker&Lyles... pp. 800-804 [blackboard]

1969 *Shapiro v. Thompson* [Barker&Lyles..., pp. 805-809, **OR** [blackboard].

1999 *Rita L. Saenz, Director, California Department Of Social Services, Et Al., Petitioners V. Brenda Roe And Anna Doe Etc.* [blackboard]

1970 *Goldberg v. Kelly* [Barker&Lyles..., 810-814] **OR** [blackboard].

1971 *Wyman v. James* [Barker&Lyles... pp. 814-818], **OR** [blackboard].

Poverty, Public Schools, and the Property Tax

Barker&Lyles... pp. 818 [blackboard]

1973 *San Antonio Independent School District v. Rodriguez* [Barker&Lyles..., pp. 818-826], **OR** [blackboard].

*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* [blackboard]

Thursday April 21

Women in the United States: A Brief Sketch

@Lyles, *The Gatekeepers*: ch. 9, "Does Gender Make a Difference?" [blackboard]. There may be a quiz on this material today.

*Lyles, *The Gatekeepers*: ch. 10.

*[optional] Robert A. Carp, *Law and Politics Book Review*, Vol. 9 No. 4 (April 1999) pp. 163-165.

<http://www.unt.edu/lpbr/subpages/reviews/lyles.html>

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]

WEEK SIXTEEN

Tuesday April 26

Review and conclusions

*Hoff. Chapter Ten. Beyond Liberal Legalism: From Equality to Equity, pp. 350-376.

Thursday April 28

ALL BOOK REVIEWS ARE DUE "**IN CLASS**" TODAY. [for guidelines, see blackboard under WEEK ONE]. You may not submit you paper electronically or leave your paper in my mailbox. You must bring the paper to class today. Early submissions will not be accepted.