

GINT 454
WOMEN AND THE LAW
Spring 2003

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Office Hours:
Mon & Thurs. 10:00-11:30
Tues 3:30-5:00
or by appt.

Required Reading:

Mary Atwell, Equal Protection of the Law ?

J. Ralph Lindgren & Nadine Taub, The Law of Sex Discrimination

Plus short selections posted on Blackboard - TBA

Reading for Extra Credit:

Martha Albertson Fineman, *The Illusion of Equality: the Rhetoric and Reality of Divorce* (1991) KF 535.29 .F56

Lani Guinier, *Becoming Gentlemen: Women, Law School and Institutional Change* (1997) KF 287 .G85

Nadine Strossen, *Defending Pornography: Free speech, Sex, and the Fight for Women's Rights* (2000) HQ 472 .U6 S87

Objectives

- 1) To increase your capacity to analyze the political, ethical, and legal aspects of selected issues related to the status of women.
- 2) To develop a basic understanding of the development of constitutional and statutory law impacting the lives of women in the U.S.
- 3) To enable you to develop your skills in legal research, analysis of cases and legal writing.

Nature of Assignments

The grading system was designed to evaluate your success in developing your skills of analysis, expression, and your comprehension of complex relationships. Ability to memorize is not considered important. Consequently written assignments will primarily be "essay", analytical, and open book.

Participation in class and in small groups will be emphasized. I believe that achievement of the course goals requires extensive interaction. Therefore, most of the class time will be spent in discussion of cases (in which students will be expected to respond to each other in addition to the instructor), debate of issues, and in role playing exercises. Everyone will be expected to participate vigorously in all of these activities (and, of course, participation necessitates attendance).

Development of effective legal skills involves the ability to learn from criticism and to work as part of a team. Consequently, several of the written exercises will involve working in small groups. Some of your work will be read and critiqued by other class members as well as by the instructor. In class discussions, you will be expected to vigorously critique the positions advanced by others (i.e., the positions of both the instructor and students) and to vigorously defend the positions you take. Expect the positions you take to be vigorously challenged by both the instructor and classmates in every class and be prepared in every class to defend all statements that you

make.

I also expect each student to be prepared to participate fully in every class. You are not expected to merely read each day's assignment before you come to class. Instead you are expected to be ready to **analyze** each assigned case, to discuss the **implications** of each case, and to be ready to **use** the assigned material to develop arguments in hypothetical cases posed by the instructor.

Assignments and Grading

The final course grade will be based on the following components:

- 20% class participation & case briefs
- 10% Midterm exam: writing a legal policy argument
- 20% first Court simulation
- 20% second Court simulation
- 30% Final Exam (writing legal & policy arguments)

Class participation - everyone is expected to be prepared each day to discuss the reading assigned for the day, including the facts, rule, reasoning, and political/ethical implications of the assigned cases. You will be required to write and turn in case briefs for designated cases and you are encouraged to write case briefs for each case. Written briefs that are not collected and graded, may be used to aid your responses to questions posed in class. In addition, students will be expected to be ready to play the role of attorneys arguing hypothetical mini-cases during class.

Court Simulations - each student will play the role of either a particular Supreme Court justice or a generic appeals court judge in the consideration of two cases involving issues of gender rights. For each case, two to four students will be asked to play the role of the attorneys arguing the case. Attorneys will have the opportunity to earn extra credit for their role. Attorneys will research their position and write a short version of an appellate brief to submit to the simulated Court. Attorneys will then engage in oral argument before the Court. Judges will research the relevant law, read and analyze the briefs submitted, question the attorneys during oral argument, discuss and decide the case in conference, and write the opinion of the Court and any dissenting opinions that are needed. Most courts will consist of three judges, so that for each simulation we will have multiple "courts" decide the same case.

Midterm & Final Examinations. These will be open book, in class exams taken during the scheduled exam period (see schedule below). You will be free to use any notes or case briefs you have written during the semester. The exams will consist of one or more short hypothetical situations or policy issues. You will be asked to either write an opinion of a hypothetical court resolving the case, or to make or analyze a policy proposal designed to "solve" a given problem. Such an analysis of a policy problem will typically include a proposed change in policy that you advocate, a discussion of how your proposal would change existing policy, an analysis of the constitutionality of your proposal, and a normative argument about why the proposed policy should be adopted or rejected.

Extra Credit Options

There will be two opportunities to earn extra credit. First, one may play the role of an attorney (rather than a judge) in one of the two simulations. Since this will involve more work than playing the role of a judge, those whose performance is evaluated as "B" quality will earn 5 points added to their final course grade. Those giving an "A" performance will earn a bonus 7 points added to their final course grade.

Second, you may read and make a presentation to the class on one of the books listed above for extra credit (see schedule below for when the

presentation must be made). If only one person signs up for a given book, they will present a brief written summary to the class, make a 15-20 minute presentation on the key points of the book, and then lead a class discussion on some controversial aspect of the author's position. If two people sign up for a book, they will present a brief written summary to the class and then engage in a pro/con debate of the author's position. Bonus points will be awarded as in the attorney option.

A sign up sheet will be passed around on the 2nd day of class to sign up for these extra credit options.

Tentative Outline of Assignments- Revised 3/4/03

Changes in daily assignments may be announced in class and posted on Blackboard. You are responsible for keeping up with all of these changes. Check Blackboard frequently ! Ignorance of an announced change will not be considered a legitimate excuse - you are responsible for any material presented in class and for announcements made in class regardless of whether or not you were in attendance. Some of the assigned reading will not be from the books to be purchased from the bookstore, but instead will be materials posted on Blackboard. Textbooks in the schedule below are designated by the initials of the author(s). A= Mary Atwell, Equal Protection of the Law ?; LT =J. Ralph Lindgren & Nadine Taub, The Law of Sex Discrimination

Date	Reading	Other Assignment
Jan. 14	LT - pages 1-8; How to brief a case (available on Blackboard)	
Jan. 16	LT - remainder of chapt 1 (Historical Context)	
Jan 21	LT - chapt 2, I,II,III (Constitutional Protection of Equality)	
Jan 23	LT - chapt 2, IV,V	
Jan 28	LT - chapt 3 - all (Evolving Feminist Perspectives)	
Jan 30	Report on Lani Guinier, <i>Becoming Gentlemen</i>	
Feb. 4	LT - chapt 4, I,II (Equal Employment Opportunity)	
Feb 6	LT - chapt 4, III, IV	
Feb 11	LT - chapt 5, I,II (Women & Work)	
Feb 13	LT - chapt 5, III,IV	
Feb 18	MIDTERM EXAM	
Feb 20	Special Report	
Feb 25	LT - chapt 7, I,II (note - this is out of order in book) (Family Law)	
Feb 27	LT - chapt 7, III, IV	
Mar 4		
Mar 6	LT - chapt 6, I,III, IV (Equal Education Opportunity)	

(Mar 11 & Mar 13 - NO CLASS - **Spring Break**)

Mar. 18 LT - chapt 8, I

Mar 20 Report on Martha Albertson Fineman, *The Illusion of Equality:*

Mar 25 Report on Nadine Strossen, *Defending Pornography*

Mar 27 **SIMULATION 1 ARGUMENT** - Affirmative Action

April 1 LT - chapt 8, II (Reproduction Rights)

April 3 LT - chapt 9 - all (Sexuality and Sexual Violence)

April 8 A - chapt 3,4 (Women & Girls as Crime Victims)

SIMULATION 1 OPINIONS DUE

April 10 **SIMULATION 2** - Prosecution Case

April 15 **SIMULATION 2** - Defense Case

April 17 Special Presentation - Women as Judges

April 22 discuss Simulation 2

April 24 A - chapt 7,8

April 29 **SIMULATION 2 OPINIONS DUE** (Concluding Thoughts)

May 5 (Monday 2:00 P.M.)

FINAL EXAMINATION