

SUNY Potsdam
Department of Politics

Politics 329: Gender and the Law

Fall 2019
MW 5:00-6:40
Satterlee 319

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Office Hours: MTh 3-4:30

Course Description. This course examines legal issues particularly relevant to women, and the evolving relationship between American law and issues of gender. Among the topics covered will be differential treatment by gender, employment rights, equality in education, and violence against women.

Course Learning Objectives. Students successfully navigating the course will have met the following objectives. First, they will acquire an improved understanding of the antecedents, substance, and consequences of common, statutory, and constitutional law across relevant subject areas, including differential treatment by gender, employment rights, equality in education, and violence against women. Students will be able to trace the development of relevant law, identifying the impetuses for change, and evaluating the impact that legal change caused. Too, students will be able to make reasoned predictions about the future relationship of law and gender: what *will* the law look like? Further, students will be speak to what the law *should* look like, by critically analyzing contemporary perspectives on gender and the law. Finally, students will be introduced to empirical literature on gender and the law, and will thereby learn to evaluate the strength of scientific evidence on selected topics, and—ideally—acquire ideas for conducting independent research.

Course Structure. The course will be structured as a discussion-based seminar. To start the class, I will answer questions from the class about the readings for the current session and/or give a short lecture about topics of interest or potential confusion. Most of the class time will be spent discussing the chapters and articles we have read for the session; generally, we will give each reading assigned equal time. I will lead discussion in the first two weeks, and thereafter student "teams" will take over (though I will provide guidance). There will be opportunity for additional discussion and questions at my weekly office hours.

Grading. Course grades will be based on the following components:

In-class verbal participation, 20 %

Twice-weekly response papers, 35 %

Midterm test, 15%

Cumulative in-class final examination, 30%

Extra Credit. There will opportunity for extra credit, worth 2% of your final grade. I will give details in class, and post information on Moodle.

Attendance and Participation. Class attendance is required, and is part of the participation grade. Coming to class on time and prepared—having read and thought about the readings—is crucial for the ability to understand class discussion and contribute intelligently. During class discussion, remain respectful of opposing viewpoints, and refrain from personal attacks. Do not browse the internet or use your phone in class. Laptop use is discouraged.

Response Papers. A large part of your grade will be based on response papers to each session's readings. I expect that these one-to-two page papers will form the foundation, in part, for our class discussions. Specific criteria for these papers will be explained in class. All papers will be collected, and a sample of the papers collected will be graded.

Late Paper Policy. I will collect response papers at the end of each class session in which they are due. Students with excused absences should upload their response papers to Moodle before class time. Late response papers will not be accepted; you may turn in one response paper late for full credit.

Final Exam and Mid-term Policy. Failure to take the final exam or mid-term at the scheduled time will result in a 30% reduction of the test grade.

Assistance. I want to give you any help with the course that you need. My office hours are listed at the beginning of the syllabus; you can always stop by at these times. Feel free to send me an e-mail when you have a question or concern; my e-mail address is listed also. My office phone number is 267-2716. I will often be in my office, even outside of office hours; you can stop by, although I cannot guarantee that I will always be free. If you'd like to meet outside of office hours, it is safest to email, or call, to set up an appointment. If you notice that you are struggling with any aspect of the course, it may be a good idea to meet with me as soon as possible, so that we can discuss ways of overcoming the struggles before there is a serious impact on your grade.

Academic Honesty. Please review the Honor Code:

<http://www.potsdam.edu/studentlife/studentconduct/honorcode/index.cfm>

I expect all of the work you do in this course to be your own. I will tolerate absolutely no cheating or plagiarism (using someone else's words or ideas without proper citation). To be explicit, this means that working together on written assignments is not allowed, unless authorized in writing. Any case of cheating, plagiarism, or other academic dishonesty will be reported to the Campus Judicial System, where it will be handled according to College policy. The default penalty is a 0 on the plagiarized assignment or a 1.0 reduction in the course grade, whichever penalty is greater.

Accommodations/Disability. I rely on Accommodative Services for assistance in verifying the need for accommodations and developing accommodation strategies. If you are a student with a disability who will require accommodations in this course, please meet with Accommodative Services in Sisson Hall Room 111 for assistance in developing a plan for accommodations. If you are already working with Accommodative Services, please set up a time to meet with me, or come by during office hours, to discuss accommodations. For more information, visit the Accommodative Services website at <http://potsdam.edu/support/oas>.

Textbooks.

Required

1. Author: Schneider and Wildman (eds) (abbreviated S&W).
Title: *Women and the Law, Stories* (2011)
Publisher: Thomson Reuters (Foundation Press)
ISBN: 978-1-59941-589-5
2. Author: Bartlett, Rhode, et al. (abbreviated B&R).
Title: *Gender Law and Policy*, 2nd ed. (2014)
Publisher: Aspen Publishers
ISBN: 978-1454841289

Schedule of Readings and Topics. Readings are to be read before the session for which they are listed. We will read several articles a week, in addition to the textbook readings. The schedule of topics follows, roughly, Bartlett and Rhode.

Introduction.

Session 1. 8/26. Organizational session.

Session 2. 8/28. Introduction and basic concepts; overview of American legal system.

Reading Tips; Historical Context.

Session 3. 9/2. Reading law and empirical social science.

Glynn and Sen, *Identifying Judicial Empathy*, *AJPS* 2015. Read especially carefully through the end of the first full paragraph on p. 47. (Save this article; we will also return to it at the end of semester.)

Session 4. 9/4. The historical context.

Bartlett, Rhode et al. Chapter 1 Intro, Ch. 1.A.1 (pp. 1-12)
Schneider and Wildman. Introduction and Chapter 1.

Equal Protection I.

Session 5. 9/9.

B & R, Chapter 1.B. (pp. 23-50).
S & W 2.

Session 6. 9/11.

S & W, 3, 4.

Equal Protection II.

Session 7. 9/16.

B & R, (Re-)read Note 5, on pp. 43-4.
Brown et al, "Equal Rights Amendment," *Yale L J* 1971.

Session 8. 9/18.

Baldez et al, "Does the U.S. need an ERA?" *Journal of Legal Studies* 2006
Case, "Three Cheers for Cheerleading," *U Chi Law Forum* 1999.
Optional: Ginsburg, "Constitutional Adjudication in the U.S." *Hofstra LR.* 1997.

Employment.

Session 9. 9/23.

B & R, 1.C.1 and 1.C.2.a,b. [pp. 50-104], 3.E.3 [pp. 413-425] 3.F [pp. 425-434]
S & W, 9.

Session 10. 9/25.

B & R, 1.C.2.c [pp. 104-122], 2.B [pp. 168-204].
Neumark et al, "Sex Discrimination in Hiring: An Audit," *Quarterly J of Economics* 1996.
Optional: Booth and Leigh, "Do Employers Discriminate," *Economics Letters* 2010

Working Conditions and Compensation.

Session 11. 9/30.

B & R, 3.A, 3.B.1 [pp. 291-320]
S & W, 8.
Rotundo et al, "Meta-analytic Review of Perceptions of Harassment," *Journal of Applied Psychology* 2001

Session 12. 10/2.

B & R, 2.A [pp. 145-168]; 4.B [pp. 462-475]
Optional: BR, 5.C [pp. 653-665]

Equal Educational Opportunity.

Session 13. 10/7.

B & R 2.C [pp. 204-240]
(Optional, if you want to review: S & W 3, 4).
Halpern et al, "Single Sex Education." *Education Forum* 2011.
Jane Doe v. Wood Co. Bd of Ed, Complaint, 2012.
Optional: U.S. Dept of Education, *Single Sex vs. Coeducational Schooling* 2005, pp. ix-xvii. (Executive Summary)

Session 14. 10/9.

B & R, 1.D [pp. 122-135], 2.B.2[pp. 321-329]
Chipman v. Grant Co. E.D. KY 1998, 30 F.Supp.2d 975
Chi Iota v. CUNY, 502 F.3d 136 (2007).

Family Law.

Session 15. 10/16.

B & R, 2.D.1-2 [pp. 240-256]
Smith, "Religion, Divorce, and the Missing Culture War in America" *Pol Studies Q* 2009.

Session 16. 10/21.

B & R, 2.D.3-4 [pp. 256-280]; 3.E.1-2 [pp. 385-413].
Handout/article on *Obergefell v Hodges*, TBD.
Optional: S & W, 10 (note that the law has changed significantly since chapter was written).

Reproductive Rights.

Session 17. 10/23.

B & R, 5.B.1 [pp. 581-594]
S & W, 5.
Gould, "Carrie Buck's Daughter," *Natural History* 1984.

Session 18. 10/28.

B & R, 5.B.2-4 [pp. 594-653]

Greenhouse and Siegel, "Before (and after) Roe v. Wade," *Yale Law J* 2011 (not long as it looks—mostly footnotes).

Optional: S & W, 6.

Session 19. 10/30. In-class midterm test.

Violence

Session 20. 11/4.

B & R, 5.A.1-3 [pp. 521-560]

Suk, "The Look in His Eyes." Harvard Law School Public Law & Legal Theory Working Paper, 2011.

Session 21. 11/6.

B & R, 3.C [pp. 329-369]

Pornography

Session 22. 11/11.

B & R, 3.D [pp. 370-385]

MacKinnon, Excerpt from "Pornography, Civil Rights, and Speech," in *Doing Ethics*, 1985.

Strossen, "Hate Speech and Pornography," *Case Western LR* 1996.

Recommended: Strossen, "A Feminist Critique of 'the' feminist critique of Pornography," *Va Law Rev* 1993.

Emergent Issues in Gender and Law.

Session 23. 11/13.

B & R, 6.D [pp. 729-744], everything except the article excerpt by Leti Volpp (on pp. 734-736) and Notes 3-4 (on pp. 739-742)

Lane and Rubinstein, "Judging the Other," *Hastings Center Report* 1996.

Session 24. 11/18.

B & R, 6.D, the article excerpt by Leti Volpp [pp. 734-736] and Notes 3-4 [pp. 739-742]

Renteln, "Use and Abuse of the Cultural Defense." *Can J of L and S* 2005.

Women and the Legal Profession.

Session 25. 11/20.

S & W, Chs. 12 and 13

Glynn and Sen, Identifying Judicial Empathy, *AJPS* 2015 (from earlier in the semester)

TBD.

Session 26. 11/25.

Reading TBD.

Session 27. 12/2.

Reading TBD.

Review

Session 28. 12/4.

In-class Review Session

In-class final examination (bring pencils).

Monday, Dec. 9, 5:00 - 7:00 pm

Good luck on final exam!

(Note: schedule, readings subject to change).