

CURRICULUM PROPOSAL FORM #3
University of Wisconsin-Whitewater

NEW COURSE

COURSE NUMBER: 890 - 390 / 580 EFFECTIVE TERM: Spring 2000
CROSS LISTED NO.:
COURSE TITLE: Gender and The Law
15 CHARACTER ABBREVIATION G E N D E R _ A N D _ L A W
25 CHARACTER ABBREVIATION G E N D E R _ A N D _ T H E _ L A W
SPONSOR(S): Joan Schwarz
DEPARTMENT(S): Women's Studies and Anthropology
COLLEGE(S): College of Letters and Sciences
OTHER PROGRAMS AFFECTED: Sociology, Political Science

CHECK IF THE COURSE IS TO MEET ANY
OF THE FOLLOWING REQUIREMENTS:

Writing Requirement
 Diversity Requirement
 General Studies, Area: Social Sciences
 Computer Requirement
 Elective

CONTACT HOURS/CREDITS

Total Lecture Hours 48
Total Lab Hours
Total Contact Hours 48
Number of Credits 3

IS THE COURSE REQUIRED IN:

Major/Emphasis
 Minor/Emphasis
 Other,

IS THE COURSE REPEATABLE: YES , NO x

If yes:
No. of Times in Major and total No. of Credits
No. of Times in Degree and total No. of Credits

ATTACH THE FOLLOWING:

- I. COURSE JUSTIFICATION
- II. RELATIONSHIP TO PROGRAM OBJECTIVES
- III. BUDGETARY IMPACT
- IV. COURSE DESCRIPTION
- V. REQUISITES
- VI. IF DUAL LISTED, GRADUATE LEVEL RESQUIREMENTS
- VII. TENTATIVE COURSE SYLLABUS
- VIII. BIBLIOGRAPHY

GENDER AND THE LAW
890-380/580

I. Course Justification

Studies of law dealing with issues such as gender definitions, inequality, reproduction, sexual harassment, domestic abuse, privacy, and abortion comprise an important segment of Women's Studies scholarship. Critical and analytic understanding of how the law operates and develops is necessary to understanding women's lives. This course will be cross-listed for use in Sociology/Criminal Justice Emphasis, Criminal Justice Minor, Legal Studies and for the Paralegal Certificate.

II. Relation to Program Objectives

A. As an Elective in the Women's Studies Program

This course fulfills the education objectives of Women's Studies by providing knowledge of "contemporary problems and issues affecting women's lives" and of "feminist theories" in the law. It fulfills the Cognitive Development Objectives of Women's Studies by "developing critical thinking and analytic abilities" and enabling women "to make important connections" between academic learning and women's lives. It further fulfills the cognitive objectives by enabling students to "envision new ways of solving problems" and "recognize sexist bias." This course fulfills the Skill Objectives of Women's Studies by providing "proficiency in finding, assessing, and using research materials" in legal studies, awareness of "contemporary and historical problem-solving strategies" in the law, and skill in written and oral communication.

B. As a General Studies Social Sciences Option

This course furthers the goals of General Education in the following ways: It enables students to think critically and analytically, integrate and synthesize knowledge, and draw conclusions from complex information (Goal 1). It assists students in developing an informed personal and political value system (Goal

2). The course will provide an appreciation of how the law affects people of different races, cultures, and genders (Goal 3). It will provide understanding of how knowledge is generated, organized and tested in the law (Goal 4). It will provide skills in written and oral communication (Goal 5).

III. Budgetary Impact

This course will be part of the regular rotation of Women's Studies courses. Women Studies 890-301, Marriage Family and Alternatives for Women will be taught less often. There will be no need for new staffing, library budget, or instructional resources.

IV. Course Description

A study of legal, social, and moral issues related to gender, such as the definition of sexual difference, inequality in the workplace, lesbian and gay rights, violence against women, and abortion rights. How those issues have been handled historically and normatively within the legal system will be investigated.

V. Requisites

Junior standing or consent of instructor.

VI. Graduate Level Requirements

Graduate students will be required to do research in greater depth and breadth in the case studies. They will also be required to write one additional research paper.

VII. Tentative Course Syllabus

A. Learning Objectives

1. Students will acquire a knowledge base in law dealing with gender issues.
2. Students will be able to appreciate the law as a distinctive combination of moral reasoning, historic precedent, normative principle, and social practice whose forms are historically and culturally varied.

3. Students will be able to identify what legal principles operate in a case and critically analyze legal reasoning.
4. Students will be able to identify societal values and contextual data embedded in legal issues.
5. Students will be able to explain in writing and orally the facts in a legal case, the principles involved in the case, and the implications of a judicial decision.

B. Topic Outline

Unit I Judicial Reasoning and Precedent

Week 1. Judicial Reasoning and Court Interpretation

Week 2. The Legal Profession and the Legal System

Week 3. Juries and Community Participation in the Legal Process

Unit II Gender Issues - Women and the Workplace

Week 4. Deconstructing Gender

Week 5. Title VII Cases

Week 6. Jurisprudence and Gender - The Equality Crisis

Unit III Discrimination Issues

Week 7. Gender Discrimination v. Sexual Harassment

Week 8. Sexual Harassment Cases (*quid pro quo* and hostile environment cases, employer responsibility, evidentiary issues)

Week 9. Sexual Harassment Cases (defenses, statutes of limitation, remedies)

Unit IV Abortion Issues

Week 10. Roe v. Wade - State of the Law Before Roe v. Wade

Week 11. Roe v. Wade to the present

Unit V Women and Violence

Week 12. Rights Theory and Bodily Assault

Week 13. Rape Law in Historical Perspective

Week 14. Varieties of Sexual Assault

Week 15. Legal Remedies for Violence and Threats of Violence.

C. Methods of Evaluation

1. Class attendance and participation in class discussion.
2. One midterm and one final exam.
3. Three oral and written critical cases studies.
4. (For graduate students) A research paper dealing in depth with some aspect of gender and the law.

D. Proposed Texts

- 1) Bartlett, Katharine T. And Roseanne Kennedy, *Feminist Legal Theory: Readings in Law and Gender*. Boulder, Colorado: Westview Press, 1991.
- 2) Bonsignore, John, et al. *Before the Law: An Introduction to the Legal Process*. Geneva, Illinois: Houghton Mifflin Co., 1994.
- 3) Schwarz. *Women and the Law Reader* (from Copy Cats) -- selected readings..

This Reader will contain case law from both the state and federal levels. As an attorney, I have the entire law libraries on CD-ROM for all court systems in the United States and will reproduce the relevant case law in the reader.

VIII Bibliography

- Brownmiller, Susan. *Against Our Will: Men, Women, and Rape*. New York, New York: Penguin Books, Ltd., 1969.
- Buiarzik, Mary. "Sexual Harassment at the Workplace: Historical Notes." Radical America. Vol. 12, no. 4, July-August, 1978: 25-43.
- Bussey, K. & Maughan, B. "Gender Differences in Moral Reasoning." Journal of Personality and Social Psychology. 42(4) (1982): 701-706.
- *Collins, Hugh. *Marxism and Law*. Oxford: Oxford University Press, 1984.
- Cornblum, Bruce. *A Desk Reference of Legal Principles-Federal and State: The Legal Rights of Women: Legal Subjects that Most Affect the Lives of Women*. San Diego, CA: Women's Research Publishing, 1995.
- *Frank, Jerome. *Courts on Trial: Myth and Reality in American Justice*. Princeton, N.J.: Princeton University Press, 1949.
- Freedman, Monroe H. "Judge Frankel's Search for Truth." University of Pennsylvania Law Review 123 (1975): 1060-6.
- _____. "Lawyer's Ethics in the Adversary System," New York: Bobs Merrill, 1975.
- _____. "Personal Responsibility in a Professional System." Catholic University Law Review 27 (1978): 191-205.
- _____. "Professional Responsibility of the Criminal Defense Lawyer: The Three Hardest Questions." Michigan Law Review 64 (1966): 1469-84.
- *Friedman, L.M. *A History of American Law*. New York: Simon & Schuster, 1973
- *Gallop, Jane. *Feminist Accused of Sexual Harassment*. Durham, NC: Duke University Press, 1997.
- *Gilligan, Carol. 1982. *In a Different Voice: Psychological Theory and Women's Development*. Cambridge, Mass.: Harvard University Press, 1982.
- Gordon, Linda, and O'Keefe, Paul, "Incest as a Form of Family Violence: Evidence from Historical Case Records." Journal of Marriage and the Family, February, 1984: pp. 27-34.
- Griffin, Susan, "Rape, the All-American Crime" in *Rap Victimology*. Leroy Schultz, ed. Springfield, Ill.: Chas C. Thomas, 1975.
- Hanmer, Jalna, "Violence and the Social Control of Women" in No Turning Back. Feminist Anthology Collection, ed. London: The Women's Press, 1981.
- *Harrington, Mona. *Women Lawyers: Rewriting the Rules*. New York: Plume Book, 1995.

- *Hart, H.L.A. *The Concept of Law*. Oxford: Oxford University Press, 1961.
- *Hazard, Geoffrey C., Jr. *Ethics in the Practice of Law*. New Haven, Conn: Yale University Press, 1978.
- *Hoff, Joan. *Law, Gender, and Injustice: A Legal History of U.S. Women*. New York: University Press, 1992.
- *Horwitz, Morton J. *The Transformation of American Law 1780-1860*. The President and Fellows of Harvard College, 1977.
- *Hurst, James Williard. *Law and the Conditions of Freedom in the Nineteenth-Century United States*. Illinois Northwestern University, 1956.
- Jackson, Stevi, "The Social Context of Rape: Sexual Scripts and Motivations.", *Women's Studies International Quarterly*, Vol. I, No. 1. (1978) 27-38.
- *Kelsen, H. *What is Justice? Justice, Law and Politics in the Mirror of Science*. Collected Essays. Gerkeley: University of California Press, 1957.
- Kohlberg, Lawrence. "The Claim to Moral Adequacy of a Highest of Moral Judgment." *The Journal of Philosophy* 70 (1973): 630- 46.
- * _____ *The Philosophy of Moral Development: Moral Stages and the Idea of Justice*. New York: Harper & Row, 1981.
- _____ "A Reply to Owen Flanagan and Some Comments on the Puza-Goodpaster Exchange." *Ethics* 92 (1982): 513-28.
- _____ "Stage and Sequence: The Cognitive Developmental Approach to Socialization." in Handbook of Socialization: Theory and Research D. Goslin, ed. 347-480. New York: Rand McNally, 1969.
- *Levi, Edward H. *An Introduction to Legal Reasoning*. Chicago: The University of Chicago Press. 1974.
- *Lindemann, Barbara. *Sexual Harassment in Employment Law*. Washington, DC: Bureau of National Affairs, c1992.
- *Llewellyn, Karl N. *Bramble Bush: On Our Law and Its Study*, Dobbs Ferry, N.Y.: Oceana, 1981.
- *McCann, Nancy Dodd. *Harassed: 100 Women Define Inappropriate Behavior in the Workplace*. Homewood, IL: Business One Irwin, c1992.
- *Mellinkoff, David. *The Conscience of a Lawyer*. St. Paul, Minn.: West Publishing, 1973.
- Mrazek, Patricia Beezley, "Definition and Recognition of Sexual Child Abuse: Historical and Cultural Perspectives" in The Sexual Abuse of Children, Oxford, Pergamon, P.B. Mrazek and C. Henry Kempe eds, 1981.
- *Nader, Laura, and Harry F. Todd. Jr., eds. *The Disputing Process - Law in Ten Societies*. New York: Columbia University Press, 1978.

- Nunner-Winkler, G. "Two Moralities: A Critical Discussion of an Ethic of Care and Responsibility versus an Ethic of Rights and Justice." in Morality, Moral Behavior, and Moral Development. W. Kurtines & J. Gewirtz, eds., New York: John Wiley & Sons (1984) 348-361.
- *Pound, Roscoe. *Introduction of the Philosophy of Law*. New Haven, Conn.: Yale University Press, 1922.
- *Rutler, Peter. *Sex, Power, and Boundaries: Understanding and Preventing Sexual Harassment*. New York: Bantam Books, 1996.
- *Schaeff, Anne Wilson. *Women's Reality: An Emerging Female System in a White Male Society*. San Francisco, CA: Harper & Row, 1981.
- *Schwendinger, Julia R. and Herman, *Rape and Inequality*, Beverly Hills: Sage, 1983.
- *Sennett, Richard, and Johathan Cobb. *The Hidden Injuries of Class*. New York: Knopf, 1972.
- *Searles, Patricia & Berger, Ronald J. *Rape and Society: Readings on the Problem of Sexual Assault*. Boulder, CO.: Westview Press, 1995.
- Sherry, Suzanna. "Civic Virtue and the Feminine Voice in Constitutional Adjudication." *Virginia Law Review* 72 (1986): 543-616.
- Shorter, Edward, "On Writing the History of Rape." *Signs*, Vol.3, 1977:471-82.
- *Sumner, C. *Reading Ideologies* London: Academic Press, 1979.
- *Wolfgang, M. *Patterns of Criminal Homicide*. New York: John Wiley & Sons, 1966.
- *Wishnietsky, Dan H. *Establishing Schol Policies on Sexual Harassment*. Bloomington IN: Phi Delta Kappa Educational Foundation, c1994.
- *Wrightsmann, Lawrence S. *Psychology and the Legal System*. Monterrey, CA: Brooks/Cole Publishing Company, 1987.

*Books are available in the UW-Whitewater Library.

BIBLIOGRAPHY

- Agarwal, Bina. (1992). 'The Gender and Environment Debate: Lessons from India', Feminist Studies, Vol. 18., PP.119-157
- Ackerman, p. and Christopher Kruegler, (1994). Strategic Nonviolent Conflict: The Dynamics of People Power in the Twentieth Century. CN: Westport, Praeger
- Allport, G.W. (1979). The Nature of Prejudice. Reading, MA: Addison-Wesley, 3rd edn
- Axelord, R. (1984). The Evolution of cooperation. New York: Basic Books
- Bachrach S. and E. Lawler. 'Power Dependence and Power Paradoxes in Bargaining', Negotiation Journal 2(2): 167-184
- Bandura, A. (1973) Aggression: A Social Learning Analysis. Englewood Cliffs, NJ: Prentice-Hall
- Baldwin, D.A. (1993). "Neoliberalism, Neorealism, and World Politics", in Baldwin, D. A. (Ed.). Neorealism and Neoliberalism: The Contemporary Debate. New York: Columbia University Press
- Bauman, Z. (1990). Thinking Sociologically. Oxford: Blakwell
- (1989). Modernity and the Holocaust. Cambridge: Polity Press
- Bazerman, M. 'Negotiator Judgment.' American Behavioral Scientist 27 (2): 221-228
- Bercovitch, Jacob. (1996). Resolving International Conflicts. Boulder: Lynne Reinner
- 'Problems and Approaches in the Study of Bargaining and Negotiation', Political Science. 36(2): 337-346
- Berkowitz, L. (1993). Aggression: Its Causes, Consequences, and Control. New York: McGraw-Hill
- Breakwell, G. M. (Ed.) (1992). Social Psychology of Identity and the Self Concept. London: Surrey University Press
- Brock-Utne, Birgit, (1989). Feminist Perspectives on Peace and Peace Education. New York: Pergamon Press
- Brown, Michael., (ed.) (1993). Ethnic Conflict and International Security. Princeton: Princeton University Press
- Brown, M.E. (Ed.) (1996). The International Dimensions of Internal Conflict. Cambridge, MA: MIT Press
- Burton, J.W. (1979). Deviance, Terrorism and War. Oxford : Martin Robertson
- Burgos-Debray, E. (Ed.)(1984). I Rigoberta Menchu: An Indian Woman in Guatemala. London: Verso
- Calvert, P. (1990). Revolution and Counter-Revolution. Minneapolis: University of Minnesota
- Cashman, G. (1993). What Causes War? An introduction to Theories of International Conflict. New York: Lexington
- Crocker, C. A., Fen Osler Hampson, and Pamela Aall. (eds.)(1996). Managing Global Chaos: Sources of and Responses to International Conflict. Washington:USIA
- Cranna, M. (Ed.)(1994). The True Cost of Conflict. London: Earthscan/ SaferWorld
- Cox. R.W. (1983). 'Gramsci, Hegemony and International Relations: An Essay on Method', Millennium. 12(2):162-75

- (1981). 'Social Forces, States and World Orders: Beyond International Relations Theory', Millennium. 10(2):126-55
- Connolly, W.E. (1993). The Terms of Political Discourse. Oxford: Blackwell, 3rd Edn
- (1988). Political Theory and Modernity. Oxford: Blackwell
- Druckman, D. And c. Mitchell. (1995). "Flexibility in Negotiation and Mediation", The Annals of the American Academy of Political and Social Science. Vol. 542: 10-23
- , 'Nationalism, Patriotism, and Group Loyalty: A Social Psychological Perspective', Mershon International Studies Review (1994): 38, 43-68
- Devine, P. (1989). 'Stereotypes and Prejudice: Their Automatic and Controlled Components', Journal of Personality and Social Psychology.
- Der Derian, J., and M.J. Shapiro, (eds). (1989). International/Intertextual Relations: post-Modern Readings of World Politics. New York: Lexington
- Deutsches, M. (1973). The Resolution of Conflict: Constructive and Destructive Processes. New Haven: Yale University Press.
- Dreyfus, H.L., and P. Rabinow (1983). Michel Foucault: Beyond Structuralism and Hermeneutics. Chicago: Chicago University Press, 2nd Edn
- Eckhardt, W. (1989). 'Civilian Death in Wartime', Bulletin of Peace Proposals. 20(1):89-98
- Elstain, J. B. (1995). Women and War. Chicago: Chicago University Press
- Enloe, C. (1993). The Morning After: Sexual Politics at the End of the Cold War. Berkeley, CA: University of California Press
- Evans, P.B., Harold K. Jacobson, and Robert B. Putnam (eds.)(1993). Double-Edged Diplomacy: International Bargaining and Domestic Politics. Berkeley: University of California Press
- Falk, Richard. (1995). On Human Governance. PA: PA SO Press
- Faure, G.O. 'Nonverbal Negotiation in China: Cycling in Beijing', Negotiation Journal. 11(1):11-18.
- Fetherston, A.B. and C. Nordstrom (1995). 'Overcoming Habitus in Conflict Management: UN Peacekeeping and War zone Ethnography', Peace and Change. 20(1):96-119
- Fen Osler Hampson. (1995). Multilateral Negotiations: Lessons From Arms Control, Trade, and the Environment. Baltimore: The John Hopkins University Press
- Fisher, R.J.(1993). 'Towards a Social-Psychological Model of Intergroup conflict', in Larson, K.S. (Ed.). Conflict and Social Psychology. London: Sage, PP. 109-122
- (1990) 'Needs Theory, Social Identity and an Eclectic Model of Conflict', in Burton, J.W. (Ed.). Conflict: Human Needs Theory. London: Macmillan, PP. 89-112
- (1990). The Social Psychology of Intergroup and International Conflict Resolution. New York: Springer-Verlag
- Fisher, R. 'Deter, Compel, or Negotiate?' Negotiation Journal 10(1): 17-32.
- Friedman, R.A. and D.L. Shapiro, 'Deception and Mutual Gains Bargaining: Are They Mutually Exclusive?' Negotiation Journal 11(3): 243-254
- , 'Missing Ingredients in Mutual Gains Bargaining Theory' Negotiation Journal. 10(3):265-280
- Fromm, Erich. (1976). To Have or to Be? . New York: Harper and Row.
- (1973). The Anatomy of Human Destructiveness. Harmondswrth, UK: Penguin

**CURRICULAR ACTION
SIGNATURE PAGE**
(Use for forms 1, 2, 3, 4, 6, and 8)

Description of Action: New Course Course # (if applicable): 890-380/580
Program or Course Title: Gender and the Law

Jean L. Schwarz
Proposal Sponsor

Submission Date
March 10, 99

Jan L. Olden
Chair of Sponsoring Department

Women's Studies
Department

Approval Date
3/18/99

J. Schuch
Chair, College Curriculum Committee

Approval Date

J. Schuch
Dean of College

Letters & Sciences
College

3/18/99
Approval Date

For Undergraduate Actions:

If a course is to be considered as a Diversity option:

NK
Chair, Diversity Committee

Recommended
 Not Recommended
Date

If a course is to be considered as a General Ed option:

[Signature]
Chair, General Education Committee

Recommended
 Not Recommended
Date 04/20/99

[Signature]
Chair, College Curriculum Committee

Received & Recorded
 Approved
 Not Approved
Date 4/23/99

[Signature]
Chair, Faculty Senate

Received & Recorded
 Approved
 Not Approved
Date 5-13-99

For Graduate Actions:

[Signature]
Graduate Council

Received & Recorded
 Approved
 Not Approved
Date 10/9/99

Received:
[Signature]
Provost and Vice Chancellor

2 NOV 99
Date

See page 2 of signature page for consultation results (check if applicable)

