OVERVIEW

In this course, we will read feminist theory, queer theory, and other critical theory in order to examine constructions of gender and the roles legal systems play in those constructions. We will explore some of the general themes and debates that have emerged as feminists attempt to understand and critique law’s explicit and implicit constructions of gender as they relate to various groups of women and men. We will also discuss specific applications of theory to law and social policy, including topics related to identity performance and constraints on agency, the regulation of sexuality, the race of gender and the gender of race, intimate and familial relationships, work and wealth distribution, and various forms of violence. Throughout the semester, students will be expected to engage in their own theoretical analyses, both in writing and during class discussion.

MATERIALS

Throughout the semester, students will be expected to read and discuss the materials listed in the “Assignments” section below. All of the readings can be found either in the required casebook, Cynthia Grant Bowman, Laura A. Rosenbury, Deborah Tuerkheimer & Kimberly Yuracko, FEMINIST JURISPRUDENCE: CASES AND MATERIALS (4th ed. 2011), hereinafter referred to as CB, or in supplemental materials, available electronically and in hard copy, as indicated by the designation (Supp.).

REQUIREMENTS

In order to receive credit for the course, students must participate in class discussions of the readings, complete in-class assignments, and submit the three writing assignments set forth in the “Assignments” section below. All writing must be submitted to rosenbury@law.ufl.edu by midnight on the relevant dates indicated below. Because participation and discussion will be a vital part of the course, laptops and other electronic devices are neither necessary nor permitted in the classroom unless special circumstances so require.
FEEDBACK & GRADING

Attendance and participation in class discussion and in-class assignments will constitute 25% of each student’s final grade. The two short writing assignments due during the semester will together constitute an additional 25% of the final grade. The last, longer writing assignment will constitute the final 50% of each student’s final grade.

COURSE & OFFICE HOURS

The course will meet on Mondays from 4-6 p.m. in the Rare Book Room within the dean’s suite. I am available to meet with individual students or small groups in the hour before class or immediately after class. Meetings at other times may be arranged by appointment by contacting Doris Perron at perron@law.ufl.edu.

ASSIGNMENTS

The course will proceed according to the schedule below, although I may modify assignments as needed. I will send an email at the end of each week confirming and framing the readings for the following week.

1/4: I. Introduction: Feminism and Law School

Lani Guinier et al., Becoming Gentlemen, CB 964-75
Jeannie Suk, The Trouble with Teaching Rape (Supp.)
Jeannie Suk, Shutting Down Conversations about Rape at Harvard Law (Supp.)

1/11: II. The Institutionalization and Construction of Gender

A. The Supreme Court Considers State Gender Classifications
   Early Cases, CB 25-30
   Craig v. Boren, CB 40-45
   Michael M. v. Superior Court of Sonoma County, CB 336-43

B. Formal Equality Theory
   Text Note, CB 115-16
   Mary Anne Case, No Male or Female, CB 116-19

C. Law as a Constructive Force
   Mary Joe Frug, A Postmodern Feminist Legal Manifesto (An Unfinished Draft), CB 177-81
   Gonzales v. Carhart, CB 455-63
1/18:  **NO CLASS** (Martin Luther King Day)

1/25:  **III. More on Construction: Gender Performance and Power**

A.  **Identity as Performance & Demand**
   Judith Butler, *Undoing Gender* (Supp.) & CB 184-85 (notes 2 & 3)
   Price Waterhouse v. Hopkins, CB 912-22
   Rogers v. American Airlines, CB 929-38
   Rachel Burgess, *Feminine Stubble* (Supp.)

2/1:  B.  **Gender as Power?**
   Catharine MacKinnon, *Consciousness Raising*, CB 97-102
   Catharine MacKinnon, *Sex Inequality*, CB 119-20
   Catharine MacKinnon, *Sexuality*, CB 120-22
   What is a Woman? (Supp.)

2/8:  C.  **Gender as Relation?**
   Robin West, *The Difference in Women’s Hedonic Lives*, CB 133-41
   Robin West, *Caring for Justice*, CB 141-44
   Notes on Relational Feminism, CB 146-48 (through note 8)
   Catharine MacKinnon, *Difference and Dominance*, CB 122-32
   Patricia Cain, *Feminist Jurisprudence: Grounding the Theories*, CB 151-54

2/12:  **FIRST SHORT WRITING ASSIGNMENT DUE:** Please write a five page paper (12-point font, double-spaced) analyzing *Commonwealth v. Berkowitz*, CB 294-307, in light of any of the readings assigned to date.

   Angela Harris, *Race & Essentialism in Feminist Legal Thought* (Supp.) & CB 160-64 (notes 1, 3-4, 6-7, 11-12)
   Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex*, CB 150, 307-09
   When Michael Dunn Compared Himself to a Rape Victim, He Was Following an Old, Racist Script (Supp.)

2/22:  E.  **Rethinking Liberation, Rethinking Feminism**
   Mary Joe Frug, *A Postmodern Feminist Legal Manifesto (An Unfinished Draft)*, CB 177-81 (review), CB 184-85 (notes 1, 4-5)
   Tracy Higgins, “By Reason of Their Sex,” CB 181-83
   Katherine Franke, *Theorizing Yes*, (Supp.) & CB 186-88, 639-40, 643
   Janet Halley, *Split Decisions*, CB 194-200, 201 (notes 5-8)
2/29:  NO CLASS (Spring Break)

3/7:  III. More on Institutionalization: Structure and Constraints

A. The Channeling Function of Family Law
   Introduction, CB 548-49
   Nancy Polikoff, Beyond (Straight and Gay) Marriage, CB 550-58
   Rick Banks, Is Marriage for White People? (Supp.)
   Laura Rosenbury, Friends with Benefits?, CB 625-30
   Jeff Ordower, Liberation or Consolidation? Queers at a Crossroads (Supp.)
   Obergefell v. Hodges (Supp.)

3/14: B. The Privatization of Dependency
   Economic Consequences of Divorce and Death, CB 601-08
   Robin West, Marriage, Sexuality, and Gender, CB 561-65, 567 (notes 6-7)
   Mary Romero, Maid in the USA, CB 705-714
   Dorothy Roberts, Why Must Welfare Mothers Work?, CB 723-29
   Zillah Eisenstein, Constructing a Theory of Capitalist Patriarchy & Socialist Feminism, CB 106-10

3/18: SECOND SHORT WRITING ASSIGNMENT DUE: Please write a five page paper (12-point font, double-spaced) reacting to either Patricia Williams, Excerpts from Alchemy of Race and Rights (Supp.) or Drucilla Cornell, The Solace of Resonance (Supp.). Please be sure your reaction goes beyond summary to engage in an analysis of the chosen text in light of any of the readings assigned between 2/15 and 3/14.

3/21: C. State Responses to Violence
   Violence as Ubiquitous?, CB 214-17
   Intimate Partner Violence & Constructions of Battered Women and Batterers, CB 238-61
   Debates Over Mandatory Prosecution, CB 269-81
   Angela Harris, Gender, Violence, Race, and Criminal Justice (Supp.)
   Against Carceral Feminism (Supp.)

3/28: IV. More on the Promise, Limits, and Dangers of Feminist Lawmaking

A. Workplace Harassment
   Meritor Savings Bank v. Vinson, CB 881-88
   Oncale v. Sundowner Offshore Services, CB 894-900
   Janet Halley, Sexuality Harassment (Supp.)
4/4: **B. Campus Harassment**
   Robin L. West, *The Difference in Women’s Hedonic Lives*, CB 830-34
   Jane Gallop, *Feminist Accused of Sexual Harassment*, CB 827-30
   Laura Kipnis, *Sexual Paranoia Strikes Academe* (Supp.)
   Laura Kipnis, *My Title IX Inquisition* (Supp.)
   Title IX Policies and Protests (Supp.)

4/11: **C. Sexual Assault**
   Constructing Rape Victims and Survivors, CB 309-12
   Reforming Rape Law, CB 293-94, 312-17
   Why Men Rape, CB 329-35
   Deborah Tuerkheimer, *Rape On and Off Campus* (Supp.)
   Jeannie Suk, *The Trouble with Teaching Rape* (Supp.) (review)
   Jeannie Suk, *Shutting Down Conversations about Rape at Harvard Law*,
   (Supp.) (review)

4/18: **V. Concluding Thoughts: Being a Feminist Lawyer**
   Devon Carbado, *Straight Out of the Closet* (Supp.)
   Lingering Thoughts After a Feminist Legal Theory Seminar (Supp.)

5/5: **FINAL PAPER DUE:** Please write your own theoretical analysis on the topic of
   your choice, building upon the readings assigned for the semester. The paper
   should be at least 15 pages and no more than 20 pages (12-point font, double-
   spaced). Please note that this is a theoretical paper, not a research paper. You
   may use outside sources but only to provide additional context for engaging with
   the readings we discussed in class. The majority of your paper should be analysis,
   not summary. Please be sure to incorporate the ideas of at least three theorists we
   discussed during the semester, but please build upon their ideas to develop your
   own theoretical analysis. I look forward to seeing how your thoughts have
   crystallized throughout the semester!