**Family Law and Feminist Jurisprudence**

Professor Laura Rosenbury

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Spring 2020

Mondays 4 p.m. to 5:50 p.m.

This course will deploy feminist legal theory and queer theory to explore how law constructs and regulates gender and sexuality through the legal recognition and nonrecognition of personal relationships. Specific topics will include parent-child relationships, children’s relationships with other adults, friendship, marriage, domestic partnerships, sex outside of relationship, workplace relationships, and relationships between former spouses or partners. Throughout the course, students will be expected to engage in their own theoretical analyses, both in writing and during class discussion.

***Course Goals/Student Learning Outcomes***

At the conclusion of this course, students who attend class, complete all exercises, and complete all other requirements for the course may expect to have acquired the following knowledge and skills related to family law and feminist jurisprudence:

Knowledge:

* Understand fundamentals of family law doctrine and theory
* Understand multiple feminist and queer critiques of family law doctrine
* Understand why the state regulates family
* Broaden conceptions of family and other forms of intimate life
* Consider how the state could differently regulate family

Skills:

* Think more broadly and flexibly about family, gender, and society
* Develop critical and strategic thinking skills
* Improve communication skills, both oral and written
* Improve listening skills
* Learn to complete written work with a team
* Otherwise improve teamwork and collaborative skills

***Course Materials***

All materials will be distributed in class and posted on Canvas. I will notify students through Canvas with any changes to materials or deadlines.

***Attendance and Class Participation***

Attendance and class participation are key to the success of this class. You will in part be evaluated based on your contributions to class discussion (see the grading policy below). Although some exceptions for important interviews, family events, or religious holidays are understandable, students should make every effort to attend classes. Indeed, the ABA requires that all law schools ensure that students attend class and suggests that absences in excess of 15% should render a student ineligible to receive credit for the course.  If you foresee missing more than two classes, please contact my assistant, Kay Epstein, epstein@law.ufl.edu. Kay will schedule a one-on-one meeting at which we will discuss your situation.

Class participation will be measured based on attendance and regular assessment of the quality of contributions to class discussions. I define quality in diverse ways. For example, quality contributions may be those that reflect exceptional preparation, offer substantive ideas, build on preceding class discussions, move discussion forward to generate new insights, demonstrate the ability to persuade others or challenge conventional wisdom, relate a personal experience in a way that illuminates the ideas being discussed, or build upon the insights of other classmates. Please do not confuse high quantities of participation with quality participation. Good listening is vital for quality participation. I will evaluate negatively any comments that are disrespectful or dismissive of others.

Throughout the course, we will discuss sensitive topics that may trigger memories of past traumas. These topics include sex acts, sexuality, gender socialization, pregnancy, abortion, marriage, polyamory, divorce, sexual assault, child abuse, and discrimination. The syllabus serves as a warning of these discussions. I will ask students to discuss all aspects of these topics, and I will encourage students to explore perspectives different than those they brought into the class.

***Laptop Policy***

Because of the importance of class discussion and the tendency for laptops to encourage verbatim transcription or provide distractions, our classroom will be a laptop-free zone. Please *do not use laptops, ipads, cell phones, or other electronic devices during class*. *Please do not check your email or phones except during breaks, and please do not look at any phones or electronic devices under the table*.

***Out-of-Class Preparation and Exercises***

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. This course has 2 “classroom hours” each week, requiring at least 4 hours of preparation outside of class. Accordingly, you will be assigned 30 to 40 pages of reading a week and/or be asked to complete out-of-class exercises, both individually and in teams. It is anticipated that you will spend, on average, at least 4 hours out of class each week reading, engaging in out-of-class exercises, and/or preparing for in-class discussion and exercises.

***Grading and Written Work***

Grades will be based on a combination of class participation and in-class exercises (one-quarter of grade), a multi-week out-of-class team writing exercise that culminates in a team paper and an in-class team presentation (one-quarter of grade), and one final individual paper of no more than 3,000 words that will be blindly graded (one-half of grade). More details about the team exercise and final paper will be provided throughout the semester. Please note that the final paper is not a research paper. In fact, outside research and collaboration will not be permitted. Instead, papers may rely only on the assigned readings and our discussions in class.

I will follow the College of Law’s posted grading policy, which sets forth how the mandatory mean will be calculated.  As with other classes at the College of Law, grades will fall on the following scale:

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| **Letter Grade** | **Point Equivalent** |
| A (Excellent) | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C (Satisfactory) | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.0 |
| D- | 0.67 |
| E (Failure) | 0.0 |
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***Honor Code***

Academic honesty and integrity are fundamental values of the College of Law and University communities. Please be sure that you understand the UF Student Honor Code, which may be found at [http://www.dso.ufl.edu/students.](http://www.dso.ufl.edu/students.php)php.

***Accommodations***

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, www.dso.ufl.edu/drc/) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to Assistant Dean Brian Mitchell as early as possible in the semester.

***Class Meetings and Office Hours***

We will meet on Mondays, from 4 p.m. to 5:50 p.m.. I am also able to meet individually with students by appointment. Please email Kay Epstein, [epstein@law.law.edu](mailto:epstein@law.law.edu), to schedule an appointment or call her at 352-273-0855.

***Readings and Exercises***

Our current schedule of readings and presentations is as follows. I may adjust the syllabus throughout the semester, and I will send announcements via Canvas of any such adjustments.

**1/13: Law’s Constructions of Family and Gender**

Gonzales v. Carhart, 550 U.S. 124 (2007) (excerpts)

Mary Joe Frug, A Postmodern Feminist Legal Manifesto (excerpts and notes)

Katherine M. Franke, Theorizing Yes (excerpts and notes)

**1/20: Martin Luther King Day – No Class**

**1/27: Regulating Gender and Marriage**

Susan Frelich Appleton, How Feminism Remade American Family Law (and How It Did Not)

Obergefell v. Hodges, 135 S. Ct. 2584 (2015) (excerpts)

Robin A. Lenhardt, Race, Dignity, and the Right to Marry (excerpts)

**2/3: Beyond Marriage: Friendship & Polyamory**

Laura A. Rosenbury, Friends with Benefits? (excerpts and notes)

Elizabeth F. Emens, Monogamy’s Law: Compulsory Monogamy and Polyamorous Existence (excerpts)

Adrienne D. Davis, Regulating Polygamy: Intimacy, Default Rules, and Bargaining for Equality (excerpts)

**2/10: Feminist Judgments: Rewritten Opinions**

Griswold v. Connecticut, 381 U.S. 479 (1965)

Cynthia Hawkins Debose & Laura A. Rosenbury, Commentary and Rewritten Version of Griswold

Team Project Assignments

Joseph William Singer, How To Be a Good Team Member

**2/17: Children’s Relationships**

Anne C. Dailey & Laura A. Rosenbury, The New Law of the Child (excerpts)

Troxel v. Granville, 530 U.S. 57 (2000) (excerpts)

**2/24: Team Meetings – First Drafts of Team Papers Due by *Friday, February 28 at Noon***

Please use our regular class time to work on your draft team papers as a team.

Please upload your drafts (one per team) to Canvas by February 28 at noon.

**3/2: Spring Break – No Class**

**3/9: Relationships at Work**

Laura A. Rosenbury, Working Relationships (excerpts)

Oncale v. Sundowner Offshore Services, 523 U.S. 75 (1998)

Janet E. Halley, Sexuality Harassment

**3/16: Relationships on Campus**

Commonwealth v. Berkowitz, 609 A.2d 1338 (1992) (excerpts)

American Association of Universities, The History, Uses, and Abuses of Title IX

***3/20: Upload Final Team Papers (one per team) to Canvas by Noon***

**3/23: Children’s Relationships Outside of the Home – Led by Amethyst Team**

Boy Scouts of America v. Dale, 530 U.S. 640 (2000)

Laura A. Rosenbury, Between Home and School (excerpts)

Seanna Shiffrin, What is Really Wrong with Compelled Association? (excerpts)

Rewritten Opinion from Amethyst Team

**3/30: Group Parenting – Led by Emerald Team**

T.H. v. J.R. & B.S., 61 Misc.3d 775 (N.Y. Fam. Ct. 2018)

Jessica R. Feinberg, Friends as Co-Parents (excerpts)

Haim Abraham, A Family Is What You Make It? (excerpts)

Rewritten Opinion from Emerald Team

**4/6: Blurring Sexual Binaries – Led by Onyx Team**

Johnston v. University of Pittsburgh, 97 F.Supp.3d 657 (W.D. Pa. 2015)

Elizabeth F. Emens, Compulsory Sexuality (excerpts)

Jessica A. Clarke, They, Them, and Theirs (excerpts)

Rewritten Opinion from Onyx Team

**4/13: Sex Outside of Intimacy – Led by Sapphire Team**

Williams v. Alabama, 378 F.3d 1232 (11th Cir. 2004)

Laura A. Rosenbury & Jennifer E. Rothman, Sex In & Out of Intimacy (excerpts)

Melissa Murray, Consequential Sex (excerpts)

Rewritten Opinion from Sapphire Team

**4/20: Concluding Thoughts on the State’s Regulation of Relationships**

Masterpiece Cakeshop v. Colorado, 138 S. Ct. 1719 (2018)

Marc Spindelman, *Masterpiece Cakeshop’s* Homiletics (excerpts)

**5/7: Final Paper Due by Noon to Student Affairs (using anonymous exam number)** – early submissions welcome starting on April 24.