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Course description

Over the last several decades, judges have grappled with disputes that range from questions of contractual obligations by surrogate mothers to allegations of unequal athletic programs in colleges and universities. In this respect, courts play an important policy making role as they define the legal parameters for marriage and divorce, equal employment opportunities, domestic violence, reproductive freedom, child custody, economic and educational equity. In this course, we will examine how legal policy has shaped the status and role of men and women over time by drawing on scholarship from several disciplines, including social science and traditional doctrinal analyses of case law.

Requirements

Participation (10%). All students are expected to attend class prepared on a regular basis (translation: READ and THINK about the material prior to our class meeting). In addition, I will call upon a small group of students during the class period to assist in the discussion of readings assigned for that date. You will be notified of your group assignment on within the first week of the term. Your participation grade will take into account your attendance and my evaluation of your preparation for class.

Simulation (30%). Each member of the class will participate in one of two separate simulations which will run concurrently. Each simulation will involve the consideration of a hypothetical case that requires the resolution of a legal issue relevant to our course. Students will play one of the following roles: a specific justice of an appellate court, an attorney who represents an organized interest filing a "friend of the court" brief, or an attorney representing a direct party in the case.

Justices are expected to prepare for their role by analyzing the past voting behavior and opinion writing of their assigned judge/justice. You are to vote, debate, and write in the simulation as you believe the jurist would do if actually confronted with a real case similar to the hypothetical dispute. You are to turn in an essay (approximately 8-10 pages) that includes (in no particular order): 1) your justice's professional background (particularly as it relates to the case) 2) an analysis of the justice's previous stances on similar issues and 3) an analysis of the justice's present stance on the hypothetical case before the court. Although the writings of your justice will guide your paper, your essay also will be expected to demonstrate an ability to develop an appropriate analytical framework for that issue. In addition to your essay, you will participate in oral argument and conference deliberations.

Attorneys for each side will be paired to work as a team. You will write an appellate brief that details the arguments presented on behalf of your client. In addition, I will meet with attorneys to discuss any questions on legal research and writing. Your grade will rest primarily on the written brief; however you also will participate in oral argument before the Court.

Exams. You will have two exams for this course. The first exam (25%), near the mid-term, will consist of short answer questions. The final exam (35%), which is cumulative, will include much longer essay questions that will be drawn from a list that I will circulate prior to the end of the semester.

Advisories:

I am required to advise students of certain policies:

1. **Plagiarism:** This concept causes many students confusion, so I will try and put it plainly. Academic work must be your own work. It is plagiarism to claim work (such as writing, exams, or presentations) done by anyone other than the author named. Plagiarism also includes cutting and pasting information from internet websites without attribution or paraphrasing someone else's ideas or writing without attribution. It is not sufficient to re-arrange or re-state someone else's writing or ideas. Plagiarism unacceptable. Any plagiarized writing or work turned in for this course will result in a course grade of "F."
2. **Disrespectful behavior:** In the university we are all students, seeking truth and understanding. Skin color, gender, age, or other characteristics over which individuals have no choice are irrelevant to that pursuit, as are religious preference or sexual orientation. Students will be expected to treat all others with the same respect as they would want afforded themselves. Disrespectful behavior to others in the course is unacceptable and can result in a course grade of "F."
3. **Disabilities:** Students with documented disabilities should be registered with the Office of Services for Students with Disabilities (OSSD). Students with documented disabilities who may need accommodation should make an appointment with the professor as early as possible, but no later than the first week of the quarter. The same requirements apply to students who may need to have known emergency medical information. Students should make alternative testing requests and arrangements at least one week in advance of the test.

Readings

J. Ralph Lindgren and Nadine Taub. *The Law of Sex Discrimination*
Melvin Urofsky. *Affirmative Action on Trial*

Additional readings will be assigned throughout the semester. These readings will include Supreme Court opinions and relevant social science scholarship. Several web sites that you may find useful for this course include:

- <http://www.findlaw.com/>
- <http://www.supremecourtus.gov/>(Official site of the U.S. Supreme Court)
- supct.law.cornell.edu/supct/(Legal Information Institute's site maintained by Cornell University)
- oyez.nwu.edu(Oyez, Oyez, Oyez)a multimediate database, includes oral arguments)

I also would suggest that you examine the web sites maintained by the ACLU (<http://www.aclu.org/>) and NOW (National Organization for Women) for gender issues that are currently being litigated in the federal court system.

Schedule of Reading Assignments:

Overview of Policy and Politics

- Historical Developments
- Why the ERA Failed
- Handouts
- L&T p. 93 through 99

Foundations

- L&T through p. 20 through p. 36 (focus on Married Women's Property Acts, Bradwell, Minor)
- ch 1, remainder (group 1)

Equal Protection Analysis

- Exploring Legal Equality
Interpreting equal protection
 - ch 2, through p. 68 (group 2)
 - p. 68-78 (group 3)
 - p. 79-93 (group 4)
- in class equal protection hypothetical (small groups)
- Sameness and Difference
 - p. 106-117 (group 5)
 - locate and brief a copy of *Troupe v. May Dept. Stores Co.* 20 F.3d 734 (7th Cir. 1994) (group 1)
 - p. 118-126 (group 2)
 - p. 126-142 (group 3)

Education

- *Title IX and its interpretation*
- p. 264-267 & 276-79 (group 4)
locate U.S. Code, Title 20, Ch. 38 (group 5)
- in class equal protection hypothetical (small groups)
Education
 - locate and brief a copy of *U.S. v. Virginia* 1996 (the VMI case) (group 1)
 - compare VMI with Hogan (group 2)
- Treatment of students in schools
 - p. 267-76 (group 3)

- Athletics
 - p. 295-314 (group 4)

Employment

- The laws, their background and impact
- p. 144-47, 227-48 & sum of employment laws (handout) (group 5)
- Applying Title VII
 - p. 147-200 (group 1)
 - p. 248-63 (group 2)
 - Urofsky (all) (groups 3, 4, & 5)
- Issues of Equal Pay
 - p. 224-148 (group 1)
- in class equal protection hypothetical (small groups)
- Sexual Harassment
 - p. 201-23 (group 2)
 - p. 314-22 (group 3)

Family

- The law of marriage
 - p. 326-40 (group 4)
- Alternatives to marriage
 - p. 395-413 (group 5)
 - locate and brief Baker v. State, 170 Vt. 194, 744 A.2d 864 (1999) (group 1)
 - Landever. The constitutional arguments for and against the Defense of Marriage Act, 11 Am J Fam L 23, Spring 1997. (groups 2 & 3)
- in class equal protection hypothetical (small groups)
- Divorce and its consequences
 - p. 353-95 (groups 4 & 5)

Abortion

- Legal developments through Roe v. Wade
 - p. 414-32 (group 1)
- Issues in the post-Roe era
 - p. 432-40 (group 2)
 - Stenberg v. Carhart 530 U.S. 914 (group 3)
 - H.R.760-Partial Birth Abortion Ban Act of 2003 (group 4)
 - Compare H.R. 760 with Stenberg v. Carhart (group 5)

Simulations