

## **Feminist Jurisprudence, 815-002 (Fall 2003)**

*Monday and Wednesday 12 - 1:20 p.m., room 500*

### **Professor Mary Clark**

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### **Required Text:**

**Katharine T. Bartlett, Angela P. Harris, and Deborah L. Rhode, *Gender and Law: Theory, Doctrine, Commentary* (3d ed. 2002) (Aspen Publ.).**

**Supplemental readings in course packet to be purchased on the 4<sup>th</sup> floor.**

### **Coursework:**

**During the first week of the course, I will divide the class into two groups (A and B), the individual members of which will be responsible, on an alternating weekly basis, for submitting 1-2 page memos responding to issues raised in the coming week's readings.** Therefore, each student will have a responsive memo due every other week. Memos are due by email to the address above by close of business on Sunday.

Together with class participation, the memos comprise 40% of the course grade.

**Original research paper of 25-30 pages in length.** Paper must be analytical in nature and can focus on feminist legal theory, historical materials, case law, and/or statutory law. Paper can be submitted in satisfaction of the upper level writing requirement; if so, paper must be a minimum of 30 pages. (You might be interested to know that several of the papers produced for this course have been published in recent years!)

Topic to be selected in consultation with the professor from those included in the syllabus. Topic selection due in writing in class on **9/15**.

Substantive outline of paper due in class on **10/15**.

Well-advanced draft of paper due in class on **11/12**.

Final paper due to the Registrar's Office on the last day of exams: **12/20**. (You are welcome to submit your final paper directly to me before then.)

Draft and final paper together constitute 60% of the course grade.

## Reading Assignments

All page references are to the Bartlett, Harris, and Rhode casebook unless otherwise noted in **bold**.

### **Part I. Introduction to Major Themes of Feminist Jurisprudence**

(8/25) **Historic evolution of major themes**

Martha Chamallas, *Introduction to Feminist Legal Theory*. pp. 111-13

(8/25) **Formal equality/ Liberal feminism**

Introduction to Chapter 2, “Formal Equality.” pp. 117-19

Wendy Williams, “The Equality Crisis.” p. 336

(8/25) **Substantive equality**

Introduction to Chapter 3, “Substantive Equality.” pp. 265-66

Herma Hill Kay, “Equality and Difference: The Case of Pregnancy.” pp. 328-29

(8/27) **Different voice/“Cultural” feminism**

Introduction to Chapter 5, “Women’s Different Voices.” pp. 805-06

Robin West, “Jurisprudence and Gender.” pp. 806-08

Mary Becker, “Patriarchy and Inequality: Toward a Substantive Feminism.”  
pp. 810-11

(8/27) **Anti-subordination/“Dominance” theory**

Introduction to Chapter 4, “Nonsubordination.” pp. 533-34

Catharine MacKinnon, *Feminism Unmodified*. pp. 536-39

Catharine MacKinnon, *Sexual Harassment of Working Women*. pp. 540-41

(9/3) **Anti-essentialism/Intersectionality**

Introduction to Chapter 7, “Anti-Essentialism.” pp. 1193-95

Mari Matsuda, “Beside My Sister, Facing the Enemy: Legal Theory  
Out of Coalition.” pp. 1269-71

Leti Volpp, “Feminism vs. Multiculturalism.” pp. 1222-27

**Supp. readings in course packet on “Anti-essentialism / Intersectionality”**

**Part II. Nineteenth century women and citizenship**

- (9/8)            **Separate spheres ideology and cult of domesticity** pp. 29-30, 41-42
- (9/8)            **Marital property reform** pp. 13-16, 18-19, 21-25, 28
- (9/10)          **Slavery** pp. 25-27, 46-49, 55-56, 59-64
- (9/15)          **Suffrage and citizenship** pp. 76-105

*\*\* Paper topic selection due in class on 9/15 \*\**

**Part III. Constitutional sex discrimination law and theory**

- (9/17)          **Early equal protection decisions – 1870s through 1960s**  
pp. 34-41, 43-44, 94 (Hoyt v. Florida);  
**Supp. readings in course packet on “Const. sex discr. law and theory”**
- (9/22, 9/24)    **Subsequent equal protection decisions – 1970s to the present**  
pp. 119-48, 94-95 (Taylor v. Louisiana), 266-71, 886-98

**Part IV. Statutory sex discrimination law and theory (concerning employment and education)**

**Title VII** (See statutory appendix at 1287-97)

- (9/29, 10/1)      **Introduction** pp. 167-74, 181-209, 212-20
- (10/8, 10/13)    **Sexual harassment** pp. 540-81;  
**Supp. readings in course packet on “Title VII: Sex. Harass.”**
- (10/15)          **Pregnancy** pp. 320-42;  
**Supp. reading in course packet on “Title VII: Pregnancy”**  
*\*\* Substantive outline of paper due in class on 10/15 \*\**
- (10/20)          **Fetal protection** pp. 236-49
- Equal Pay Act** (See statutory appendix at 1287)
- (10/22)          **Equal pay and comparable worth** pp. 149-55, 159-63, 303-15

