THEMES AND OBJECTIVES

The purpose of this seminar is to examine the intersection and conflict between sex and law in a liberal democracy - in particular in our liberal democracy. In order to examine this problem we will look closely at a range of materials. First, we will refer to a number of writings of liberal theorists to provide a theoretical framework for our review of subsequent court decisions. Second, we reflect on some feminist critics of liberalism in order to broaden our context. Finally and perhaps the most obvious we will read from the evolving body of court decisions, primarily US Supreme Court but also some state, circuit and district court decisions that are weighing in on this subject matter.

One of the most interesting aspects of this area of law is that it cuts across so many other areas of law. In our study of the problem of sex and law, we will find ourselves confronting issues of federalism, freedom of expression, due process, equal protection and the commerce clause. Hence we enter into a varied and complex area of the law. Among the questions we will examine are:

Should sexual matters be regulated? If so, which branch and level of government is the proper authority to regulate sexual matters? To what extent should sexual matters be regulated?
Is there a right to privacy? If so, to whom does it extend and is it absolute?
What is a family? What is marriage? Who should or can marry?
Is pornography a form of expression? If so, should it be protected under the First Amendment and to what extent?

As the capstone experience in your studies at MSU, the seminar will draw on and hone all of the skills you have been developing during the past few years - writing, research, listening and speaking skills. Each student will run a seminar session, and all students will be responsible for critiquing each other's work.

REQUIRED READINGS

The following book is REQUIRED for this course and should be purchased:


There will be a set e-readings posted on the MC 498 Angel Course site. Please set up a notebook to keep a copy of these readings.
In addition, there are numerous Web sites that might be helpful as you develop your research topics. Here are just a few:
http://www.findlaw.com/
http://www.lib.uchicago.edu/~llou/women.html
http://law-library.rutgers.edu/SSM.html
See also E&H, Appendix 6
WRITING REQUIREMENTS AND PRESENTATIONS

The various components of the course evaluation are as follows:

<table>
<thead>
<tr>
<th>Component</th>
<th>Weight</th>
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<tr>
<td>Research Paper</td>
<td>30%</td>
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<tr>
<td>Presentation Paper</td>
<td>10%</td>
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<tr>
<td>Oral Presentation</td>
<td>10%</td>
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<tr>
<td>Research Proposal due 28 February</td>
<td>10%</td>
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<tr>
<td>Peer Review of Fellow Seminar Member’s Presentation Paper</td>
<td>10%</td>
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<tr>
<td>In-class Examination</td>
<td>20%</td>
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<tr>
<td>Seminar Participation</td>
<td>10%</td>
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The first four components build upon each other. Each seminar member will submit the research proposal for their research paper by **28 February**. Seminar members should choose a research topic in one of the specific areas of sex and law, e.g., employment law, definition of marriage, reproductive rights, privacy rights etc., which interests and concerns them. The research paper may then take a number of forms. One could investigate the topic from a historical perspective looking at how the area of the law has evolved over the past century or more in the United States. One could investigate the topic from a comparative perspective examining how other liberal democracies grapple with the same area of law or how different states within the US grapple with the issue. Finally, one could examine the topic from a theoretical perspective bringing a range of theoretical arguments to bear on a specific area of the law. All three approaches will inform each research paper to some extent; however, for the purposes of specificity and a successful research topic it will be necessary to chose one of these approaches.

Having chosen a research topic, seminar members will then write a presentation paper (approximately 8 pages) in which they explicate their approach to the topic and the substantial elements they intend to develop in the final research paper.

At the time that each seminar member signs-up to present their research topic, a different student will sign-up to provide a written critique of the presentation paper.

Each seminar member will give a **30 minute** public presentation in which she or he addresses the key questions of the course in relation to the research topic. At the end of the presentation, the respondent will begin the discussion. The presenter will be expected to lead the discussion, respond to questions and suggestions from fellow seminar members, and to recapitulate the discussion for a minimum of **15 minutes**.

There will be an in-class examination before the presentations begin which will cover the key cases reviewed as well as the theoretical works we have read.

Finally the quality of seminar participation includes a) seminar member's preparation to discuss and critique the assigned reading for the day; b) seminar member's preparation to discuss and critique the presentation for the day; and c) seminar member's ability to go above and beyond the course readings and presentation to synthesize the themes of the course.

The research paper should be at least 30 pages. It should synthesize the work from the presentation paper and the public presentation. A handout will be distributed later in the term regarding bibliographic and citation expectations. **The research paper is due 4 May at 5:00pm.**
SCHEDULE OF READINGS & PRESENTATIONS
PLEASE NOTE WHERE CASES ARE ITALICIZED YOU ARE EXPECTED TO READ THE CASE ON-LINE VIA FINDLAW: www.findlaw.com

10 January
Introduction & Overview

Role of the Judiciary in a Liberal Democracy

12 January
Judicial Review & American Political Institutions
E&H, Introduction v-viii; Preface on Constitutional Rights, pp. xliiv-lxiv
Marbury v Madison, Federalist 78, US Constitution - ANGEL

Recommended: Review Griswold v CT

Liberalism & Its Feminist Critics

19 January
Selections from Locke's Second Treatise on Government ANGEL
Isaiah Berlin's "Two Concepts of Liberty" ANGEL
Carole Pateman, "Feminist Critiques of the Public/Private Dichotomy" ANGEL
Robin West, "Jurisprudence & Gender" ANGEL

24 January
E&H CH 4, pp. 501-651

DUE PROCESS & PRIVACY: IS IT A RIGHT OR AN EMANATION?

26 January
E&H CH 1, sec 1, A & B pp. 1-30
Griswold v. CT
Eisenstadt v. Baird

ABORTION RIGHTS?

31 January – 2 Feb
E&H CH 1, sec 1, C pp. 30-43
Roe v. Wade
Gonzalez v. Carhart excerpt on ANGEL

FEDERALISM & SEX LAWS

7-9 February
E&H CH 1, sec. 2, pp. 44-112
Bowers v. Hardwick
Lawrence v. Texas
Appendix 2, pp. 1509-1521
E&H, CH 2, sec 1, pp. 165-191
Craig v. Boren
MARRIAGE & FAMILY: CONTRACT OR COMPACT?
14 February
   E&H, CH 8, sec. 1, pp. 1015-1062

16 February
   E&H, CH 8, secs. 2 & 3, pp.1063-1138
   Appendix 7, pp.1553-1563

RATIONAL PERSONS & CONSENT
21 February
   E&H, CH 10, sec. 1, pp. 1239-1294
   United States v. Morrison

23 February
   E&H, CH 10, secs. 2&3, pp. 1295-1356

THE SCOPE OF THE FIRST AMENDMENT
28 February
   E&H, CH 3, secs. 1&2, pp. 321-418

Research Proposals DUE IN CLASS

2 March
   E&H, CH 3, sec. 3, pp. 419-500

SPRING BREAK

EQUALITY IN THE WORKPLACE & EXCLUSION IN THE MILITARY
14 March
   E&H, CH 6, secs. 1, 2 & 3, pp. 757-897
   FOCUS ESPECIALLY ON sec. 2, C
   Ledbetter v. Goodyear case – link on ANGEL

16 March
   E&H, CH 5, secs. 2&3, pp. 676-756

CITIZENSHIP & CIVIL RIGHTS: NATIONAL OR INTERNATIONAL?
21 March
   E&H, CH 2, sec. 2, pp. 217-320
   Romer v. Evans
   Appendix 3, pp.1523-1532

23 March
   E&H, CH 11, secs. 1-3, pp. 1357-1418

28 March
   REVIEW

30 March
   IN-CLASS EXAMINATION
Statement on Academic Honesty

Shared with other Madison Professors

The internet has increased the opportunities for academic dishonesty. **Students should be aware that presenting the work of others so that it appears to be their own work is a violation of moral and professional standards**, one that the College and University treat very seriously. **Students are forewarned that College policies will be strictly enforced in this class**; that the College and University are well aware of the various internet “services” that supply essays, summaries, etc.; and that the University Library actively investigates suspected cases of plagiarism by means of multiple search tools and several databases of hundreds of thousands of essays.

**“What is plagiarism?”** In minor cases, it can be the quotation of a sentence or two, without quotation marks and without a citation (e.g., footnote) to the true author. In the most serious cases, a significant fraction of the entire work was written by someone else: the plagiarist removed the true author(s) names(s) and substituted the plagiarist's name, perhaps did some re-formatting of the text, then submitted the work for credit in a class (e.g., term paper or essay) or as part of the requirements for a degree (e.g., thesis or dissertation).” Ronald B. Sandler, “Plagiarism in Colleges in USA”