

# POLS 4210-02: GENDER AND THE CONSTITUTION

CRN 46506, 3 credit hours

# WSTU 4550-00: GENDER AND LAW

CRN 46679, 3 credit hours

FALL 2014

M 2:00-4:30 EMCS 219

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MTR 9:00-11:00 (and by appointment, I am in my office most days)

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<http://www.utc.edu/political-science-public-administration-nonprofit-management/profiles/nfw641.php>

## REQUIRED TEXTS

Glenn, Evelyn Nakano. 2002. *Unequal Freedom: How Race and Gender Shaped American Citizenship and Labor*. Harvard University Press. ISBN: 0-674-01372-7

Kerber, Linda K. 1998. *No Constitutional Rights to be Ladies: Women and the Obligations of Citizenship*. Hill and Wang. ISBN: 0-8090-7384-6.

Yoshino, Kenji. 2007. *Covering: The Hidden Assault on our Civil Rights*. Random House Trade Paperbacks. ISBN: 978-0375-76021-1.

## Additional Required Readings Provided on UTC Learn

Bartlett, Katharine T. 2011. "Unconstitutionally Male?: The Story of *United States v. Virginia*," *Women and the Law Stories*. Foundation Press: 133-177.

Chamallas, Martha. 2011. "Of Glass Ceilings, Sex Stereotypes, and Mixed Motives: The Story of *Price Waterhouse v. Hopkins*," *Women and the Law Stories*. Foundation Press: 307-335.

Copelon, Rhonda and Sylvia A. Law. 2011. "Nearly Allied to Her Right to Be"—Medicaid Funding for Abortion: The Story of *Harris v. McRae*," *Women and the Law Stories*. Foundation Press: 207-251.

Glaspell, Susan. 1916. *Trifles*. (An adaptation of "A Jury of Her Peers")

Hall, Rebecca and Angela P. Harris. 2011. "Hidden Histories, Racialized Gender, and the Legacy of Reconstruction: The Story of *United States v. Cruikshank*," *Women and the Law Stories*. Foundation Press: 21-55.

Hernández, Tanya Katerí. 2011. "What Not to Wear"—Race and Unwelcomeness in Sexual Harassment Law: The Story of *Meritor Savings Bank v. Vinson*," *Women and the Law Stories*. Foundation Press: 277-305.

Ikemoto, Lisa C. 2011. "Infertile by Force and Federal Complicity: The Story of *Rolf v. Weinberger*," *Women and the Law Stories*. Foundation Press: 179-205.

Mayeri, Serena. 2011. "When the Trouble Started": The Story of *Fronterio v. Richardson*," *Women and the Law Stories*. Foundation Press: 57-91.

McGuire, Danielle I. 2004. "It Was Like All of Us Had Been Raped": Sexual Violence, Community Mobilization, and the African American Freedom Struggle," *The Journal of American History* 91 (3) December: 906-931.

Murray, Pauli, and Mary O. Eastwood. 1965. "Jane Crow and the Law: Sex Discrimination and Title VII." *George Washington Law Review* 43 (2): 232-56.

Scales-Trent, Judy. 1989. "Black Women and the Constitution: Finding our Place, Asserting our Rights" *Harvard Civil Rights-Civil Liberties Law Review* 9:23-27.

- Solnit, Rebecca. 2014. "Men Explain Things to Me," *Men Explain Things to Me*. Haymarket Press: 1-16.
- Steinem, Gloria. 1978. *Ms.* October: 110.
- Wildman, Stephanie M. 2011. "Pregnant and Working: The Story of *California Federal Savings and Loan Ass'n v. Guerra*," *Women and the Law Stories*. Foundation Press: 253-275.
- Woloch, Nancy. 1996. "'Entering Wedge': *Muller v. Oregon* and Its Legacy," *Muller v. Oregon: A Brief History with Documents*. Bedford Press: 3-83.

### Additional Required Court Cases Provided on UTC Learn

- Bradwell v. State of Illinois*, 83 U.S. 130 (1873)
- California Federal Savings & Loan Assn v. Guerra*, 479 U.S. 272 (1987)
- Feeney v. Administrative Personnel of Massachusetts*, 442 U.S. 256 (1979)
- Frontiero v. Richardson*, 411 U.S. 677 (1973)
- Harris v. McRae*, 448 U.S. 297 (1980)
- Hoyt v. Florida*, 368 U.S. 57 (1961)
- Rostker v. Goldberg*, 453 U.S. 57 (1981)
- Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986)
- Minor v. Happersett*, 88 U.S. 162 (1874)
- Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989)
- Roe v. Wade*, 410 U.S. 113 (1973)
- Susan B. Anthony v. United States* (1873)
- U.A.W. v. Johnson Controls*, 499 U.S. 187 (1991)
- United States v. Virginia*, 518 U.S. 515 (1996)
- Wimberly v. Labor & Industrial Relations*, 479 U.S. 511 (1987)

### CATALOG DESCRIPTION

- POLS 4210r: Selected topics in political theory. May be repeated once. On demand. *Prerequisite: Political Science 2000 or approval of professor.*
- WSTU 4550r: Specific topics, themes and subjects related to women's studies. On demand. *Prerequisite: English 1020.*

### GOALS AND OBJECTIVES OF COURSE

This class will focus on the development of the legal definition of men and women in the United States and how legal understandings of gender has evolved, specifically centering on the tensions that occur in a democratic system when disenfranchised groups seek power. This course will also discuss the role that the law and legal structures can play in the achievement of equality. The tension between the formal protection promises of the statutory civil rights provision and the desire for substantive equality in America is a complex one and helps explain why so many Americans disagree as to the current state of equality in America. Students will become confident in their ability to negotiate this difficult intellectual terrain, through the careful reading and analysis of both primary and secondary sources. In a seminar setting, students will become skilled in the discussion of texts, small group analysis, and in the writing of policy papers based on careful research.

### PROFESSOR AVAILABILITY

My office hours are posted. I encourage you to use them to come in and ask questions, discuss ideas, or just talk. I am also available via email, which I generally check daily. If you don't receive a response from me within 24 hours I may not have received it, please contact me again; I *always* respond to emails. The times I am not in my office at UTC, I may be reached at my home library via cell or email, where I do the majority of my writing and grading.

## USE OF BLACKBOARD

This course has a blackboard equivalent that will be used to post announcements regarding the course, provide your grades for the course, contain the additional readings outside the assigned textbooks used in class, and be the repository of course documents like the syllabus and semester assignment.

## GRADING AND ASSIGNMENTS

The project may be turned in any time prior to its due dates; however, no excuses are accepted for lateness, so plan accordingly. Every day the paper is late will be 5% off of the final grade. Attendance and class participation will be considered in determining borderline grades, as will chronic tardiness.

## GRADING SCALE

|           |           |           |          |           |          |           |          |          |         |
|-----------|-----------|-----------|----------|-----------|----------|-----------|----------|----------|---------|
| <b>A</b>  | 93 – 100% | <b>B+</b> | 87 – 89% | <b>C+</b> | 77 – 79% | <b>D+</b> | 67 – 79% | <b>F</b> | 0 – 59% |
| <b>A-</b> | 90 – 92%  | <b>B</b>  | 83 – 86% | <b>C</b>  | 73 – 76% | <b>D</b>  | 63 – 66% |          |         |
|           |           | <b>B-</b> | 80 – 82% | <b>C-</b> | 70 – 72% | <b>D-</b> | 60 – 62% |          |         |

This grading scale is designed to help you interpret your assignment grades in order to improve your work. The final grade in the course will be reported on the university scale of “A,” “B,” “C,” “D,” and “F.”

## GRADING DISTRIBUTION

|                              |     |                       |     |
|------------------------------|-----|-----------------------|-----|
| Midterm Essay*               | 25% | Semester Project      | 45% |
| Final Essay                  | 15% | • Policy Proposal     | 35% |
| Participation and Engagement | 15% | • Civil Rights Summit | 10% |

\* You will have the opportunity to revise your midterm essay after you receive my feedback.

## ACADEMIC EXPECTATIONS

In an academic community, the worst offense that can be committed is to cheat or plagiarize; neither will be accepted or condoned within this classroom. All material that is submitted must be your work or appropriately cited, if you have questions regarding citation procedure or when documentation is necessary — see me. Academic dishonesty, in any form, will be taken seriously. Such work will automatically receive a zero and UTC policies will be followed. A second concern in the academic community is the freedom to learn and discover inside and outside the classroom. Because this freedom should be equally available to all, harassment of any kind will not be tolerated.

## MAJOR RESEARCH PAPER EXPECTATION

There are written papers assigned in this class. An explanation of these assignments will be provided in class. There are several general parameters to these papers that are worth mentioning. I expect the paper to be typed and proofread, have a coverpage that is the only place with your name, and be appropriately cited. Any hand-written or non-edited paper will be returned to be rewritten, and the final grade will be dropped by two letters. No late homework assignments will be accepted, all late paper assignments lose 5% per day late (weekends count as a single day).

## PREPARATION, PARTICIPATION & ATTENDANCE

Students will be evaluated by the professor for the quality of their preparation of class and their willingness to participate in the discussion. This is a seminar and not a lecture course, so student MUST attend weekly and prepare diligently. The following matrix will be used for evaluation. While attendance is not part of the grade, participation is a part of your final grade. Regular attendance and engagement is necessary for success. On the rare occasion you miss a class, you may submit comments and analysis in writing to improve participation grade. Participation grades will be given for each class period and regularly shared with students.

|          |   |
|----------|---|
| <b>5</b> | Comments connect different ideas and arguments. Work by the same author is compared to each other and then to other authors. Opinions and thoughts are supported by evidence or specific examples. This is the most valuable form of participation. Primary and secondary texts are integrated in the analysis. Connections are made to other classes and integration with other disciplines or subfields of political science.       |
| <b>4</b> | Comments demonstrate a reading of the material and the student can carefully describe the materials read. Beginning interpretations are provided that demonstrate an awareness of how the material connects to other authors and other works. Connections are made to personal opinions and evaluations.  |
| <b>3</b> | Comments are relevant to the discussion and build off of previous points of participants. Opinions are not given support and evidence is not provided. Description of text statements and questions regarding content indicate the student has read the material prior to class. This is a good start for participation, but the professor will push you to further develop your ideas. Connections are made to personal experiences. |
| <b>2</b> | Comments are not relevant to the discussion or to the material at hand. This is a person talking to hear their own voice and to claim they have participated. Questions and comments demonstrate student has not carefully read the material prior to class. This form of participation has no role in an undergraduate classroom. It also indicates a student who has not been prepared for class.                                   |
| <b>1</b> | Comments are so superficial or irrelevant as to be a distraction to the class and to the discussion. The line between a “2” and a “1” is a fine one. No participation, no engagement in the discussion. You might as well just stayed home.   |

## CIVIL RIGHTS SUMMIT

After our discussion of the class texts and the primary policy areas covered in the syllabus, we will constitute a Civil Rights Summit dedicated to the creation of new constitutional and legal policies designed to rectify and improve current problems in which gender equity has thus far been elusive. Any policy area in which gender inequity has been demonstrated can be addressed, regardless of whether men or women have been the current beneficiaries of privilege. Sexual identity and orientation issues may also be considered. All potential topics must be cleared with your professor. Each class member will create a policy analysis of at least twenty pages of text, recommending *a specific change in the: wording of the Constitution, constitutional interpretation, wording of statutory law, or statutory interpretation*. The paper should explicitly contain the following components:

1. Clear thesis statement
2. Statement and evidence of current gender inequality in the policy area that the proposal addresses
  - a. Be sure to discuss the legal history of the problem
3. Explanation of and support for your proposal
4. Demonstration of how the proposal will rectify the current state of inequality
5. Response to potential critics

Of course the proposal should have a cover page and descriptive title, page numbers, all sources should be cited, and a “Works Cited” page. Students will submit two copies of their paper on the assigned dates. At our policy summit, students will present their own policy recommendations and comment on the proposals of others.

## METHOD OF COURSE EVALUATION

This course will be evaluated through the use of mid-term evaluations, which will be reported to and discussed by the class, end-term evaluations, and the use of the university’s student evaluation system after the term ends.

## COUNSELING CENTER STATEMENT

If you find that personal problems, career indecision, study and time management difficulties, etc. are adversely impacting your successful progress at UTC, please contact the Counseling and Career Planning Center at 425-4438 or <http://www.utc.edu/Administration/CounselingAndCareerPlanning/>.

## ACCOMODATION STATEMENT

If you are a student with a disability (e.g. physical, learning, psychiatric, vision, hearing, etc.) and think that you might need special assistance or a special accommodation in this class or any other class, call the Disability Resource Center (DRC) at 425-4006 or come by the office, 102 Frist Hall  
<http://www.utc.edu/Administration/DisabilityResourceCenter/>.

## CELLPHONE POLICY

Students should turn all cellphones off or place them on “silent” upon entering the classroom. You should not leave class to take a phone call; this is disruptive. If you expect a possible emergency call during a particular class, inform your professor before class begins. Do not text in class; these activities disrupt your learning and the learning community of which you are a member. Disruptive students may be asked to leave the class or may have their final grade affected by such behavior.

# Gender and the Constitution COURSE SCHEDULE Fall 2014

M Aug 18

### **Social Construction of Gender**

Discussion of Class Expectations and Introduction to topics

*Before Class:* Rebecca Solnit, “Men Explain Things to Me” (UTC Learn)

*In Class:* Susan Glaspell, “A Jury of Her Peers” (we will watch the play adaptation “Trifles”)  
Gloria Steinem, “If Men Could Menstrate”

## SOCIAL CONSTRUCTION OF GENDER AND COVERTURE

M Aug 25

### **Social Construction of Gender and Coverture**

*Assignments:* Go to Harvard University’s Implicit Project website:

<https://implicit.harvard.edu/implicit/demo/selectatest.html>

You may sign in as a guest. Take at least one of the tests related to gender: Gender-Career, Gender-Science, or Sexuality. After you complete the test, write a 1-2 page response to the findings: did they surprise you? Challenge you? Reassure you? What do you think your findings (you do not need to explicitly report your findings to me) and the national norms tell us about the social construction of gender?

*Readings:* VanBurkleo, Preface, ix-xvii (UTC Learn)

VanBurkleo, Part I: “The Way of Obedience”: Foundations 1-58 (UTC Learn)

Scales-Trent, “Black Women and the Constitution: Finding our Place, Asserting our Rights” (UTC Learn)

M Sept 1

No Class — Labor Day

M Sept 8

*Readings:*

Kerber, Preface

Kerber, Chapter 1: “No Political Relation to the State” Conflicting Obligations in the Revolutionary Era,” 3- 46

Kerber, Chapter 2: “I am just as free and just as good as you are” The Obligation not to be a vagrant,” 47-80

Kerber, Chapter 3: “Wherever you find Taxey There Votey will be also” Representation and Taxes in the Nineteenth Century,” 81-123

- M Sept 15      **Coverture and the Constitutional Protections Surrounding Gender From Liberty to Equality—The Fourteenth Amendment**  
*Readings:*      Schneider & Wildman, Chapter 1: “Hidden Histories, Racialized Gender, and the Legacy of Reconstruction” 21-55  
                          McGuire, “It was like all of us had been raped” (UTC Learn)  
                          *Bradwell v. State of Illinois*, 83 U.S. 130 (1873) (All Cases on UTC Learn)  
                          *Minor v. Happersett*, 88 U.S. 162 (1874)  
                          *Susan B. Anthony v. United States* (1873)  
*Midterm Assignment given*

### LABOR, GENDER, AND THE CONSTITUTION: WHAT IS EQUALITY?

- M Sept 22      **Labor, Gender, and the Constitution: What is Equality?**  
*Readings:*      Woloch, *Muller v. Oregon* (UTC Learn)  
*Assignment:*      Topic Selected for Paper, submit statement of problem in class
- M Sept 29      *Readings:*      Glenn, *Unequal Freedom: How Race and Gender Shaped American Citizenship and Labor*

### CONTEMPORARY ISSUES IN GENDER AND LAW

- M Oct 6      *Assignment:*      ESSAY ONE due  
                          The Campaign for the Right to Vote  
                          *Video:*              *One Woman, One Vote*
- M Oct 13      **A New Constitutional Jurisprudence**  
*Readings:*      Kerber, Chapter 4, “Woman is the Center of Home and Family Life”  
                          Gwendolyn Hoyt and Jury Service in the Twentieth Century,” 124-220  
                          Kerber, Chapter 5, “A Constitutional Rights to be Treated Like American Ladies” Helen Feeney, Robert Goldberg, and Military Obligation in Contemporary America,” 221-310  
                          Murray, Pauli, and Mary O. Eastwood. “Jane Crow and the Law: Sex Discrimination and Title VII.” (UTC Learn)  
                          *Feeney v. Administrative Personnel of Massachusetts*, 442 U.S. 256 (1979)  
                          *Hoyt v. Florida*, 368 U.S. 57 (1961)  
                          *Rostker v. Goldberg*, 453 U.S. 57 (1981)
- M Oct 20      No Class — Fall Break
- M Oct 27      *Readings:*      Schneider & Wildman, chapters 2, 4 “Developing a Constitutional Jurisprudence to Combat Sex Discrimination and to Promote Equality” 57-92; 133-178 (UTC Learn)  
                          *Frontiero v. Richardson*, 411 U.S. 677 (1973)  
                          *Vorchheimer v. School District of Philadelphia*, 532 F. Supp. 2d 880 (1976)  
                          *United States v. Virginia*, 518 U.S. 515 (1996)  
                          *Video:*              *United States v. Virginia* (1996)  
                          *Assignment:*      All Revisions of Essay One due with copy of original essay

- M Nov 3      Readings:      Schneider & Wildman, chapters 5, 6, “Reproductive Freedom,” 179-252  
*Roe v. Wade*, 410 U.S. 113 (1973) (separate from collection on UTC Learn)  
*U.A.W. v. Johnson Controls*, 499 U.S. 187 (1991)  
*Harris v. McRae*, 448 U.S. 297 (1980)  
[http://www.nytimes.com/2014/07/01/us/hobby-lobby-case-supreme-court-contraception.html?\\_r=0](http://www.nytimes.com/2014/07/01/us/hobby-lobby-case-supreme-court-contraception.html?_r=0)
- Video:      *The Pill*
- M Nov 10      Readings:      Schneider & Wildman, chapters 7, 8, 9, “The Workplace,” 253-336  
*California Federal Savings & Loan Assn v. Guerra*, 479 U.S. 272 (1987)  
*Wimberly v. Labor & Industrial Relations*, 479 U.S. 511 (1987)  
*Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986)  
*Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989)
- Assignment:      Optional draft submitted of term paper for comments must have by Friday

## CIVIL RIGHTS SUMMIT

- M Nov 17      Civil Rights Summit  
Final Essay Assigned
- M Nov 24      Civil Rights Summit  
Civil Rights Project Due
- M Dec 1      Reading:      Yoshino, *Covering: The Hidden Assault on our Civil Rights*
- M Dec 8      Final Exam Due in Fletcher Hall 417C by 3:00 pm