

**HUMN/SSCI 5540 & 4070**  
**Law, Diversity, and Community in US History:**  
**Implications for Contemporary Engagement**

Master of Humanities/Master of Social Science (MHMSS)  
University of Colorado Denver, Downtown Denver Campus  
**Fall 2021**

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**Meeting Times:** R 5:30-8:20 p.m.

**Meeting Place:** SCB 3208

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The U.S. presidential election of 2016 was a watershed moment in our recent history, marking what appears to be the eclipse of the social and constitutional liberalism that defined this nation in the post-Second World War era. Such liberalism, often taken for granted and assumed to be a part of our heritage as a nation, was itself a *break* from the pattern of historical intolerance and moral exclusion that has defined the United States from the beginning. The tumultuous 2020 election, while perhaps pausing the pace of our regression and providing some welcome (and temporary) breathing space for reflection, has not promoted much in the way of *solutions* to our fundamental problems as a society and what this has meant for the social justice aspirations embedded in the post-war liberal era (our collective self-image as a nation). In short, the so-called “cultural wars” of the past few decades seem as intractable and dangerous as ever. In this course, we will study the context for this situation.

The problem, in part, stems from the fact that people tend not to know our national past and remain susceptible to ethnocentric pandering, political demagoguery, and corrosive nationalism/patriotism which has been on full and frightening display for the past six years. This course helps us counter such posturing by helping students understand what the pre-Second World War environment in the U.S. meant in both the public and private spheres (i.e., the intensity and totality of the oppression and the immense and pervasive suffering involved). We will also study the post-war struggles to successfully challenge and change this condition making this a much better country for all of us. In so doing, we can appreciate the importance for collective sustained political action of the type we have seen in recent high-profile movements such as BLM, Critical Race Studies, Third-Wave Feminism, and LGBTQIA+ activism in light of the contemporary assault on multi-ethnic liberal democracy facing our nation.

As this course will demonstrate, *the things that make this nation admirable, its (imperfect) commitment to equality, individual freedoms, and due process of law, have only existed during this postwar period and can be easily lost*. By understanding the construction of identity and the structural inequality built into our society historically, we study the ways that the past limits our options for the future and suggests strategies for contemporary engagement.

**COURSE GOALS**

To provide students with an introduction to important issues of law, diversity, and community as they have been played out historically in the construction of U.S. society in order to understand their *contemporary* manifestations in America’s deep rooted and increasingly consequential “cultural wars” (i.e., systemic conflict over social/political issues such as LGBTQIA+ rights, immigration, and reproductive freedom). To generate conceptual

and intellectual resources for redescribing and meliorating cultural conflict situated between intersectional linkages of social class, gender, race, and sexual identity and discrimination, as they exist within our society in contemporary times. To understand core problems, controversies, vocabularies, and issues in the humanities and the social sciences as they apply to the politics of diversity, law, and community while helping students to read, comprehend, and produce scholarship to the standards and expectations of graduate study. To orient students toward potential thesis or project ideas in the areas of Ethnic Studies, Gender Studies, LGBTQIA+ Studies, Political Science, social justice, law, or similar areas and/or to advance a student's progress on an already ascertained topic related to the course material.

### **COURSE DESCRIPTION**

This course explores foundational issues of law, diversity, and community as they have been played out historically in the construction of U.S. culture. Mostly, we will be studying hundreds of *primary source historical documents* to understand the ways in which the law shaped social conciseness and how social consciousness shaped the law. Texts that we will engage include appellate court decisions, archival newspaper articles, historical and contemporary photographs, legislative statutes, period advertisements, personal letters from historical figures, videos, and other cultural artifacts located in course PowerPoint slides and on Canvas (**for a list of these topics, see pages 14-15 of this syllabus**). Students are expected to treat the PowerPoint material as part of the required course readings. Additionally, there will be some secondary source scholarly writing. While we will be studying legal history, the *goal is to think wider and note critical, philosophical, and sociological implications of the material to the study of diversity and the conflict that often surrounds the ongoing quest for economic, moral, and social inclusion in the United States.*

Generally, our topics in this course will include case studies of cultures in conflict, and the socialization process (how social movements, mass politics, and other cultural phenomena help to construct our cultural and individual identities). In so doing we will review notions of "otherness" and the fear that often surrounds such positioning; eugenics, scientific racism, and other medical/jurisprudential paradigms which informs our understanding of subsequent conflicts surrounding issues of social class, race, gender, disability, and sexual identity/orientation. In exploring these topics, we will see how each of these categories and issues are socially constructed and reinforced by normative legal practices that enact privilege and enforce exclusion. By engaging this we begin to appreciate how individuals in U.S. society can learn from the sacrifices of the past to construct a more inclusive and fairer future. Thus, upon completion of this course, students should be able to appreciate diversity and community in the United States as a site of struggle and potential for increased levels of justice, and equality.

### **REQUIRED READINGS**

Required course readings and PowerPoint lectures are available on Canvas. Students can login to Canvas at <http://canvas.cuonline.edu> using their CU Denver Access credentials. Students with questions about Canvas please contact the CU Online Help Desk at [cuonlinehelp@ucdenver.edu](mailto:cuonlinehelp@ucdenver.edu) or 303-315-3700. If, for whatever reason, you cannot get access to the readings, please contact me immediately and I will arrange for you to get them.

### **NOTE ON THE READINGS AND POWERPOINT PRESENTATIONS**

As this course is a graduate seminar, there is a significant reading expectation. The material, while inherently interesting (we will be discussing our communities and our lives), is often difficult to understand (for example, the language of the court cases), morally disconcerting/objectionable (i.e., we will be critiquing the status quo with implications for our value and belief systems), or emotionally trying (i.e., discussions of lynching, forced sterilization, genocide and other extremely violent and hateful practices). I

realize that this requirement may pose a challenge to some students. Keep in mind, however, that students are *not* expected to memorize or agree with any of the readings or slides. Nor will students be tested on their knowledge of legal principles. I expect *only* that students make their best effort to keep up with the readings and to retain an open mind with the often-controversial material. Specifically, I invite you to take from the readings what you can and to use it as you see fit both academically and personally. **It is my aim to clarify any confusion that may result from the reading—particularly in terms of legal jargon and reasoning.** The readings and PowerPoint slides should be regarded with both curiosity and care, as their intellectual value is, at times, deeply embedded and emotionally challenging. In other words, the readings require both time and dedication to be processed and understood. *None of the material is intended to coerce students toward or away from any particular position, point of view, religious concerns, political identification, or value cluster.*

## **ASSIGNMENTS**

The following are the course assignments for the semester. All work must be typed, double spaced (the only exception being your weekly issues which should be single spaced), well organized, clearly written, and professionally presented with a minimum of typographical errors. Please pay attention to deadlines, as *no* late work will be accepted unless students have an officially documented illness or family emergency and I am notified in a timely manner. All work must be turned in during class unless otherwise noted.

### **(1). Attendance, Class Participation, and Issues**

Attendance for each session of this course is mandatory. Students who cannot attend class should have an excusable justification (i.e., illness, family emergency). Every unexcused absence will result in loss of 20 points from the student's grade. Moreover, as this course is a seminar, the responsibility for discussion rests with the students. Thus, all students are expected to contribute to the weekly class discussions as well as to the creation of a positive and supportive classroom-learning environment. Grading criteria for participation include the following behaviors: *active listening; demonstrating cumulative learning; preparedness; questions and responses to both the course material and to comments made by other students; soliciting feedback from the instructor and other students while responding well to feedback; thoughtful comments which shows initiative; and willingness to allow others to speak* (see "**Seminar Guidelines for Participation, page 14-15**).

To aid in her/his class participation experience, each student is required (starting the second week of class) to generate each week **two-three** issues on the readings and PowerPoint material (1-2 pages single spaced total). These issues must be substantive and indicative of the student's mental engagement with the material. More specifically, these issues are points of contention that the student wants to assert with regard to a particular line of reasoning or argument taken up in the literature (i.e., readings or PowerPoint slides). The issues should illustrate a breadth of comprehension and/or provide a critical assessment of the reading. I will work with students in class to help them learn how to identify, expand, and improve upon their articulation of issues. Sample issues are available to class at the first meeting. Student issues (labeled with the appropriate week) should be sent to me by **Wednesday** afternoon each week no later than 2 p.m. Issues will be graded each week as "excellent" (+), "satisfactory" (√), or "unsatisfactory" (-). (100 points collectively)

### **(2). Paper**

This 25-30-page paper (for undergraduates it is 15-20 pages) must concern an issue or topic central to this course. The issue or topic should be analyzed vis-à-vis any of the perspectives we have discussed. Students will need to present a systematic analysis of their issue in terms of how it might better enable us to understand the intersections between

key course concepts. The paper must present a fully developed research argument, correctly follow Turabian Style or another if approved by the instructor and have a minimum of grammatical or compositional errors. Students should begin their papers **immediately** and work closely with the instructor and with their peer group (i.e., each other) to discuss research strategies, resources, and drafts of the developing paper.

Because part of the grade for the paper assignment includes the improvement of research practices, students are **required** to meet individually with the instructor every three weeks to discuss drafts of their paper and to work on their composition and research skills. With each meeting, students are expected to show signs of progress in their papers over the previous meeting (this requirement is intended to help ease the workload that tends to become pushed to the end of the semester, contributing to unnecessary student stress). The final paper is due on **December 16**. Late papers will *not* be accepted. **(100 points)**

### **(3). Take-Home Exam**

The final exam is intended to bring closure to the course material. This will be an 8-10-page (5-8 pages for undergraduates) discussion of a question prepared by the instructor (students will be provided with a few choices from which to choose), which will ask them to synthesize the material of the course and to draw conclusions based upon their thinking. Students will have one week to prepare their answers. This assignment will be due on **December 9**. *It is important to be able to use the readings as evidence or support for your discussion of the question.* **(100 points)**

### **Grading System for Graduate Courses**

As per the policy of the MHMSS program, the following are the definitions for each letter grade: A = Excellent; A- = Very good; B+ = Good; B = Satisfactory; B- = passing but below program expectations. **Grades below B- will not be counted toward the MSS or MH degree or any graduate certificate. As graduate students it is expected that you will do excellent work.** A student's final grade in this course will be generated according to the following scale: A (300-285); A- (284-270); B+ (269-260); B (259-250); B- (249-240); C+ (239-230); C (229-220); C- (219-210); D+ (209-200); D (199-190); D- (189-180).

## **Other Important Course Information**

### **Statement of Inclusion**

Students are encouraged to take any position on the course material and assignments they want, and they will not be graded on their ideological/political/religious/racial/sexual or other points of view. I will be presenting the class with often controversial and, at times, counter-normative views, and students should know that they are empowered to challenge me on any point. Indeed, it is essential for the success of this class that students do so. I ask in return for students to stretch their critical thinking and arguing skills and to take challenges with their learning. Further, I expect students to back up their beliefs/opinions/perspectives etc. with reasoned argument and evidence and to be committed, generally, to principles of free and open discussion and debate, tolerance, as well as civility and respect for others (I will, to the best of my ability, model this expectation). This course will be driven by what students write and say so I need all of you to contribute freely and openly in as safe an environment as possible. I will do everything in my power to nurture such a supportive environment. In past sections, students have taken it upon themselves during the first few weeks of class to openly discuss what constitutes a safe space for them. This includes discussion of triggers, use of preferred gender pronouns, etc. **Please see me if you have any suggestions on how to improve the classroom discussion environment or if something was said in class by myself or another student that upset you. I will treat your communications with me with the utmost confidentiality and take whatever steps necessary to rectify the situation.**

### **CU Denver Campus Safety Protocol**

Due to the increased transmissibility of the Delta variant, all individuals regardless of vaccination status are required to wear masks while indoors on campus. Vaccinated individuals may remove their masks indoors when able to maintain 10 feet of social distancing. Unvaccinated individuals must complete the daily online health check; must wear face coverings at all times while indoors; and must get tested for COVID-19 on a weekly basis beginning in August 2021.

### **Tardiness**

Students who are going to be more than ten minutes late should contact me earlier in the day to let me know their situation (i.e., bad weather, crisis at work, family conflicts). Excessive tardiness will result in a penalty for a student's class participation grade.

### **Classroom Policies**

Cell phones should be turned off before coming to class. Laptop computers are to be used only for taking notes. Students who use them for other purposes (i.e., checking email, playing games, etc.) will be asked to turn off their computers.

### **CLAS INCOMPLETE (IW/IF) POLICY:**

The faculty in the College of Liberal Arts and Sciences (CLAS) passed the following policy relating to the awarding of incomplete grades. This CLAS policy is consistent with the CU Denver campus policy. Incomplete grades (IW or IF) are NOT granted for low academic performance. To be eligible for an Incomplete grade, students MUST (1) successfully complete a minimum of 75% of the course, (2) have special circumstances beyond their control that preclude them from attending class and/or completing graded assignments, and (3) arrange to complete missing assignments with the original instructor. Verification of special circumstances is required. Completion of a CLAS Course Completion Agreement is strongly suggested. Incompletes cannot be awarded that stipulate (1) a student may repeat the entire course, (2) repeat or replace existing grades, (3) allow the student an indeterminate period of time to complete a course, or (4) allow the student to repeat the course with a different instructor. The CLAS Course Completion Agreement is available from the CLAS Advising Office, NC 1030.

### **Student Email Policy**

Email is an official means of communication for students at the CU Denver. All official university email, *including email I send as part of this class (which I will do on a regular basis)*, will be sent to each student's assigned CU Denver email address. CU Denver will *only* use CU Denver student email accounts if it elects to send email communications to students (the same is true for email that the MHMSS program sends out to students on our program listserv). CU Denver email accounts are available through IT Services. Students are responsible for reading emails received from CU Denver. Official emails sent through this system is presumed to be received by students.

### **Census Date**

Students must be officially registered in this class by census date. Students who are not officially registered by this date will **not** be allowed to add the course. This are no exceptions to this *college* policy. This is outside of the control of the instructor.

### **Disability Accommodations**

The faculty at the University of Colorado system have both a legal and moral obligation to provide reasonable accommodations to students with disabilities. To be eligible for accommodations, students **must** be registered with the CU Denver Office of Disability Resources and Services (DRS) located in SCB-2116 (303-315-3510). The DRS staff has experience to assist faculty in determining reasonable accommodations and to coordinate

these accommodations. If a student is given accommodations, they must be followed. If a student chooses not to accept the accommodations set forth by the DRS, they MUST complete all assignments and do all course work in the same manner as all other students. No exceptions or alternate forms of evaluation can be used except those mandated by the DRS. Faculty cannot arbitrarily decide to give a student extra time, extra assistance or other forms of aid unless it is formally mandated by the DRS.

### **Religious Holiday Accommodations**

Faculty in the University of Colorado system have both a legal and moral obligation to provide reasonable accommodations to students who must be absent from classes because of religious holidays. Faculty are expected to develop course-consistent accommodations for students who miss class or graded assignments in order to observe religious holidays. Faculty are encouraged to (1) avoid examinations during major religious holidays and (2) ask students to privately identify all course conflicts at the beginning of the semester. For a list of such holidays, please consult <http://www.interfaithcalendar.org>.

### **CLAS Statement**

For relevant university deadlines and procedures (such as the last day to withdraw from a course) please see this website <http://www.ucdenver.edu/student-services/resources/Registrar-dev/Documents/AcademicCalendars/AcademicCalendar Fall2021.pdf>. Academic support sites can be found at [https://clas.ucdenver.edu/faculty-staff/sites/default/files/attached-files/campus\\_supports\\_page\\_syllabus\\_insert.pdf](https://clas.ucdenver.edu/faculty-staff/sites/default/files/attached-files/campus_supports_page_syllabus_insert.pdf)

### **Plagiarism Statement**

Plagiarism and cheating will not be tolerated and can lead to possible dismissal from the University. At *minimum*, students who are caught cheating on an exam or plagiarizing a paper in this course will receive *zero points* for that assignment. At my discretion, a student caught cheating or plagiarizing a paper may be assigned an “F” *for the course*. Students are responsible for being attentive to, or observant of, campus policies about academic honesty as stated in the University’s Student Conduct Code. In addition, at the discretion of the Graduate Director, the student may be asked to leave the graduate program. Information regarding academic integrity can be found at <https://clas.ucdenver.edu/faculty-staff/policies-procedures/handling-academic-dishonesty/definition-academic-dishonesty>.

**When in doubt ask! I am here to help you learn.**

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## **Introduction/Overview of Course/Orientation**

Class Meeting: **August 26**

*This course asks difficult questions about who we think we are as a nation. What, for example, is America? What is an American? What are American values? What is the American Dream? In so doing, we challenge myths embedded in our collective psyche as expressed in popular culture and in our legal system, contextualized in the lives of flesh and blood individuals upon whose metaphorical “backs” this nation was constructed. This first set of readings introduces and problematizes the concept of “community” as conceptualized in the United States and the question of social justice needed to rethink present in light of our current political situation.*

### **Security & Strength through Unity (Who’s Unity. Who’s Justice?) How Does This Mean for Community Today?**

#### **Flag Salute Cases**

*Minersville School District v. Gobitis, 310 U.S. 586 (1940)*

*West Virginia State Board of Education v. Barnette* (1943)

Thurgood Marshall (1987). Bicentennial speech: Remarks on race and the constitution. <http://thurgoodmarshall.com/the-bicentennial-speech/>

### **Secondary Sources**

Omar Swartz and Lucy W. McGuffey, "Migrating Pedagogy in American Universities: Cultivating Moral Imagination and Social Justice." *Communication Education*, 67:1 (2018), 102-109.

Martha C. Nussbaum. "Patriotism and Cosmopolitanism." In Joshua Cohn (ed.), *For Love of Country* (Boston, Beacon Press, 1996), 3-16.

Richard Rorty, "American National Pride: Whitman and Dewey." *Achieving Our Country: Leftist Thought in Twentieth-Century America* (Cambridge, MA: Harvard University Press, 1998), 3-38.

Omar Swartz, "Confronting the Barrier of the U.S. Constitution for Change and Social Justice." *In Defense of Partisan Criticism: Communication Studies, Law, & Social Analysis* (New York: Peter Lang, 2005), 37-53.

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## **PART I**

### **RACISM, EUGENICS, AND SOCIAL DARWINISM: LESSONS FROM THE PAST, EMPHASIS ON THE FUTURE**

*Few metaphors in the past few hundred years have been as salient and as harmful as that of Blood. Heroes "spill" it, racists "protect" it, and flags "honor" it. Blood is a powerful metaphor because it is archetypal—it in some sense grounds us, providing us with a sense of place or meaning. We often talk about Blood as being who we are or that it carries our "heritage" or "legacy." We take pride in such constructs, as if they were something over which we had agency. In so doing, we practice the essentialism that we in other circumstances consciously and rightly reject (i.e., the essentialism engaged by racists). Using this trope of Blood, we will explore the construction and metaphysics of race and some of the more influential mechanisms of social control (i.e., miscegenation and eugenics) through the experiences of African Americans, Asian-Americans, Mexican Americans, Native-Americans, and others. We will also explore the role of social class as it intersects with the construction of racial identity.*

### **EUGENICS, SOCIAL DARWINISM, AND SCIENTIFIC RACISM**

Class Meeting: **September 2**

#### **Sterilization of the "Socially Inadequate"**

*Buck v. Bell*, 274 U.S. 200 (1927)

*In re Main*, 19 P.2d 153 (1933)

*State v. Wyman*, 118 Conn. 501 (1934)

*In re Cavitt*, 182 Neb. 712 (1968)

*In re Sterilization of Moore*, 221 S.E. 2d 307 (1976)

### **Secondary Source**

Alfred L. Brophy and Elizabeth Troutman, "The Eugenics Movement in North Carolina." *North Carolina Law Review*, 94 (2016), 1871-1956.

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## **ANTI-MISCEGENATION AND WHITE SUPREMACY**

Class Meeting: **September 9**

### **Anti-Miscegenation Examples**

*Scott v. Georgia*, 39 Ga. Rep. 321 (1869)

*Green v. State*, 58 Ala. 190 (1877)

*State v. Jackson*, 80 Mo. 175 (1883)

*State v. Pass*, 59 Ariz. 16 (1942)

*Perez v. Sharp*, 32 Cal. 2d 711 (1948)

*Naim v. Naim*, 197 Va. 80 (1955)

*Loving v. Virginia*, 388 U.S. 1 (1967)

*Palmore v. Sidoti*, 466 U.S. 429 (1984)

### **Secondary Source**

Keith E. Sealing, "Blood Will Tell: Scientific Racism and the Legal Prohibitions Against Miscegenation." *Michigan Journal of Race and Law*, 5(2)(2000), 559-609.

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## **OVERT OPPRESSION AND SEGREGATION**

Class Meeting: **September 16 & 23**

### **Law as Totalizing Act**

*Johnson v. M'Intosh*, 21 U.S. (8 Wheat.) 543 (1823)

*Prigg v. Pennsylvania*, 41 U.S. (16 Pet.) 539 (1842)

*Scott v. Sanford*, 60 U.S. 393 (1856)

### **Struggle over De Jure Segregation**

*West Chester & P.R. Co. v. Miles*, 55 Pa. 209 (1867)

*Plessy v. Ferguson*, 163 U.S. 537 (1896)

*Gong Lum v. Rice*, 275 U.S. 78 (1927)

*Shelley v. Kraemer*, 334 U.S. 1 (1948)

*Mendez v. Westminster*, 64 F. Supp. 544 (1946)

*Sweatt v. Painter*, 339 U.S. 629 (1950)

*Hernandez v. Texas*, 347 U.S. 475 (1954)

*Brown v. Board of Education*, 347 U.S. 483 (1954)

### **Prevalence of De Facto Segregation Today**

*San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973)

*Parents Involved in Community Schools v. Seattle School District*, 551 U.S. 701 (2007)

*State v. Lobato*, 304 P.3d 1132 (2013)

### **Secondary Sources**

Omar Swartz, "Codifying the Law of Slavery in North Carolina: Positive Law and the Slave Persona." *Thurgood Marshall Law Review*, 29 (2004), 285-310.

Mary L. Dudziak, "Desegregation as a Cold War Imperative." *Stanford Law Review*, 41 (1988), 61-120.



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## **IMMIGRATION RIGHTS AND WRONGS**

Class Meeting: **September 30**

### **Treatment of Minorities**

*People v. Hall*, 4 Cal. 399 (1854)  
*In re Ah Yup*, 1 F. Cas. 223 (1878)  
*United States v. Bhagat Singh Thind*, 261 U.S. 204 (1923)  
*Boutilier v. INS*, 387 U.S. 118 (1967)  
*Plyler v. Doe*, 457 U.S. 202 (1982)  
*Ruiz v. Hull*, 191 Ariz. 441 (1998)  
*Trump v. Hawaii*, 138 S. Ct. 2392 (2018)

### **Secondary Sources**

Kevin R. Johnson, "Race, the Immigration Laws, and Domestic Race Relations: A 'Magic Mirror' Into the Heart of Darkness." *Indiana Law Journal*, 73 (1998), 1111-1159.

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## **PART II**

## **SEX, SEXISM, AND THE INEQUALITIES OF GENDER**

*Perhaps the most fundamental aspect of peoples' lives that they believe to be objectively True is biological sex and, to a lesser extent, gender. We accept it for what we think it is and seldom pause to appreciate the consequential power elements that underpin what we mean by "male" and "female." We think that by saying "I am a male" or "she is a female" that we have said something that is both meaningful and predictive of behavior. Indeed, we act as if it were; in so doing we make it happen. By being "male," others can be "female" and from this, we have learned to divide the world. Such divisions, however, have their price. What follows from maintaining these types of beliefs? What are the tacit political and systemic ramifications of the presumed difference between the sexes? How limited does our world, become? In what ways does the manner in which we think about women and men cause us harm? What have we given up by not being able to think about these things differently?*

### **GENDERED STATUS**

Class Meeting: **October 7**

### **Women as Second Class Citizens**

*Dibble v. Hunton*, 1 Day 221 (1804)  
*Minor v. Happersett*, 88 U.S. 162 (1875)  
*Bigaouette v. Paulet*, 134 Mass. 123 (1883)  
*Mackenzie v. Hare*, 239 U.S. 299 (1915)  
*United States v. Dege*, 364 U.S. 51 (1960)  
*Forbush v. Wallace*, 341 F. Supp. 217 (1971)  
*Reed v. Reed*, 404 U.S. 71 (1971)  
*Women's Liberation Union v. Israel*, 379 F. Supp. 44 (1974)  
*Brooks v. State*, 24 Md. App. 334 (1975)

### **Secondary Source**

Omar Swartz and Candace Nunag-Hicks, "Propter Defectum Sexus and the Stalled Gender Revolution." In Brittany C. Slatton and Carla D. Brailey, eds., *Women and Inequality in the 21st Century* (New York: Routledge, 2019), 24-39.

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## **GENDERED PLACE**

Class Meeting: **October 14**

### **Employment**

*Bradwell v. Illinois*, 83 U.S. 130 (1873)  
*In re Goodell*, 39 Wis. 232 (1875)  
*Robinson's Case*, 131 Mass. 376 (1881)  
*Muller v. Oregon*, 208 U.S. 412 (1908)  
*Radice v. New York*, 264 U.S. 292 (1924)  
*Goesaert v. Cleary*, 335 U.S. 464 (1948)  
*White v. Fleming*, 522 F.2d 730 (1975)

### **Education Settings**

*Ordway v. Hargraves*, 323 F. Supp. 1155 (1971)  
*Cleveland Bd. Of Educ. v. LaFleur*, 414 U.S. 632 (1974)  
*United States v. Virginia*, 518 U.S. 515 (1996)

### **Sports**

*State v. Hunter*, 300 P.2d 455 (1956)  
*Lafler v. Athletic Bd. Of Control*, 536 F. Supp. 104 (1982)

### **Military/Corrections**

*Dothard v. Rawlinson*, 433 U.S. 321 (1977)  
*Rostker v. Goldberg*, 453 U.S. 57 (1981)

### **Secondary Source**

Watch the film. "A Jury of Her Peers." by Susan K. Glaspell (Director, Sally Heckel). New York, NY: Women Make Movies [2005]

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## **GENDERED VIOLENCE**

Class Meeting: **October 21 & 28**

### **Common Law Battering**

*Bradley v. State*, 1 Miss. 156 (1824)  
*State v. Black*, 60 N.C. 266 (1864)  
*State v. Rhodes*, 61 N.C. 453 (1868)  
*State v. Jones*, 95 N.C. 588 (1886)

### **Comparing Gender Assumptions in Battering Cases**

*Shaw v. Shaw*, 17 Conn. 189 (1845)  
*H. v. H.*, 59, N.J. Super. 227 (1959)  
*People v. Berry*, 556 P.2d 777 (1976)  
*State v. Norman*, 378 S.E.2d 8 (1989)  
*Stevenson v. Stevenson*, 714 A.2d 986 (1998)

### **Gendered Violence Generally**

*Price v. State*, 18 Tex. Ct. 474 (1885)  
*Burger v. State*, 238, Ga. 171 (1977)  
*Raisen v. Raisen*, 379 So. 2d 352 (1979)  
*Warren v. State*, 336 S.E.2d 221 (1985)  
*Commonwealth v. Mlinarich*, 518 Pa. 247 (1988)  
*Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005)

### **Secondary Source**

Victoria Nourse, "Violence against Women and Liberal Sexism." In Robin West and Cynthia Grant Bowman, eds., *Research Handbook on Feminist Jurisprudence* (Northampton, MA: Edward Elgar Publishing Limited, 2019), 213-230.

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## **IMAGES, AGENCY, AND CONTROL**

Class Meeting: **November 4**

### **Suspicion of Female Sexuality and Male Responsibility**

*Dallas v. State*, 79 So. 690 (1918)  
*Rock v. Carney*, 216 Mich. 280 (1921)  
*Little Rock v. Smith*, 204 Ark. 692 (1942)  
*Welch v. Shepherd*, 165 Kan. 394 (1948)  
*Michael M. v. Superior Court of Sonoma County*, 450 U.S. 464 (1981)  
*Fluker v. State*, 248 Ga. 290 (1981)  
*American Booksellers Association v. Hudnut*, 771 F.2d 323 (1985)  
*Dubay v. Wells*, 506 F.3d 422 (2007)

### **Secondary Source**

Scott Wasserman Stern, "The Long American Campaign against Venereal Disease and its Carriers." *Harvard Journal of Law and Gender*, 38 (2015), 373-436.

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## **GENDERED RESISTANCE AND CHANGE**

Class Meeting: **November 11**

### **Protection from Sexual Harassment**

*Meritor Savinas v. Vinson*, 477 U.S. 57 (1986)  
*Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989)  
*Harris v. Forklift Svs.*, 510 U.S. 17 (1993)  
*Oncale v. Sundowner Offshore Servs.*, 523 U.S. 75 (1998)  
*Baldwin v. Blue Cross*, 480 F.3d 1287 (2007)

### **Secondary Sources**

Deborah L. Rhode, "Appearance as a Feminist Issue." *SMU Law Review* 69(4)(2016), 697-710.

Margaret Sanger, "The Right to One's Body." In Diane Ravitch, ed., *The American Reader: Words that Moved a Nation* (New York: HarperCollins, 1990), 249-252.

Kathie Sarachild, "Consciousness-Raising: A Radical Weapon." [Speech] 1973.

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## **PART III**

### **THE (DE)NORMALIZATION OF HOMO/TRANSPHOBIA**

*Studying the social construction of sexual identity and the constitutive power of desire and the role of perception, we explore the cultural and philosophical context for understanding important issues of LGBT equality. We will engage homophobic expression in the United States, including its significant social, legal, and religious dimensions. We will highlight homophobic hate speech and the policing of private morality in both the private and public spheres as well as the structural and instructional foundations for these practices. We will discuss the link between anti-racist and anti-homophobic struggle, arguing that such linkage advances the cause of both communities and moves us closer to a socially just society. We will look at the gay pride movement and recent legal/political developments in the struggle for equality, including the right to marry and protections for transgender people.*

#### **GAY/LESBIAN/TRANS AS PRESUMPTIVELY SICK AND/OR CRIMINAL**

Class Meeting: **November 18 & December 2 [Fall Break, Nov. 25, no class]**

“Employment of Homosexuals and Other Sex Perverts in Government” (1950). *Interim Report submitted to the Committee on Expenditures in the Executive Departments by its Subcommittee on Investigations pursuant to S. Res. 280 (81st Congress) [read pages 1-12]*.

“The homosexual in America.” *Time*, 87(January 21, 1966), 40-41.

#### **Representative Cases**

*Paddock Bar v. Division of ABC*, 46 N.J. Super. 405 (1957)

*Gavlord v. Tacoma Sch. Dist.*, 88 Win.2d 286 (1977)

*Ratchford v. Gay Lib*, 434 U.S. 1080 (1978)

*Bowers v. Hardwick*, 478 U.S. 186 (1986)

*Gay Inmates of Shelby County Jail v. Barksdale*, 819 F.2d 289 (1987)

*Romer v. Evans*, 517 U.S. 620 (1996)

*Littleton v. Prange*, 9 S.W.3d 223 (1999)

*In re D.H. v. H.H.*, 830 So. 2d 21 (2002)

*Lawrence v. Texas*, 539 U.S. 558 (2003)

*State v. Limon*, 280 Kan. 275 (2005)

*Florida Dept. of Children v. Adoption of XXG*, 45 So. 3d 79 (2010)

#### **Secondary Sources**

John D’Emilio, “Homophobia and the Trajectory of Postwar American Radicalism: The Career of Bayard Rustin.” *Radical History Review*, 62 (1995), 80-103.

Omar Swartz, “Gay Rights/African American Rights: A Common Struggle for Social Justice.” *Socialism & Democracy*, 29(2) (2015), 1-24.

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## **THE PATH TO MARRIAGE EQUALITY AND EQUAL PROTECTION**

Class Meeting: **December 9 & 16**

### **Path to Marriage Equality**

*Baker v. Nelson*, 291 Minn. 310 (1971)

*Jones v. Hallahan*, 501 S.W.2d 588 (1973)

*Baker v. State*, 170 Vt. 194 (1999)

*Goodridge v. Department of Public Health*, 440 Mass. 309 (2003)

*Obergefell v. Hodges*, 135 S.Ct. 2071 (2015)

### **Path to Equal Protection**

*Hively v. Ivy Tech Community College of Indiana* (2017)

*EEOC v. R.G.*, 884 F.3d 560 (2018)

*Doe v. Boyertown Area Sch. Dist.*, 893 F.3d 179 (2018)

*Bostock v. Clayton County*, 2020 U.S. LEXIS 3252 (2020)

### **Secondary Source**

Jo Wuest, "The Scientific Gaze in American Transgender Politics: Contesting the Meanings of Sex, Gender, and Gender Identity in the Bathroom Rights Cases." *Politics & Gender*, 15 (2019), 336-360.

**\*\*\*Finis\*\*\***

### **Seminar Guidelines for Participation**

A successful seminar calls upon a wide range of skills. To that end, the following criteria are guides for students' participation:

1. **Content Mastery**: Students must evidence an understanding of the facts, concepts, and theories presented in the assigned readings. This ability is the basis for all higher-level skills as evident by classroom comments and/or responses to questions.
2. **Communication Skills**: Students must be able to inform others in an intelligent manner what he or she understands. Ideas must be communicated clearly and persuasively. Communication skills include listening to others (with an open mind) and understanding what they have said, responding appropriately, asking questions in a clear manner, avoiding rambling discourses or class domination, using proper vocabulary pertinent to the discussion, building on the ideas of others, etc.
3. **Synthesis/Integration**: Students must illuminate the connections between the material under consideration and other bodies of knowledge. For example, one could take several ideas from the readings or class discussions and combine them to produce a new perspective on an issue, or one could take outside materials (other classes, personal experiences, etc.) and combine them to create novel insights. Students who probe the interdisciplinary roots of the theories presented or who are able to view the author or the material from several viewpoints demonstrate this skill.
4. **Creativity**: Students must demonstrate that they have mastered the basic material and integrated this material to produce personal insights. A simple repetition of ideas from the texts will not suffice, nor will simply commenting on what others have said. Students must go beyond the obvious by bringing their own beliefs and imagination to bear. Creativity may be displayed by showing further implications of the material, by applying it to a new field, by finding new ways of articulating or setting the materials, which produce significant insights, etc.

5. Valuing: Students should be able to identify the values inherent in the material studied. The underlying assumptions of the author should be identified. Furthermore, students should be able to articulate their own positions by reference to basic underlying values. Students must be able to state why, based on some hierarchy of values, they agree or disagree with presented material. In either accepting or rejecting a position, the operative values must become explicit.

Adapted from: Clark, E. G. (1990). Grading seminar performance.  
In R.A. Neff and M. Weimer, *Teaching College*. Madison, WI: Magma Publications.

## **Organization of PowerPoint Slides**

INTRO 001 America as Contested Ideology  
INTRO 002 Moral Panics and Witch-Hunts

SCIENTIFIC RACISM 001 Eugenics: Theory  
SCIENTIFIC RACISM 002 Eugenics: Practice  
SCIENTIFIC RACISM 003 American Influence on Nazi Germany  
SCIENTIFIC RACISM 004 From Handicapped to Disabled and Beyond  
SCIENTIFIC RACISM 005 Legacy of Anti-Miscegenation Legislation  
SCIENTIFIC RACISM 006 The Fiction and Practice of Race  
SCIENTIFIC RACISM 007 White Pride, White Fallacy

BLACK AMERICANS 001 Slavery and the Law  
BLACK AMERICANS 002 Jim Crow and the Experience of Segregation  
BLACK AMERICANS 003 Stereotypical Images Throughout Popular Culture  
BLACK AMERICANS 004 Colorism and Internalized Whiteness  
BLACK AMERICANS 005 KKK and its Normative Aspirations  
BLACK AMERICANS 006 Terror of Lynching and Vigilantism in the American Experience  
BLACK AMERICANS 007 The Black Panther Party and Their Legacy  
BLACK AMERICANS 008 Civil Rights Movement and the Redefinition of Black Identity  
BLACK AMERICANS 009 Modern Expressions of Racism

IMMIGRATION 001 War Against Native America  
IMMIGRATION 002 Hispanophobia  
IMMIGRATION 003 Mexican Repatriation and Operation Wetback  
IMMIGRATION 004 The English Only Movement (Again)  
IMMIGRATION 005 American Sinophobia  
IMMIGRATION 006 Other Anti-Asian Sentiment  
IMMIGRATION 007 Islamophobia  
IMMIGRATION 008 Anti-Semitism  
IMMIGRATION 009 When the Irish Were Colored  
IMMIGRATION 010 The Orphan Train

GENDER 001 Coverture and its Shadow  
GENDER 002 Women's Sexuality as National Security Threat  
GENDER 003 Women and Religion, an Uneasy Relationship

GENDER 004 Sexual Harassment, Violence, and Abuse of Women  
GENDER 005 Alienation, Objectification, and Media  
GENDER 006 Weightism and the Social Construction of Beauty  
GENDER 007 Social Movements for Gender Parity

GLBT 001 Homophobia and Heterosexism  
GLBT 002 Homophobic Expressions and Violence against LGBT People  
GLBT 003 Homophobia, Religion, and Religious “Cures”  
GLBT 004 Homophile Before Stonewall  
GLBT 005 Stonewall and the New Militancy  
GLBT 006 Voting on the Rights of Others: A Legal Oxymoron  
GLBT 007 Equality and Business  
GLBT 008 Bullying and Response: What We Can Do About It

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