**Stu Marvel**

**Law AND Women, Gender and Sexuality Studies**

**July 29, 2018**

**Queer and Feminist Legal Theory**

This course is aimed at bringing together a critical theory of law with an understanding of gender, sexuality and power. I have tried to keep it topical and, for example, often review pending Supreme Court cases with the class. Thus the syllabus changes quite a bit from year to year, as I’ve sought to provide students with A) the basic legal knowledge required to understand B) the gendered operation of both legislative and judicial norms. It’s a lot for freshmen students in particular, but they always learn a ton across the semester.

In sections on reproductive rights – which also tend to change depending on recent SCOTUS decisions and shifting state laws – I have focused on incorporating a theory of Reproductive Justice. This is not only because we are learning in a Southern university and the home of the RJ movement, Atlanta. But because I’ve long thought it would provide a useful window into thinking more broadly about different forms of justice, including environmental justice. However this idea has lain dormant until the Piedmont Project and my more serious turn toward incorporating questions of sustainability into the class.

I now see that the RJ discussion offers a wonderful bridge to a foundational discussion of environmental justice that will allow us to keep issues of gender and sexuality in focus, while also giving students new language for sustainability and respect for ecological wellbeing. I think it would be especially useful to integrate indigenous perspectives in this section, as well as migrant and labour movement perspectives, to show a ‘bottom-up’ approach to environmental stewardship and responsibility that could be truly inspiring.

I have made these revisions in the course syllabus below in Week 11, which follows on from our Week 10 discussion on Reproductive Justice, and into Week 12 discussions on borders, migration and colonialism. I think these discussions will be an excellent way to tie the final weeks of the course together and I’m excited to teach this next year!

**Emory University**

**Queer and Feminist Legal Theory**

**(Women, Gender & Sexuality Studies 385W)**

**Spring 2018**

**Professor:** Dr. Stu Marvel

**Class Time:** TTh – 2:30pm – 3:45pm

**Location**: Rich Building 104

**Office Hrs**: TTh -12-2pm – Candler 129A

**Email:** smarvel@emory.edu

**Course pre-requisites**: None

How does law influence and construct gender? And how do gender norms influence the creation of legal norms? This course will explore central aspects of the American legal system from a queer and feminist perspective, and ask how we might approach questions of gender, race, sexuality and ability in relation to justice. We will look both at critical scholarship and at legal cases as we follow the key debates in queer and feminist legal theory. We will also develop a set of methodological tools to help us better understand the operation of our systems of governance, as well as the role of law and policy in maintaining and/or challenging social hierarchies.

Topics will include questions of equality, difference, subordination, (anti)essentialism, bodily autonomy, racial justice, transgender rights, employment, violence, incarceration, citizenship, the family, reproductive freedom and vulnerability.

**Course requirements:**

Students are expected to have read all assigned texts for the week to contribute adequately to class discussion. All written work must be typed in Times New Roman, 12 point font. Please make sure your name is clearly displayed on all work handed in to me. If you are having difficulty contributing regularly to class discussions, or if you miss a number of classes, you should discuss with me some other way that you can demonstrate engagement with the materials (e.g., commenting in writing on the readings, discussing issues in my office hours).

Assignments not submitted on time will be subject to a letter grade (10%) deduction for each day they are overdue. These are *firm* deadlines. Extensions must be requested in advance and will only be granted under exceptional circumstances. Please email me or come by my office hours as soon as you encounter any problems and we can work on a solution together.

Failure to perform in any of the grading areas listed below will result in failure of the course.

**Technology in the classroom:**

Current research is divided as to the value of computers in the classroom. Some data indicates that students learn better in an environment without digital note-taking, as with a recent study from Princeton University: “The act of typing effectively turns the note-taker into a transcription zombie, while the imperfect recordings of the pencil-pusher reflect and excite a process of integration, creating more textured and effective modes of recall.” However there is also data showing the importance of computers to enhance classroom learning, particularly for students with disabilities. **If you are planning to use your laptop or tablet, it must be set to airplane mode**. **Cell phones will also be turned to silent (or off) and placed in your bag during class**. For more information: http://www.newyorker.com/tech/elements/the-case-for-banning-laptops-in-the-classroom

**Course goals:**

* Introduce students to the varied ways that law intersects with women’s lives.
* Locate the idea of ‘women’ as a complex and variable category that is fractured along lines of race, class, disability, age, nationality, sexuality and more.
* Students will learn to situate our rights culture within a sociolegal frame and be able to articulate both defenses and critiques of the current model.
* Students will develop a practical understanding of how law works in specific relation to the rights of women and girls, and the causes taken up by feminist legal thinkers and activists.
* Students will learn skills of critical thinking and legal analysis,and develop improved reading and writing abilities.
* Develop critical and analytical skills that students can use to address significant questions about law as a tool for implementing or dismantling power-laden gender relations.

**Materials:**

There is no assigned textbook for this class. The course materials, consisting of journal articles, book chapters, legal documents, published reports, organizational material, newspaper articles and online media will be posted online. If you are interested in expanding your book collection, we will be drawing from these excellent sources:

* [Nancy E. Dowd](http://www.amazon.com/s/ref%3Ddp_byline_sr_book_1?ie=UTF8&text=Nancy+E.+Dowd&search-alias=books&field-author=Nancy+E.+Dowd&sort=relevancerank), [Michelle Jacobs](http://www.amazon.com/s/ref%3Ddp_byline_sr_book_2?ie=UTF8&text=Michelle+Jacobs&search-alias=books&field-author=Michelle+Jacobs&sort=relevancerank): *Feminist Legal Theory: An Anti-Essentialist Reader*
* Adrien Katherine Wing: *Critical Race Feminism: A Reader*
* [Nancy Levit](http://www.amazon.com/Nancy-Levit/e/B001IXRV0A/ref%3Ddp_byline_cont_book_1), [Robert R.M. Verchick](http://www.amazon.com/s/ref%3Ddp_byline_sr_book_2?ie=UTF8&text=Robert+R.M.+Verchick&search-alias=books&field-author=Robert+R.M.+Verchick&sort=relevancerank), [Martha Minow](http://www.amazon.com/s/ref%3Ddp_byline_sr_book_3?ie=UTF8&text=Martha+Minow&search-alias=books&field-author=Martha+Minow&sort=relevancerank): *Feminist Legal Theory (Second Edition): A Primer Paperback*
* [Paisley Currah](http://www.amazon.com/Paisley-Currah/e/B004DJ0OGO/ref%3Ddp_byline_cont_book_1), [Richard M. Juang](http://www.amazon.com/s/ref%3Ddp_byline_sr_book_2?ie=UTF8&text=Richard+M.+Juang&search-alias=books&field-author=Richard+M.+Juang&sort=relevancerank), [Shannon Price Minter](http://www.amazon.com/s/ref%3Ddp_byline_sr_book_3?ie=UTF8&text=Shannon+Price+Minter&search-alias=books&field-author=Shannon+Price+Minter&sort=relevancerank): *Transgender Rights*
* Patricia Williams: *Alchemy of Race and Rights: Diary of a Law Professor*

**Evaluation:**

Your grade in the seminar will be calculated on the basis of:

1. Seminar attendance and engagement (15%);
2. Three critical reflections and presentations on readings (30%);
3. Draft paper peer review (5%);
4. Final presentation (5%); and
5. Research paper (45%).

**Seminar attendance and engagement (15%)**

This seminar is designed to promote discussion and consideration of the ethical, moral, legal and sociological questions raised by each week’s readings. Each class will not be conducted in lecture style but moderated as a shared analysis and discussion of the readings assigned. For this reason ***it is essential that you complete the assigned readings each week***. I will assign a manageable amount of course material and you will need to have read all assigned texts to contribute adequately to class discussion.

I will be taking attendance and brief notes of your contributions to seminar discussions. Please let me know ahead of time if you will be unable to attend a class. Students should prepare for each week’s seminar by reading the assigned materials and thinking of at least one thought or question to contribute to our discussion.

If you are having difficulty contributing regularly to class discussions, or if you miss a number of classes, you should discuss with me some other way that you can demonstrate engagement with the materials (e.g., commenting in writing on the readings, discussing issues in my office hours). Students who attend the seminar regularly, explain any absences, and show some evidence of consistent engagement, will receive at least a 'B' grade for seminar attendance and engagement.

**Three critical reflections and presentations on readings (30%)**

Each student will prepare and present *three* critical reflections on the assigned readings, each worth 10% of your total grade. The purpose of this assignment is to identify key issues and promote critical analysis in our seminar discussions. The reflections should assume that everyone has read the materials – that is, do not simply summarize the readings. Instead, isolate the issues raised by the readings and critically engage with them. You should aim to focus on issues that cut across the readings, rather than only focusing on one reading. Critical reflections should be a minimum of two pages (double-spaced, 12 pt Times New Roman) and no more than four pages.

Please inform me of the **top five dates/topics** (in order of preference) you would like to comment on by the second class on **Tuesday, January 23rd**, and I will do my best to accommodate everybody’s top choices. You may send me your choices by email or present a written list in class. Please do not select two dates in one calendar week.

Each class topic will be assigned to 1-3 students, depending on enrolment numbers, and students will present their critical reflections to the class on their assigned day. Oral presentations should each run about 10 minutes in length.

No external research is required for the critical reflections. Please note that your **critical reflections must be sent to me by email** **by 12pm on the day of class you are presenting.**

Each reflection should:

* provide a *brief* overview of the arguments or positions presented in the readings
* identify one or two main questions/issues/debates to be discussed in your analysis
* provide a very brief outline of the principal arguments (and/or approaches) of the authors in relation to the cases/issue/debate identified
* and (most importantly) offer a critical assessment of the readings around the cases/issues/debates identified, setting out the student’s own observations, opinions, critiques and questions
* finally, **pose three or four questions to the class that you believe will stimulate further discussion of the major themes.**

Questions that students might address in their critical analyses include the following: What are the major questions being addressed by these readings and cases? What are the most important debates? How do the various authors fit into these debates? What are the important theoretical and normative assumptions underlying these questions? If relevant, how have the courts conceived of their role *vis a vis* the legislature, public morality and social norms? Who has initiated the proceedings and why? What are the competing methodologies employed to address these questions? What is your assessment of the authors’ success in addressing these questions? Where should the debate and future research go?

Absent a compelling explanation, students who do not submit a critical reflection on time and/or do not attend class to present their comments will not receive credit for that portion of the grade.

**Draft paper peer review (5%)**

A key focus of this class will be learning how to conceptualize, research, draft, critique and present a substantive work of scholarship. To this end, you will be responsible for producing short paper outlines and drafts throughout the term. **I require the submission of one or two paragraphs on your proposed paper topic on March 6th, and a 3-4 page draft paper by April 4th.** You will not be graded on these drafts, but they are mandatory and essential to your success in the final paper.

Each student will also be assigned the task of commenting on the draft papers of *one* other student, for which you will receive a total mark worth 5% of your grade. **Draft papers must be sent to me by email by 5pm on Wednesday, April 4th.** I will copy the outlines and assign them to peer reviewers at the end of class on April 5th. The draft papers should include: your name, email address, title, a description of your paper topic, the issues you intend to explore (which may include or be in the form of a preliminary outline of the structure of the paper), the primary and secondary sources you intend to review, and a short bibliography (minimum 3 sources).

Your feedback should be concise (suggested length: 200-400 words for each comment) and give a candid appraisal and constructive suggestions to your colleague. Some questions you might want to ask are: Does the title work? Is the paper topic well defined? Is it too narrow or too broad? Are the main issues clearly identified? Is the importance of the topic apparent? Has the author made clear what s/he aims to contribute to the literature? Can the author’s goals be accomplished in a term paper? Is the author’s research methodology appropriate for the topic?

**Final Presentation (5%)**

You will make a short (10 minute) presentation to the class, which can be creative, critical, or a combination of both about your final paper. Presentations will take place on April 19, 24 & 26, and will be followed by a brief Q&A session. The purpose of the final presentation is to organize your thoughts for sharing with your peers, and clarify the purpose and thesis of your research paper. You may use Powerpoint slides if you like, but they are not required. I will be strict about keeping time!

**Research Paper (45%)**

You are required to write a research paper on a topic of your choosing, which will explore an aspect of the legal regulation of women, sexual or gender minorities, racialized populations and/or other communities we have discussed over the term. The goal is to apply a feminist intersectional analysis to a question of emerging case law, activism and/or rights.

Papers will be graded on the quality of the research, writing and analysis.

**Term papers are due on Monday, May 7th via email by 5pm.** Papers not submitted on time will be subject to a letter grade (10%) deduction for each day they are overdue.

Length and format: Papers must be a **minimum** of 10 pages in length exclusive of bibliography. I will accept a **maximum** of 15 pages exclusive of bibliography. Please include a word count when you submit your papers. Papers must be typed on 8 ½ x 11" paper with one-inch margins, and Times New Roman font no larger than 12 points. Text should be double-spaced, while references and footnotes should be single-spaced. Make a cover page and have an original title, print with black ink (except for pictures, figures and so on) and make sure all work is properly cited. The cover page is not included in your 10 page minimum. I need not remind you that plagiarism results in an automatic failure.

Approval of topic and submission of outline: To conduct successful research, you need a clear purpose or set of questions to explore, and a realistic, achievable research agenda. To write a successful paper, you need a clearly articulated thesis (i.e., you need to clearly define the contribution you are seeking to make) and a well-organized design for the unfolding of your analysis and argument. All of this requires as much advance planning as possible. Settling on a topic early in the semester is a must. To this end, I encourage you to speak to me as soon as possible to discuss your proposed paper topic.

Possible Paper Topics: Selecting a topic can be a challenge. You should choose a topic that you care about and in which you are interested in learning more. Your topic should be tailored to the themes of the course described in the course objectives (although it need not overlap with the assigned readings). It should be sufficiently focused and capable of being adequately researched, given time and length constraint.

\*Finding a Topic – Online Resource: <http://osaka.law.miami.edu/~schnably/advice.html>

**Key Dates and Deadlines:**

**January 23 –** Top four choices for critical reflection due in class

**March 6** – One-two paragraphs on proposed paper topic due in class

**April 4** – 3-4 page draft paper due via email

**April 5** – Peer reviewers assigned in class

**April 19, 24 & 26 –** Student presentations

**May 7** – Final papers due at 5pm

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**The Honor Code** is in effect throughout the semester. By taking this course, you affirm that it is a violation of the code to cheat on exams, to plagiarize, to deviate from the teacher's instructions about collaboration on work that is submitted for grades, to give false information to a faculty member, and to undertake any other form of academic misconduct. You agree that the instructor is entitled to move you to another seat during examinations, without explanation. You also affirm that if you witness others violating the code you have a duty to report them to the honor council.

Students should refer to the Emory University Honor Code website for specific information regarding University Policy in this area. See http://catalog.college.emory.edu/academic/policy/honor\_code.html.

**Plagiarism:** Plagiarism is the use of someone else’s ideas or words without giving them credit. This can mean using someone’s ideas without proper acknowledgement in papers you are writing for class, copying a sentence directly from a book or journal without citing the source, or turning in the same paper or assignment for different classes without the professors’ knowledge. Plagiarism is a serious offense and the penalty ranges from warnings to probation or suspension.

**Disability Accommodations:** Emory University complies with the regulations of the Americans with Disabilities Act Of 1990 and offers accommodations to students with documented disabilities. If you have or acquire any sort of condition that may require special accommodation(s), please inform me AS SOON AS POSSIBLE (not the day an assignment is due, for example) so that we may make the appropriate arrangements. Proper documentation from the office of Access, Disability Services, and Resources will be required. Please contact their office to get more information on available services and accommodations, as well as documentation requirements. They can be reached at 404‐727‐6016 or via the web at <http://www.ods.emory.edu>

**TENTATIVE WEEKLY SYLLABUS**

**Week 1: Introduction to Course, Syllabus, Goals**

January 18

*Introductions and course goals.*

*January 20 - Emory OUTLAW Conference – Emory Law School – 8:30am-3:30pm*

**Week 2**: **What Is Queer and Feminist Legal Theory?**

January 23

*Top five choices for critical reflection due in class*

* **Introducing Queer and Feminist Legal Theory!**

January 25

* **Equality and Difference (*no student critical reflections today*)**

We will hold a mock women’s rights convention in the nineteenth century. It is 1848. You will be divided into caucuses of young, unmarried white women, married white women, and African American “free women of color”. Come to class prepared to answer the following questions:

a) What kinds of demands should be on the table, and what should take first priority? The vote? The abolition of slavery? Stronger married women’s property acts?

b) What legal mechanisms would achieve the goals you seek? What non-legal means might be worth pursuing? (cooperative housekeeping? free love?)

c) What kinds of rhetoric will be helpful to make your case to the men?

d) What kinds of obstacles would you expect, from women and from men?

**Weeks 3 & 4:** **Queer and** **Feminist Legal Theories and Methods**

January 30

* **Formal Equality Theory**

February 1

* **Dominance Theory; Relational Feminism**

February 6

* **Anti-Essentialism**

February 8

* **Postmodern Feminisms; Lesbian and Queer Legal Theory**

*February 8 - Thrower Symposium – Catherine MacKinnon Keynote – Emory Law School – 8am-4:30pm*

*February 8 – Discussion with Justice Leah Ward Sears – Emory Law School - Sears is the first African American female Chief Justice in the United States and the first woman and youngest person to sit on Georgia’s Supreme Court – 6:30-8pm*

*February 9 - Hidden Legal Figures: Conversations with the Unsung presented by The Arc of Justice Project – W. J. Michael “Mike” Cody shares his remembrances of April 4, 1968, when he came to the aid of Dr. Martin Luther King, Jr. in a Federal District Court in Memphis, Tennessee - 6:30 – 8:30pm*

**Week 5**: **Gender and the Body**

February 13

* **Understanding the Gender Binary in Law**

February 15

* **Transgender Bodies and the Regulation of Public Space**

**Week 6**: **Work, Economics and Income (in)equality**

February 20

* **Race and Gender Discrimination in Employment**

February 22

* **Understanding Sexuality and Employment Discrimination Law**

*February 23-24 - A Workshop on Autonomy and Vulnerability – Emory Law School*

**Weeks 7 & 8: Marriage and Family**

February 27

* **Caregiving and Housework – Challenging the ‘Private’ Sphere**

March 1

* **Marriage and Intimacy – Why Does the State Care What We Do in Bed?**

March 6

*Paragraphs on proposed paper topic due in class*

* **Critiques and Defenses of Same-Sex Marriage**

March 8

* **After *Obergefell*: Same-Sex Parents in Conflict with Family Law**

**March 13 & 15 – SPRING BREAK**

**Week 9: Religious Freedom and Civil Liberty**

March 20:

* **Tensions Between Religious Freedom and Same-Sex Rights: *Masterpiece Cakeshop***

March 22: NO CLASS

**Week 10: Reproductive Rights and Justice**

March 27

* **Reproductive Rights – Abortion and Contraceptives**

March 29

* **Understanding Reproductive Justice**

**Week 11: Environmental Justice and Indigenous Knowledges**

April 3

* **Perspectives on Environmental Justice**

*April 4 – 3-4 page draft paper due via email*

April 5

*Peer reviewers assigned in class*

* **Indigenous, Migrant and Labour Movements for Environmental Justice**

**Weeks 12 & 13: Global Concerns**

April 10

* **Border Zones: Looking Critically at Immigration and Documentation**

April 12

* **Colonization and Decolonization in the Post-Empire**

April 17

* **Vulnerability Theory and the Vulnerable Legal Subject**

**Weeks 14 & 15: Student Presentations**

April 19

* **Student Presentations**

April 24

* **Student Presentations**

April 26

* **Student Presentations**

**Final research paper due: May 7 by 5pm**