Interdisciplinary Topics in Law: Mothers in Law  
MALS 70400

Cross-listed as  
IDS 81640/  BAM 70500/WSCP 81000 5/  
PSYC 80103 15/SOC 84505/HIST 72200/P SC 79003

FALL 2019

Instructors:

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Course Description

This course will introduce students to central issues in the history and sociology of law, through the study of motherhood. The lens of motherhood will open up broader themes in the study of law and society, including categories such as gender, constitutionalism, and criminal justice. Studying the socio-legal history of motherhood will enable students to learn the skills of legal reasoning, utilize methods of legal-historical research, and pursue experiential learning through field studies, panel discussions open to the public, and the authoring of publicly available teaching materials on select topics.

First, we will explore how ideas of women as mothers have been enshrined in law, from the legal definition of the mother in civil law, to the legal treatment of pregnancy.
Second, this course will study women as lawmakers, as "founding mothers" of twentieth-century constitutions, and laws more generally. We will explore biographies of women lawyers and lawmakers.

Third, we will consider mothers as law-breakers, by engaging the history of mothers in prison, and the current legal issues arising from incarceration of mothers.

Learning Outcomes

- Synthesize legal rules, claims, arguments, and interpretations on the subjects of gender, equality, and family roles.
- Analyze lawyers’ briefs, judicial opinions, and statutes that affect motherhood, gender, and equality.
- Explain the contributions of history (including biography and memoir), sociology, and political theory to the study of law and analysis of legal sources to the understanding of motherhood.
- Produce written arguments based on primary and secondary sources on motherhood and gender.

Grades will be based on the following:

- A 3-5 page legal analysis writing assignment (10%)
- A 10-15 page biographical sketch (20%)
- A 20-25 page final paper (50%)
- Attendance and class participation (20%)

READINGS AND ASSIGNMENTS:

Please note that the topics and readings may be changed by the instructors as the course progresses. At least one week’s notice will be given of any changes to the readings or assignments. All updates will be announced on the course site on Blackboard for MALS 70400, to which all students will have access regardless of the department or course number through which you officially registered. It is your responsibility to check Blackboard at least once a week for these updates.

Unless otherwise indicated, all readings listed below are available on Blackboard, through course site MALS 70400

Part One: What is a Mother, in Law?

Discussion Questions: How and why does the law define motherhood? How does the law treat motherhood, and why? Should motherhood be regulated by law?


Clarissa Atkinson, *The Oldest Vocation*, ch. 1 Who is my Mother?

3. Monday, September 16. Legal Equality, Citizenship, and Motherhood

U.S. Constitution, Amendment XIV, available at
https://www.constituteproject.org/constitution/United_States_of_America_1992
Bradwell v. Illinois (1873)
Minor v. Happersett (1875)
Hoyt v. Florida (1961)

4. Monday, September 23. A Pedestal or A Cage? Special Protections for Motherhood
Recent article on maternal mortality https://hbr.org/2019/06/the-rising-u-s-maternal-mortality-rate-demands-action-from-employers
Muller v. Oregon (1908)
The Brief for the State of Oregon ("Brandeis Brief") (1908)
U.S. Constitution, Amendment XIX (1920)
Adkins v. Children's Hospital (1923)
West Coast Hotel v. Parrish (1937)
Frontiero v. Richardson (1975)

5. Monday, October 7. Motherhood as Private Choice

Roe v. Wade (1973)
Struck v. Secretary of Defense (1971)
ACLU Brief in Struck v. Secretary of Defense (1972)
Geduldig v. Aiello (1973)
Lafleur v. Cleveland (1974)
Pregnancy Discrimination Act of 1978
German Constitutional Court, Abortion Decision (1993)
Reva Siegel, “The End of Abortion” op-ed, June 28, 2018

6. Wednesday, October 16.
First Assignment Due: Legal Analysis of a Hypothetical Case (3-5 pages)
Public Panel with guest speakers: “Motherhood and the #MeToo Moment”
Speakers: Nikki Columbus, Former Editor at Parkett Magazine and Curator; Kirsten Swinth, Associate Professor of History at Fordham University and Author of Feminism’s Forgotten Fight: The Unfinished Struggle for Work and Family.

Part Two: “Founding Mothers:” The Mother as Lawmaker, the Lawmaker as Mother

7. Monday, October 21: Presentation by Professor Emeritus Jill Norgren (Political Science at John Jay and The Graduate Center) with Women Writing Women’s Lives and Irin Carmon, author of Notorious RBG
Read or watch one of the following:
Ruth Bordin, Frances Willard: A Biography
Josephine Goldmark, Impatient Crusader: Florence Kelley's Life Story
Jill Norgren, Rebels at the Bar: The Fascinating, Forgotten Stories of America’s First Women Lawyers
J.D. Zahniser & Amelia Fry, Alice Paul: Claiming Power
Irin Carmon & Shana Khizhnik, Notorious RBG: The Life and Times of Ruth Bader Ginsburg
RBG (Documentary Film)

(or another biography related to biographical writing assignment, with approval of instructors).

Recommended event: The Women Writing Women's Lives Helly Work-in-Progress at the GC on October 21 at 4pm. Janice Nimura will speak about her forthcoming biography of the (19th century) Blackwell sisters of medical fame. (Her manuscript is due at her publisher early in 2020).
Wednesday, October 23 at 11 am. Visit to the New-York Historical Society Center for Women's History. Please email the instructors ASAP if you CANNOT attend.


Congressional Debates from August 10, 1970.
Julie Suk, chapter excerpt from *We the Women: The Forgotten Mothers of the Equal Rights Amendment* (forthcoming 2020).

**Second Assignment Due: 10-15 page biographical writing on any figure studied thus far, using at least one legal source (case, brief, constitution, legislative history, statute).**


Dorothy M. Brown, Mabel Walker Willebrandt, A Study of Power, Loyalty, and Law (especially pp. 49-99)
Estelle Freedman, Their Sister's Keepers, Women's Prison Reform in America, Chapters 5, 6, & 7, available at
[https://babel.hathitrust.org/cgi/pt?id=mdp.39015016186887&view=1up&seq=11](https://babel.hathitrust.org/cgi/pt?id=mdp.39015016186887&view=1up&seq=11)

Friday, November 8. Bedford Hills Conference. Optional for those who wish to present biographical writing assignments.

10. Monday, November 11. Women in Constitution-Making in Postwar Europe:
    Robert Moeller, Protecting Motherhood: Women and the Family in the Politics of Postwar West Germany
    Molly Tambor, The Lost Wave: Women and Democracy in Postwar Italy

**Part Three: Mothers as Law-Breakers**

    Infanticide investigations and pardons from France

President of the Republic of South Africa v. Hugo (1997)
Vera Institute, Overlooked: Women and Jails in an Era of Reform
Presentation by Felicity Turner on her forthcoming book: Bodies of Knowledge: Narrating Infanticide in the Nineteenth-Century Press

500 word prospectus for final paper due.
For the final paper students can research any topic as long as it involves some combination of legal and historical work and has something to do with mothers or topics we have covered in class. This can also be an extension of the biographical work from our second unit.

13. Monday, December 2. Public panel at the GC.
Short student presentations of their prospectus.

14. Monday, December 9. Final Class. Public Panel/Conference at The Graduate Center Michele Goodwin, Professor of Law at the University of California at Irvine will discuss her forthcoming book, Policing the Womb, on the criminalization of pregnancy and violence against women.
Respondent, Michelle Anderson, President of Brooklyn College, J.D.

FINAL PAPER DUE ON DECEMBER 20, 2019