

Gender and Family Policy Seminar  
Syllabus

This syllabus provides you with the citation for assigned cases; please access them through Lexis or Westlaw or in hard copy in the library. Most of the readings are not cases, but are available for download from the course blackboard site. Those marked with an asterisk\* are not available in electronic form but are instead found in the course reader available from the duplicating office.

The syllabus sets out the dates on which particular readings will be discussed. These dates are predictions. I expect to adhere to them but do not rule out alterations arising from the pace of the discussion. Any changes, if there are any, will be confirmed in class for the session that follows.

*Class discussion generally.* There is no examination in this class. Instead, class discussion of the required readings is an integral part of the course requirements. This class can be successful only if everyone takes seriously their obligation to prepare, attend, and participate in the classes. Students who are unprepared in, or absent from, more than two class sessions may be dropped from the course. To help keep this from happening, I would like every class member to post, before each class, at least two paragraphs of thoughts or questions about the readings assigned for that day. Appropriate postings establish that you have prepared the readings. They are also part of the written requirement for the course—the required paper length has been reduced to reflect this assignment.

*Paper Topics:* We will spend part of the first class session discussing possible paper topics. You may choose a topic I suggest or a topic of your own. Either way, please submit your topic proposal to me in writing no later than Monday, January 28. Email submissions are preferred, but you may also leave a hard copy with my secretary, Heather Cyr, in Room 269. The proposal should contain a one-paragraph summary of what you intend to do in the paper, and at least three useful sources that you have identified and read. If you need help in working out your topic, please confer with me *before* January 28. You can talk with me after class on the 17<sup>th</sup> or the 24<sup>th</sup>, or make an appointment to see me in my office. I will usually be available for this purpose in my office from 3:45 to 5:30 on Mondays and Tuesdays and you can drop by then, although it would be better to let me know you intend to come to confirm I'll be available. If these times cannot work for you, email me or contact me in class to set up a different time. My office phone is 965-2125; my email is [ira@asu.edu](mailto:ira@asu.edu).

*Paper length:* I anticipate final papers of about 20 to 25 double-spaced pages in length, *not* including footnotes. However, please use footnotes rather than endnotes (and so the length should be adjusted accordingly). Those seeking credit for the writing requirement should expect to write at least 25 pages. This paper length is shorter than is normally required for a three-hour class to take account of the additional weekly assignments of posting a writing commenting on the readings.

*Schedule for Papers.* You must submit an outline and bibliography for your paper to me by email, no later than 3 p.m. on February 28<sup>th</sup>. This submission should be three to five full pages in length. The outline should reflect knowledge you gained in reading and thinking about your topic. It should identify the basic thesis or point and the subsidiary points or arguments you expect to offer in support of the basic thesis. The bibliography should list individual sources *you have read* and identify, in a sentence, why you expect that source to be helpful to your paper. You can list separately, without an explanatory sentence, additional sources you expect to consult but have not yet read. We will not meet on March 6, the Thursday before spring break, as I have a meeting in California. However, I will give you feedback on the outlines and bibliography by email no later than Wednesday of spring break week, and probably sooner.

Those seeking credit for the Writing Requirement must submit a draft of their paper no later than class on March 27. Earlier submissions are welcome. For all students, final drafts are due to me no later than the last day of the semester, which is May 7 (the last day of Final Exams). *I do NOT accept late papers or give grades of incomplete*, other than in the case of students with health problems or family crises of the sort that justify postponement of their final exams for examination courses they are also taking this semester.

*Paper Presentations and Discussion Leaders.* The last three classes of the semester are reserved for student presentations of their papers. The very last class might extend beyond 6:30, and I will provide dinner. I expect three or four student presentations each class session. *Out of respect and consideration for your classmates, please post a copy of your paper on the course blackboard site no later than 1 p.m. of the Sunday preceding the Thursday on which you will make your presentation.* If you prefer, you may send the draft to me and I will post it for you. One member of the class (other than the paper's author) will be designated the discussion leader for each paper. To assist the discussion leader, all the rest of us will post, on the course Blackboard site, questions or points for discussion about the paper, no later than 5 p.m. on the Wednesday before the class on Thursday. I will create a discussion forum on the course site, for each paper, for this purpose. Students are invited to post comments developing or answering questions or points raised by other students' comments. These comments and questions have the dual purpose of setting topics for discussion and of helping the author to make improving revisions before submitting the final draft.

## CLASS SCHEDULE

Thursday, January 17

Discussion of paper topics. See paper topic handout.

### Part I: Parents and Children

#### A. Child Support and Paternity: Who Should Pay and How Much?

##### 1. Who should pay support?

Ellman, *Ambiguous-Father Families*, from Mason, Skolnick and Sugarman, *ALL OUR FAMILIES* (Oxford University Press, 2d ed. 2003)  
*Murphy v. Meyers*, 560 N.W.2d 752 (Minn. App. 1997)  
*County of San Luis Obispo v. Nathaniel J.*, 57 Cal. Rptr. 2d 843 (App. 1996)  
*S.F. v. T.M.*, 695 So. 2d 1186 (Ala. Civ. App. 1996)  
*Straub v. Todd*, 645 N.E.2d 597 (Ind. 1994)  
*Budnick v. Silverman* 805 So. 2d 1112 (Fla. App. 2002)  
*Fla. Stat. § 724.14*  
*Steven S. v. Deborah D.*, 25 Cal.Rptr.3d 482 (App. 2005)  
*McBride v. Boughton*, 20 Cal.Rptr.3d 115 (App. 2004)  
*Ferguson v. McKiernan*, (see summary on blackboard site)

##### 2. Some reflections on the basis of the support obligation

Sally Sheldon, *Unwilling Fathers and Abortion: Terminating Men's Child Support Obligations?*, 66 *Modern Law Review* 175 (2003).

Thursday, January 24

##### 3. Calculating the amount.

Ellman and Ellman, *The Theory of Child Support* (forthcoming, *Harvard Journal on Legislation*).

Ellman, Braver, and MaCoun: *Intuitive Lawmaking: the Example of Child Support*.

MONDAY, JANUARY 28: PAPER TOPICS DUE

Thursday, January 31

#### B. Collecting Child Support: What Makes Sense?

##### 1. 2007 Census Bureau report on Child Support Collections

2. Parness, *New Federal Paternity Laws; Securing More Fathers at Birth for the Children of Unwed Mothers*, 45 Brandeis L.J. 59 (2006). (This reading is meant to provide a background on the legal rules. The entire article is provided on the Blackboard site, but it will be sufficient to read just pp. 63 to 82, and 91-93.)

3. Mincy, Garfinkel and Nepomnyaschy, *In-Hospital Paternity Establishment and Father Involvement in Fragile Families*, 67 J. Marriage and Family 611 (2005).

4. Elaine Sorenson and Ariel Hill, *Single Mothers and Their Child-Support Receipt: How Well Is Child-Support Enforcement Doing?*, 39 J. Human Resources 135 (2004).

5. Dead Broke Dads' Child-Support Struggle, N.Y. Times, January 29, 2002.

6. Finding Common Ground on Poor Deadbeat Dads, N.Y. Times, February 3, 2002.

7. Maldonado, *Deadbeat or Deadbroke: Redefining Child Support for Poor Fathers*, 39 U.Calif.Davis L.Rev. 991 (2006).

Thursday, February 7

B. Collecting Child Support: What Makes Sense? (continued)

8. Elaine Sorensen, *Understanding How Child-Support Arrears Reached \$18 Billion in California*, American Economic Review (2004)

9. Eckholm, *Mothers Scrimp as States Take Child Support*, N.Y. Times, 12/1/2007

Guest: Kim Gillespie (long-time Section Chief, Division of Child Support Enforcement, Office of the Arizona Attorney General).

C. The Reach of Parental Rights

1. As against grandparents and others.

a. *Troxel v. Granville*, 530 U.S. 57 (2000)

b. Ariela Dubler, *Constructing the Modern American Family: the Stories of Troxel v. Granville* (2007)\*

Thursday, February 14

C. The Reach of Parental Rights (continued)

c. Martin Guggenheim, *What's Wrong with Children's Rights*, pp. 97-132\*

2. Parental Rights and Community Rights: The Case of Cochlear Implants

a. Legal Background: Ellman, Kurtz et al pp 1141-1151.\*

b. Bonnie Tucker, *Deaf Culture, Cochlear Implants, and Elective Disability*, Hastings Center Report, Vol. 28, No. 4, July-August 1998, at 6. \*

c. Movie: *Sound and Fury*

For those interested, additional information is available at

<http://www.pbs.org/wnet/soundandfury/resources.html>

## Part II Men and Women

Thursday, February 21.

### A. Changing Marriage Roles?

Robert Putnam, *BOWLING ALONE*, Pp. 194-203\*

Ellman, *Marital Roles and Declining Marriage Rates* (forthcoming Family Law Quarterly 2008)

Katherine Albiston, *Institutional Perspectives on Law, Work, and Family* (2007)

Neil Gilbert and Rebecca Van Voorhis, *The Modern Paradox of Family Policy* (2003).

Gender and the Legal Profession: The Michigan Alumni Data Set 1967-2000 (Abstract of this long article is required reading; a link to the full article for those who are interested is also provided).

Thursday, February 28

PAPER OUTLINES DUE, 3 P.M.

### B. Three Case Studies About the Legal Regulation of Intimate Relations

1. Hendrick Hartog, *The Scene of a Marriage: McGuire v. McGuire* (Also read the opinion in the case at 59 N.W.2d 336).\*

2. Brenda Cossman, *Twyman v. Twyman: Politics, Tort Reform, and Emotional Distress in a Texas Divorce* (Also read the opinion in the case at 855 S.W. 619).\*

3. Ira Ellman, *O'Brien v. O'Brien: Failed Reform, Unlikely Reformers* (Also read the opinion in the case at 489 N.E.2d 712).\*

Thursday, March 6, no class: paper preparations.

Thursday, March 13, Spring Break.

Thursday, March 20

### C. Gender Identity: How does it come about?

1. *The Endocrine Basis of "Normality," and the effects when it goes awry*

a. Federman, *Three Facets of Sexual Differentiation*, 350 N.Eng.J.Med. 323 (2004)

b. Jean Wilson, *The Role of Androgens in Male Gender Role Behavior*, 20 Endocrine Reviews 726 (1999), pp 726-730, 733 (bottom right, beginning "Discussion") - 735.

c. Harris, *Pfizer Gives Up Testing Viagra on Women*, New York Times, Feb. 28, 2004

d. Reassigning gender in an apparently normal individual: can it work?

i. John Colapinto, *As Nature Made Him*, Pp. 30-42, 44-45, 48, 50-54, 55-59, 60-62, 65, 67-68, 68-70.\*

e. Assigning gender to persons of ambiguous gender: Intersex Individuals

- i. Dreifus, *Declaring With Clarity, When Gender is Ambiguous*, New York Times, May 31, 2005.
- ii. Erica Eugster, *Reality vs. Recommendations in the Care of Infants with Intersex Conditions* (Critique of Hastings Center Recommendations), 158 Arch. Pediatric and Adolescent Medicine 500 (2004).
- f. Voluntary gender reassignment: Transsexuals
  - i. Benoit Denizet-Lewis, *About a Boy Who Isn't*, New York Times Magazine, 5/26/2002, at 30-34.
  - ii. Jennifer Finney Boylan, *She's Not There: A Life in Two Genders* (2003), pp. 131-145, 150-160, 169, 171-175.

Thursday, March 27

D. Gender and Evolution

1. *Basic Background*

- i. Jones and Goldsmith, *Law and Behavioral Biology*, 105 Columbia L.Rev. 405, 426-431 (2005)\*
  - ii. Wright, *THE MORAL ANIMAL*, pp. 33-54, 383-392, 55-86\*
  - iii. Buss, *THE EVOLUTION OF DESIRE*, pp. 28-58\*
  - iv. Science News: *Human, Monkey Shyness Varies by Gender*
  - v. Buss, *Evolutionary Psychology: A New Paradigm for Social Science*, 6 Psychological Inquiry 1, 14-16 (1995)\*
  - vi. Erika Check, *The X-Factor*, 434 Nature 266 (2005)\*
  - vii. Jones and Goldsmith, *supra*, 461-466, 469-473, 484-492\*
2. *A possible application: Gender differences in career paths?*
- i. Report on Summers Incident, New Republic
  - ii. Stephen Pinker, *Sex Ed*, The New Republic, February 14, 2005
  - iii. Letters to the Editor responding to Pinker
  - iv. Bower, *Showdown at Sex Gap: Women's intrinsic math and science aptitude divides scientists*, Science News, 11/24/2007.

These Dates Reserved for Student Presentations:

Thursday April 3

Thursday April 10

Thursday April 17 (This class may extend beyond 6:30 and will include dinner)