

# Sex, Gender & Law in American History

## HIST 362: Fall 2025



Prof. Alison Lefkovitz

Email: [alison.lefkovitz@njit.edu](mailto:alison.lefkovitz@njit.edu)

TR 2:30-3:50 pm

Class Room: Cullimore Lecture Hall 1

Drop-in Hours: Tuesday, Thursday 10:00-11:15, and by appointment

Office Hours Location: Cullimore 327

This course examines how the American legal system has used gender and sexuality as organizing categories over time. It first asks how the law treated men and women differently from the colonial period until the present. We will study laws that very clearly dictated different gender roles for men and women, including marriage laws, suffrage laws, and laws designating legal and illegal sex. We will also explore the ways that laws that seemed to apply generically to everyone affected men and women differently, including laws regulating slavery, citizenship, and segregation. Second, we will also examine how which sexual practices were considered troublesome changed over time, why, and how the law tried to control them. This will lead us to look also at how we came to create sexual or gender identity as a category culturally, medically, and in the law. Finally, we will ask how race, class, religion, and nationality all complicated these relationships.

Learning Outcomes
a) track the changes and continuities in the American legal system related to gender and sexuality

b) identify how these changes came to pass in class discussion and written assignments
c) engage in debate on the relationship between power and the law
d) assess interpretive approaches and biases in secondary sources
e) make arguments using legal documents as primary sources
f) relate historical changes to present day legal issues
g) demonstrate information literacy through the use of appropriate source material and original research and the ability to cite properly

**Course Requirements:**

- 1) Attendance, participation and careful reading of the assigned texts. This class will mix lecture and discussion. You will also need to actively participate to get points in this category. (100 points)
- 2) In class assessments. Each week, I will give either a quiz or a writing prompt based on the reading from that day. (150 points)
- 3) Moot court. You will be responsible for an assigned role in moot court. You will be evaluated based on your own oral presentation performance. If you miss the day of the mock trial, you can make up this work by recording a short podcast (1-2 minutes) about what happened in the trial in class. This news report should reflect what happened in our own trial rather than what happened in real life. You can do this by interviewing your peers. (100 points).
- 4) A midterm. The exam will cover the themes and readings in the first half of the course. The midterm will be on **OCTOBER 16**. Students who miss the midterm must contact me directly. (250 points)
- 5) Final paper proposal. For your final paper, you will be conducting an oral history with someone you know and then writing a short paper contextualizing what your interviewee reported. In the final paper proposal, you will turn in a 2-page proposal stating who you plan to interview, why you chose that person, what secondary source you will use to ground your understanding of their past, what history it will reflect, and what questions you plan to ask. **DUE THURSDAY OCTOBER 30** (100 points).
- 6) Oral history recording. Using the guide you set for yourself above, you will conduct an oral history that is at least 10 minutes long. You should include a transcript using [Whisper](#), youtube, Zoom, or another AI platform and the informed consent form. An oral history without the informed consent form will receive ZERO points. **DUE DECEMBER 2** (100 points).
- 7) Final paper. 5 pages. You will use your recorded oral history to write your final paper for the course. In this paper, you will use the oral history you recorded to offer a new perspective or angle on a topic we covered in class. You should include an insightful argument contextualizing the history you learn from your interview subject. In addition to the oral history, you should also use texts assigned in class and one outside source to place your interviewee’s experience in historical context. **DUE MONDAY DECEMBER 15**. (200 points)

**Code of Conduct:**

-- I will be as understanding as I can be along the way with the sole exception of academic dishonesty (see below). If you have any trouble, confusion, or worry, please reach out. We can figure something out.

--Though we might disagree on many different issues, I expect you to treat the class, your fellow students, and me with respect at all times.

-- *Academic Integrity is the cornerstone of higher education and is central to the ideals of this course and the university. Cheating is strictly prohibited and devalues the degree that you are working on. As a member of the NJIT community, it is your responsibility to protect your educational investment by knowing and following the academic code of integrity policy that is found*

at: <http://www5.njit.edu/policies/sites/policies/files/academic-integrity-code.pdf>.

*Please note that it is my professional obligation and responsibility to report any academic misconduct to the Dean of Students Office. Any student found in violation of the code by cheating, plagiarizing or using any online software inappropriately will result in disciplinary action. This may include a failing grade of F, and/or suspension or dismissal from the university. If you have any questions about the code of Academic Integrity, please contact the Dean of Students Office at [dos@njit.edu](mailto:dos@njit.edu)*

My addenda: please note self-plagiarism counts as plagiarism. You can use the same research but not the same language for more than one paper.

\*\*\*\*Besides the oral history transcript, you may not use ChatGPT or other AI unless approved ahead of time by me in person in office hours.\*\*\*\*

--If you need support for any reason, please make use of our C-CAPS Staff at 973-596-3414.

Course Schedule

**Week 1: Introduction**

**Tuesday, September 2**

--Introduction

**Thursday, September 4**

--Richard Goodbeer, "Your Wife Will Be Your Biggest Accuser": Reinforcing Codes of Manhood at New England Witch Trials," *Early American Studies* 15 (Summer 2017), 474-504.

**Week 2: Coverture and Reproduction**

**Tuesday, September 9**

--William Blackstone, *Commentaries on the Laws of England*, Book the First, Chapter the Fifteenth: Of Husband and Wife.

--Cornelia Hughes Dayton, "Taking the Trade: Abortion and Gender Relations in an Eighteenth-Century New England Village," *William and Mary Quarterly*, 48 (Jan. 1991), 19-49.

**Thursday, September 11**

-- *Martin v. Commonwealth* (MOCK TRIAL)

READING PROMPT TOPIC: In what ways did the law control women's lives and what were the limits of that control?

**Week 3: Gender Identity in Early America**

**Tuesday, September 16**

--Kathleen Brown, "Changed...into the Fashion of Man': The Politics of Sexual Difference in a Seventeenth Century Anglo-American Settlement," *Journal of the History of Sexuality* (Oct. 1995).

**Thursday, September 18**

-- Clare Sears, "All that Glitters: Trans-ing California's Gold Rush Migrations," *GLQ: A Journal of Lesbian and Gay Studies* 14 (2008), 383-402.

**Week 4: Interracial Sex**

**Tuesday, September 23**

--Jennifer L. Morgan, "Partus Sequitur Ventrem: Law, Race, and Reproduction in Colonial Slavery," *Small Axe* (March 2018), 1-17.

**Thursday, September 25**

--Martha Hodes, *White Women, Black Men: Illicit Sex in the Nineteenth Century South*, chapter 4.

READING PROMPT TOPIC: What dangers did interracial sex pose? When was it acceptable?

**Week 5: Postbellum Challenges and the Gender Order**

**Tuesday, September 30**

--*Bradwell v. Illinois* (1873)

--Tera Hunter, "The Most Cruel Wrongs" in *Bound in Wedlock* (Harvard University Press, 2017).

READING PROMPT TOPIC: What gendered threats were present in the postbellum era?

**Thursday, October 2**

Mental Wellness Day

**Week 6: Protectionism**

**Tuesday, October 7**

--*Muller v. Oregon* (MOCK TRIAL)

**Thursday, October 9**

--Megan Ming Francis, "The Birth of the NAACP, Mob Violence, and the Challenge of Public Opinion," *Civil Rights and the Making of Modern America* (2014), 29-58.

READING PROMPT TOPIC: Who did protectionism protect?

**Week 7: Citizenship**

**Tuesday, October 14**

--Cathleen D. Cahill, "'Our Democracy and the American Indian': Citizenship, Sovereignty, and the Native Vote in the 1920s," *Journal of Women's History* (Spring 2020), 41-51.

**Thursday, October 16**  
MIDTERM

**Week 8: Gender During the Great Depression**

**Tuesday, October 21**

--Andrea Tone, "Contraceptive Consumers: Gender and the Political Economy of Birth Control in the 1930s," *Journal of Social History* (Spring 1996), 485-506.

**Thursday, October 23**

--Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton University Press, 2005), chapter 3.

READING PROMPT TOPIC: Did the Depression loosen gender roles or reinforce them?

**Week 9: Sex, Gender, and WWII**

**Tuesday, October 28**

--*Goesaert v. Cleary* (1948)

-- Oral History guide, <https://writingcenter.unc.edu/tips-and-tools/oral-history/>

**Thursday, October 30**

--Margot Canaday, "Building a Straight State: Sexuality and Social Citizenship under the 1944 G.I. Bill" *Journal of American History* (December 2003), 935-957.

FINAL PAPER PROPOSAL DUE

**Week 10: Sex and the Failures of Justice during the Civil Rights Movement**

**Tuesday, November 4**

--Danielle McGuire, "‘It Was like All of Us Had Been Raped’: Sexual Violence, Community Organization, and the African American Freedom Struggle," *Journal of American History* (December 2004): 906-931.

**Thursday, November 6**

--*Loving v. Virginia* (1967)

READING PROMPT TOPIC: How important were gender issues to the civil rights movement?

**Week 11: Second-Wave Feminism**

**Tuesday, November 11**

--Serena Mayeri, "Pauli Murray and the Twentieth Century Quest for Legal and Social Equality," *Indiana Journal of Law and Social Equality* 80 (2014), 80-90.

**Thursday, November 13**

--Johnnie Tillmon, "Welfare Is a Woman’s Issue"

READING PROMPT TOPIC: Did second wave feminism succeed?

**Week 12: Gay Liberation**

**Tuesday, November 18**

--Marc Stein, "Boutilier and the U.S. Supreme Court’s Sexual Revolution," *Law and History Review* (Fall 2005), 491-536.

**Thursday, November 20**

--Joanne Meyerowitz, "Transforming Sex: Christine Jorgensen in the Postwar U.S." *OAH Magazine of History* (March 1, 2006), 16-20.

--*MT v. JT*, 140 N.J. Super. 77; 355 A.2d 204 (1976).

READING PROMPT TOPIC: How were the challenges of sexuality similar or different from the challenges of gender in the postwar period?

### **Week 13: Establishing (and Dis-Establishing) Women's Bodily Autonomy**

**Tuesday, November 25**

--*Roe v. Wade* (1973)

--*Relf v. Weinberger* (1974)

--Lina-Maria Murillo, "A View from Northern Mexico: Abortions before *Roe v. Wade*," *Bulletin of the History of Medicine* 97 (Spring 2023), 30-38.

READING PROMPT TOPIC: How and why did reproductive rights evolve?

**Thursday, November 27**

Thanksgiving

### **Week 14: Sex and Gender in the 80s and 90s**

**Tuesday, December 2**

--Mindy Chatauvet, "Resisting the Virus of Prejudice: Sex Workers Fight the AIDS Panic," *Notches*, July 7, 2016, <https://notchesblog.com/2016/07/07/resisting-the-virus-of-prejudice-sex-workers-fight-the-aids-panic/?mibextid=Zxz2cZ>

ORAL HISTORY DUE

**Thursday, December 4**

--Kimberle W. Crenshaw, "We Still Have Not Learned from Anita Hill's Testimony," *UCLA Women's Law Journal* (2019), 17-20.

READING PROMPT TOPIC: How have gender politics changed (or not) since the 1980s/90s?

### **Week 15**

**Tuesday, December 9**

--Mytheli Sreenivas, "Worried about a Population Bust? History Shows We Shouldn't Be," *Washington Post*, July 19, 2021.

**Thursday, December 11**

--*Dobbs v. Jackson* (2022)

**Monday, December 15**

**FINAL PAPER DUE**