

**HISTORICAL PERSPECTIVES ON LAW AND THE FAMILY**

University of Pennsylvania Law School  
Fall 2014  
Mondays, 4:30-6:20

**Instructor Contact Information**

Professor Serena Mayeri

Office: Gittis 208

Email: [smayeri@law.upenn.edu](mailto:smayeri@law.upenn.edu) (best way to reach me)

Office Hours: Mondays, 3:00-4:00pm and by appointment. Feel free to contact me with questions at any time. If my office hours are not convenient for you, please stop by my office or email me to set up an alternative meeting time.

**Course Description**

This seminar takes a historical approach to the legal regulation of families in the twentieth-century United States, with a focus on the post-1960 period. We will explore historical debates over marriage and divorce reform, non-marital families and marriage alternatives, reproduction, domestic violence, child welfare, social welfare policy, sexuality, and the interplay between paid employment and family life. Particular attention will be paid to the role of progressive and conservative social movements (such as movements for racial and economic justice, sex/gender equality, and traditional family values) in advancing or opposing legal reforms. For their final project, students will have options including a substantial research paper or a historiography paper. Other course requirements include active class participation, response papers, and oral presentations.

**Course Requirements**Weekly seminar meetings:

Regular attendance and participation in the seminar is expected. To facilitate conversation, please do not use your laptops or other electronic devices during class.

All students are required to write 10 weekly questions about the reading (approx. 125 words or a half double-spaced page), which will count for 15% of your grade. Each student is required to post one thoughtful question about the week's reading to the course discussion board

on Canvas by 12:00 AM on the Monday of each seminar meeting. Please come to class having read and considered your classmates' questions, as well as the weekly reading assignment.

Final project:

Students may write EITHER a historiography paper OR a research paper as their final project. The final paper should be approximately 20-25 pages in length if not in fulfillment of the senior writing requirement (SWR); 25-35 pages in length in order to fulfill the SWR. Each student will give an oral presentation of his/her project at some point during the semester. Final papers are due on **Thursday, December 18, 2014 by 5:00pm**. Please see below for additional deadlines. A separate handout will describe the paper options in greater detail.

Absences:

Your presence and active participation in class each week is integral to our collective seminar experience. If you must miss class, a response paper of 750-1000 words is due by noon on the Monday class is missed unless otherwise arranged with the instructor.

### Senior Writing Requirement

Final papers in fulfillment of the senior writing requirement are welcome, with the instructor's permission. If you are using your seminar paper to fulfill this requirement, the paper you turn in on **December 18, 2014** will be the basis of your seminar paper grade and will serve as the first draft of your SWR. In order to receive SWR credit for your paper, you must submit a final draft of your paper, revised in light of the instructor's comments on your first draft, by **March 13, 2015**.

### Grading

Class participation	20%
Weekly Discussion Questions	15%
Presentation	15%
Final paper	50%

(Late papers will be down-graded.)

### Course Materials and Logistics

Most readings will be available on Canvas. Please purchase the following books, which are available online for a reasonable price. The date by which you will need to have read the first portion of the books are listed parenthetically. I will also place a copy of each of these books on reserve in Biddle Law Library.

Nancy Cott, *Public Vows: A History of Marriage and the Nation* (Harvard University Press, 2000) (September 8).

Elizabeth Pleck, *Not Just Roommates: Cohabitation After the Sexual Revolution* (University of Chicago Press, 2012) (October 13).

Laura Briggs, *Somebody's Children: The Politics of Transracial and Transnational Adoption* (Duke University Press, 2012) (November 10).

### Preliminary Syllabus

(subject to change)

#### Monday, September 8: Introduction; Marriage and Citizenship I

Nancy Cott, *Public Vows: A History of Marriage and the Nation* (Harvard, 2000), Introduction, Chapters 1 – 5, pp. 1-131.

Jyl Josephson, "Citizenship, Same-Sex Marriage, and Feminist Critiques of Marriage," *Perspectives on Politics*, Vol. 3, No. 2 (Jun., 2005), pp. 269-284.

#### Monday, September 15: Marriage and Citizenship II

Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Harvard University Press, 2000), Chapters 6-9, pp. 132-227.

Brief of Historians of Marriage Nancy F. Cott et al., *Baskin v. Zoeller* (same-sex marriage case).

Andrew Cherlin, "The Deinstitutionalization of American Marriage," *Journal of Marriage and the Family*, Vol. 66, No. 4 (Nov. 2004), pp. 848-861.

**Monday, September 22: NO CLASS (faculty retreat)**

No assigned reading. Please use the extra time to conduct preliminary research on potential final paper topics. Paper topic brainstorms are due on **Friday, September 26**.

**Monday, September 29: Feminist Revolution and Reaction**

Stone-Blackwell Marriage Protest

Reva B. Siegel, "Modernizing Wife-Beating," *Yale Law Report*, 1996.

Sheila Cronan, "Marriage," in *Radical Feminism* (New York: Quadrangle Books, 1973).

Judy Syfers, "Why I Want a Wife," *Ms.*, 1972.

Phyllis Schlafly, *The Power of the Positive Woman* (1977), pp. 55-79.

Serena Mayeri, "'The First Order of Business': Feminists Challenge Male Supremacy in Marriage, 1971-75" (excerpts from draft chapter-in-progress).

Donald G. Mathews & Jane Sherron DeHart, *Sex, Gender, and the Politics of ERA: A State and the Nation* (UNC Press, 1990), pp. 152-180.

Jill Hasday, *Family Law Reimagined* (Harvard University Press, 2014), pp. 97-120.

**Monday, October 6: Divorce and Its Discontents**

Joanna Grossman and Lawrence W. Friedman, *Inside the Castle*, Chapter 8 (pp. 159-180 only), and Chapter 9: Economic Consequences of Divorce.

Mary Ziegler, "An Incomplete Revolution: Feminists and the Legacy of Marital Property Reform," 19 *Michigan Journal of Gender & Law* 259 (2013).

Deborah Dinner, "The Divorce Bargain: The Fathers' Rights Movement and the Dual System of Family Law," (forthcoming).

**Friday, October 10: Paper Topic Statements Due**

**Monday, October 13: Non-Marriage**

Elizabeth H. Pleck, *Not Just Roommates: Cohabitation After the Sexual Revolution* (Chicago, 2012), Introduction, Chapters 5 and 7, pp. 1-21, 93-117, 147-168.

Serena Mayeri, “Marital Supremacy and the Constitution of the Non-Marital Family” (draft article-in-progress).

Nancy Polikoff, *Beyond (Straight and Gay) Marriage: Valuing All Families Under the Law* (Beacon, 2008), excerpts.

Martha Jane Kaufman and Katie Miles, “Queer Kids of Queer Parents Against Gay Marriage!”

**Monday, October 20: Poverty and Family, Welfare and the State**

Johnnie Tillmon, “Welfare as a Women’s Issue” (1972).

Elizabeth H. Pleck, *Not Just Roommates: Cohabitation After the Sexual Revolution* (Chicago, 2012), Chapter 3 (Welfare Rights), pp. 47-70.

Eileen Boris, “When Work Is Slavery,” in *Whose Welfare?* (Gwendolyn Mink ed., 1999), pp. 36-55.

Dorothy Roberts, “Welfare’s Ban on Poor Motherhood,” in *Whose Welfare?*, pp. 152-167.

Jill Hasday, *Family Law Reimagined*, Chapter 6, pp. 195-220.

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), H. R. 3734, Section 101 (Findings).

Martha Fineman, et al., “No Promotion of Marriage in TANF!” *Social Justice*, Vol. 30, No. 4 (2003), pp. 126-134.

**Monday, October 27: Families and Care, Work and Commodification**

Reva B. Siegel, “Valuing Housework: Nineteenth-Century Anxieties about the Commodification of Domestic Labor,” *American Behavioral Scientist*, Vol. 41, No. 10, August 1998.

Pat Mainardi, “The Politics of Housework” (1970), in *Sisterhood is Powerful*, pp. 447-454.

Los Angeles Wages for Housework Committee, “Sisters, Why March?” (1975), in Edmond and Fleming, eds., *All Work and No Pay*, 123.

Hendrik Hartog, “Bargaining for a Child’s Love,” *New York Times*, Jan. 14, 2012.

Eileen Boris and Jennifer Klein, "Labor on the Home Front: Unionizing Home-Based Care Workers," *New Labor Forum*, Vol. 17, No. 2 (2008), pp. 32-41.

Domestic Workers United & Datacenter, "Home is Where the Work Is: Inside New York's Domestic Work Industry."

### **Friday, October 31: Paper Outlines Due**

### **Monday, November 3: Reproduction**

Readings TBA

### **Monday, November 10: Parents and Children**

Laura Briggs, *Somebody's Children: The Politics of Transracial and Transnational Adoption* (Duke University Press, 2012), Introduction, Chapters 1-3: pp. 1-126.

Carlos Ball, *The Right to Be Parents* (NYU Press, 2012), Chapter 1: pp. 21-57.

Martha Minow, "What Ever Happened to Children's Rights?" in *Reassessing the Sixties: Debating the Political and Cultural Legacy* (Stephen Macedo ed., 1997), pp. 102-128.

### **Monday, November 17: Families and Borders, Sovereignty and Citizenship**

Laura Briggs, *Somebody's Children: The Politics of Transracial and Transnational Adoption* (Duke University Press, 2012), Chapter 7, epilogue, pp. 240-282.

Kristin A. Collins and Linda K. Kerber, "Sex and Citizenship at the Court, Again," *Dissent*, July 20, 2011.

Kerry Abrams & R. Kent Piacenti, "Immigration's Family Values," 100 *Virginia Law Review* 621 (2014).

LGBT Organizations Fact Sheet Series, "After DOMA: What It Means For You: Immigration."

**Monday, November 24:** Topic and Readings TBA

**Monday, December 1:** Presentations

**Thursday, December 18: FINAL PAPERS DUE**