We will be examining a number of conflicts in which significant issues of public policy and social ethics are ruled upon by the courts. The Constitution figures prominently in many of these cases; so they involve fundamental legal principles and become public issues of great cultural depth. A significant underlying theme of our work will be the exploration of ways in which the rulings of constitutional courts shape and drive the making of public policy. Another will concern the importance of judicial independence in a constitutional democracy.

Powerful political and ideological forces are arrayed on all sides of the issues that we will be examining. But at the same time, most of these issues arise from real conflicts in the lives of real human beings struggling to live, and in some cases, to die as best they can. One aim of the course will be to develop an understanding of the personal dimensions of these conflicts along with their cultural and constitutional significance. Understanding the role of constitutional law in the making of public policy will also require examining the perspectives of other disciplines, such as those of the social sciences and humanities. Although this is not primarily a research course, it does view the development and use of basic library research skills as contributing to informed and constructive discussion of public policy issues. These skills are especially important at a time in which electronic media and the quest for political power increasingly degrade the quality of public discourse.

Instruction in the rudiments of legal research and in library research in social sciences and humanities will be part of the course. Each of you will have research assignments that allow you to practice these skills and to contribute varying perspectives to class discussions. More extensive research will become the basis of the one research paper required in the course.

The class will be run as a series of discussions. Lectures will be rare. Participation in all aspects of the course, which absolutely requires careful preparation in advance of class, will be very important. But because these conflicts are often very heated, it will be more important to participate constructively and thoughtfully than simply to participate frequently or insistently. I will try to create an atmosphere conducive to open and frank discussion; but this is a two-way street. It will be necessary for you to help create a tone of open inquiry and honest debate, and to speak to me privately in office hours, by email or after class if you have suggestions about or problems with the discussions.

I will be trying to help you to develop a clear understanding of all sides of the issues to
be studied, a respect for facts and for scholarship, a reasoned defense of your own conclusions, an appreciation for the logic and power of constitutional law as well as its limitations in this area, and a heightened sensitivity to the ethical dimensions of public policy issues.

The semester will be divided as follows:

I: An introduction to the basic tools and methods of legal research and of gaining access to the literature of other disciplines.

II: One short topic in law and public policy involving reproductive freedom issues. During these discussions each of you will be required to complete an exercise in finding relevant materials to add to those under discussion.

III & IV: Two longer topics: End-of-Life Care and Decision Making and the Establishment of a Military and National Service Draft. Each of the long topics will end with a discussion of a question based on a current issue of public policy and the writing of a paper about that issue.

Structure/Grading:

Near the beginning of the course we will divide the class into two equal groups. One group will write its ten-page research papers on topic III, End-of-Life issues. The other group will write its ten-page research papers on topic IV, Re-instatement of the Military Draft.

Each student will be required to complete the following work:
1)---One short paper (5p.), based on materials assigned for class discussion of topic III or IV, whichever is not the subject of your research paper.
2)---One longer paper (10p.), requiring research in both law and other disciplines.
3)---One research exercise during the first two weeks of class.
4)---Find and describe in one page, one article useful for our short topic, Reproductive Freedom.
5)---One very brief research assignment due with your short (5 p.) paper. This assignment will require you to find and briefly describe (1 page) a useful print item (not from the internet) drawn from the literature of law, social sciences or humanities.
6)---Another brief research assignment, to be turned in with either the 5 or 10 page paper. This assignment will require you to find and evaluate (1 page), a web site relevant to either of the two longer topics (III or IV).

Grading will be as follows:

Short paper 25%
Research paper 50%
Class participation and successful completion of all other assignments 25%
Please note: I will be happy to discuss any substantive issues or research problems you have, and I try to make accommodations for illness, legitimate personal difficulties and other stresses. But I am absolutely committed to the principle that your work must be your own if your diploma is to have any meaning at all for you or the university. You will find me a flexible and understanding person on all matters but this: Anything that even appears to be academic dishonesty in production of the research papers or other assignments in this course will be dealt with mercilessly.

The following schedule of issues and materials is subject to change in response to class discussions, research, or legal or political developments. It will be your responsibility to be sure that you keep up with any changes in the syllabus and to prepare all materials carefully and in detail before the relevant class discussion. The first packet of materials (indicated by one asterisk*) is available now and should be purchased immediately. The other packet will become available in early October. Some of the assignments may require the use of the internet, some will be posted on the class web page. The syllabus on that page will be updated when necessary.

Reading assignments: "W" indicates Wren&Wren
* indicates xeroxed course packet from Campus Design & Copy
** indicates materials handed out in class or posted on course web page

Please note that there will be no class meeting on 9/16. Please note also that there will be a videotape that you will be required to see and that will be shown on evenings during a week indicated in the syllabus below. Every effort will be made to pick times for the showings that work for every student.

Each capital letter in the syllabus outline is one class meeting.

I. Introduction to fundamentals of research

A. 9/14-Research--law (W-chapters 1, 2, 4, 6, 7 & appendix D, A, B; skim L)/ exercises assigned in class
NO CLASS 9/16—Religious Holiday
B. 9/21-discussion of research and exercises and of additional research needed for short topic on reproductive freedom.
---each student will attend 1 afternoon/evening library session of one hour on research tools either 9/16 (Th) or 9/20 (M)---[sign-up in class; meetings in Calipari room, Du Bois Library]
II. Short topic: Reproductive Freedom: the status of women or the right to life?

** “Choice is a Moving Target,” R. Solinger.
--Find and bring an article (or bring a 1 page summary and citation) on the status of women in U.S. before 1960.
--Read **[Griswold v. Connecticut](http://www.cand.uscourts.gov/cand/judges.nsf/a3beeef5ac9129e688256d480060b718/a09f8ac26a4157c188256ea60057f2c2/$FILE/6-1PPORDER.pdf)** 381 U.S. 479 (1965)/ find on Lexis-Nexis & **read only** majority opinion (by Douglas) ignoring all headnotes, syllabus, concurring and dissenting opinions.

B. 9/28 ** Irons, “Dr. Jane Hodgson v. Minnesota” (in *Courage of Their Convictions*)
* Irons, “The Raw Edges of Human Existence” (in *People’s History of the Supreme Court*)
D. 10/5 ** Read: Planned Parenthood v. Ashcroft, 320 F. Supp. 2d 957 (the entire lengthy opinion in this 2004 CAL. case can be found on Lexis-Nexis, at: http://www.cand.uscourts.gov/cand/judges.nsf/a3beeef5ac9129e688256d480060b718/a09f8ac26a4157c188256ea60057f2c2/$FILE/6-1PPORDER.pdf)

Discussion (10/5): Should the “Partial Birth Abortion Act of 2003” be declared unconstitutional by the U.S. Supreme Court?

III. End-of-Life Care and Decision Making

A. 10/7 ** The Nature of the Problem**
  **Press release for “Means to a Better End,” the Last Acts study of death and dying in America.** Optional: See the full study, available by clicking on “Means to a Better End” at http://www.rwjf.org/news/featureDetail.jsp?id=44&contentGroup=specialreport
  **Selzer, *A Question of Mercy.*

B.10/12 ** Advance Directives: Individual Autonomy and State Interests**
* Cases on advance directives. @ [look for additional materials on web page]
* Pages 734-742 in Arons, “Current Legal Issues in End-of-Life Care.”
C.10/14 * **Cruzan v. Director, Missouri Department of Health**
  NOTE: During the week of Oct. 18-22 you should attend a showing of a 90 minute videotape by Bill Moyers comparing two states, one with and the other without legalized physician-assisted suicide. The tape will be shown twice in Gordon Hall, 3rd floor conference room at times to be announced.
D. 10/19 Physician-Assisted Suicide in the Courts
* Compassion in Dying v. Washington, (opinion of 9th Circuit Ct. of Appeals)

NOTE: In class we will discuss what research might be done in preparation for November 2 discussion by those doing topic III research papers.

F. 10/26 Oregon’s Death with Dignity Act
* The Oregon Statute
  Optional: **Excerpts from amicus briefs of medical associations.
  [find this on-line using Lexis/Nexis]

G. 10/28 Pros and Cons of Adopting a Death with Dignity Act
* Kamisar, A Against Assisted Suicide--Even in a Very Limited Form@
* Dworkin, excerpts from Life is Dominion.
  http://silk.library.umass.edu:2095/universe/document?_m=e9ad714f7f179e6f1ec80d8f6b7298b2&_docnum=1&wctip=dGLbVlz-zSkVb&md5=5caf3eb4a2de3563b3594ae585fe71c6
  ** Battin, A A Dozen Caveats Concerning the Discussion of Euthanasia in the Netherlands from The Least Worst Death

H. 11/2 Discussion: Should Oregon’s “Death with Dignity Act” be adopted in Mass.?

IV. Reinstatement of Military and/or National Service Draft

PLEASE NOTE: The following assignments are tentative. They will be finalized by early October, and a second packet of supplementary materials will become available from Campus Design & Copy by mid-October.

A. 11/4 The Nature of the Problem
--“Conscription in America,” in President’s Commission on an All-Volunteer Armed Force (1970)

B. 11/9 The Problem, (continued).
--Articles on the draft and religious freedom, freedom of conscience, political dissent, the nature of democratic government and the place of civil disobedience.

C. 11/16 History of the Draft to WW II
   --Chapters 10 & 12, Graham, *Constitutional History*
   --WWI Selective Draft Law Cases.

D. 11/18 Conscientious Objection to Military Service
   --Irons, “The Seeger Case,” from *Courage of their Convictions*.

E. 11/22 *The Draft and the War in Southeast Asia* (a Monday, but Thursday schedule)

   --The Casius Clay case
   --Articles on resistance to the Vietnam War in the U. S.

G. 11/30 *The Draft, War-Making, the Constitution and Further Issues of Individual Conscience*
   --writings by Madison, Thoreau and more recent authors

H. 12/2 *The All-Volunteer Force*
   --President’s Commission Report, chapters 2, 3, 10, 12, 15.
   --Law review articles

I. 12/7 *Discussion*: Should a National Service Requirement and/or a Military Draft be Established?
   --Articles and commentaries.

J. 12/9 *Discussion*, (continued).