

Gender

Coverture (couverture)

A woman was presumed to be a minor person so long as she stayed in the household of a male relative (father, brother, uncle)

Upon marriage, a woman's legal rights were subsumed by those of her husband. His legal personality “covered” hers.

Bradwell v. Illinois (1872)

United States v. Dege (1960)

Ends coverture in criminal conspiracy case

Common law did not allow conspiracy between man and wife – as coverture meant that they were same legal person

Frankfurter writes (Next slide)

U.S. v. Dege (1960)

It would enthrone an unreality into a rule of law to suggest that man and wife are legally incapable of engaging in illicit enterprises, and therefore, forsooth, do not engage in them.

***Hoyt v. Florida* (1961)**

Court upheld FL law excusing all women from jury duty unless they volunteered

Court found that women are “still regarded as the center of home and family life” and have “special responsibilities”

***Cleveland Board of Education
v. LaFleur (1974)***

**Maternal Leave compulsory when
visible, usually 4-6 months**

**Court found that women were
capable of making decisions
regarding their own fitness to teach
and plan own leave**

Pregnancy Discrimination Act of 1978

Women who are pregnant or affected by related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations

May not refuse to hire pregnant women or require leave so long as can perform duties

***Reed v. Reed* (1970)**

Equal Rights Amendment

Proposed by Congress in 1972

Twenty-two states ratified in first year

Thirteen more states had ratified by 1977

Five states voted to rescind by 1977

Utah

Frontiero v. Richardson (1973)

Female military officers, unlike male officers, had to show they were primary breadwinners to receive certain benefits

Plurality opinion uses strict scrutiny anticipating ERA ratification

Kahn v. Shevin (1974)

**Florida offered a tax break for widows,
but not widowers**

Challenged on basis of gender inequity

**Court upholds policy because of
greater financial burden on widows
because**

1) they live longer

2) less support from pensions

Stanton v. Stanton (1975)

Utah law required non-custodial parent to pay child support for males to age 21, females to age 18.

Sup. Court found lack of rational basis

Question:

What was purpose of Utah law?

Schlesinger v. Ballard (1975)

U.S. military policy allowed discharge of male officers after 9 years without promotion, but gave women 13 years at same rank because women were barred from combat positions

Sup. Ct. upholds policy as properly mitigating women's lack of access to combat positions

Craig v. Boren (1976)

Oklahoma law prohibited sale of “non-intoxicating” 3.2 percent beer to males under 21, but allowed females over 18 to purchase it.

State’s argument was that there was a higher likelihood that young males would drive drunk

Michael M. v. Superior Court (1980)

Michael M., a 17.5 year-old male, was convicted for statutory rape in CA.

CA's law defined such unlawful sexual intercourse as "an act of sexual intercourse accomplished with a female not the wife of the perpetrator, where the female is under the age of 18 years."

U.S. v. VA (1996)

VMI, along w/ Citadel, were last two single sex public colleges in U.S.

VA argued that single-sex education offered distinctive advantages for men that would be fundamentally altered if women were admitted to the program.

***Romer v. Evans* (1996)**

Amendment to the CO state constitution would have prevented any city, town or county from prohibiting discrimination on the basis of sexual orientation