This seminar will consider the conceptual frameworks, legal mechanisms, and practical realities affecting gender equality in a range of constitutional systems. Our goal is to understand how different countries’ constitutions address issues of gender equality, which approaches work best in which settings, and why. To that end, we will look at several different sorts of materials, including international law materials, political theory and legal scholarship, and cases and commentary from within several different legal systems.

Grades in the class will be based on (1) class participation, (2) a 25-30 page research paper, and (3) a 20-30 minute class presentation of your research. To complete the paper, each student will turn in the following:

1. a précis: a brief (no more than one page) description of the research project Due on September 16
2. a source list: a list of the major sources consulted in the research (with a sentence or two describing each source) Due on September 30
3. a detailed outline of the paper Due on October 14
4. a first draft of the paper Due on November 18
5. a final draft of the paper Due on December 9

The class will meet once each week to discuss the readings for the first nine weeks, until October 31st. During that time, the class format will be discussion, with an occasional lecture on background. We will then take one week off, during which you will write the first draft of your research papers. For the final three weeks of the course, starting on November 14, students will present their research to the class.

Reading materials: Xeroxed readings available at the IU Bookstore (Volume I and Volume II).

Week 1 (September 2): Introduction: Women and Constitutions, Conceptions of Equality
Readings Vol I:

Week 2 (September 9): The Nature of Rights: Horizontal and Vertical, Positive and Negative, Valuable or Problematic?
Readings Vol. I:
Helen Irving, More Than Rights in Constituting Equality: Gender Equality and Comparative Constitutional Law (Susan H. Williams, ed.) (Cambridge University Press forthcoming 2009)

Week 3 (September 16): International Law and the Constitutional Commitment to Gender Equality
Readings Vol. I:
United Nations Charter (1945)
Universal Declaration of Human Rights (1948)
International Covenant on Civil and Political Rights (1976)
International Covenant on Economic, Social and Cultural Rights (1976)
European Convention for the Protection of Human Rights and Fundamental Freedoms (1953)
Veronica Undurraga & Rebecca Cook, Constitutional Incorporation of International and Comparative Human Rights Law: the Colombian Constitutional Court Decision C-355/2006 in Constituting Equality

Week 4 (September 23): Gender in the Structure of Government: Electoral Quotas
Readings Vol. I:
Drude Dahlerup & Lenita Friedenvall, Gender Quotas in Politics – A Constitutional Challenge in Constituting Equality

Week 5 (September 30): Gender Equality and Religion/Culture: Constitutional Issues
Readings Vol. I:
Ayelet Schachar, Multicultural Jurisdictions: Cultural Differences and Women’s Rights 1-10, 17-44, 45-87, 117-45 (Cambridge University Press 2001)
Aili Marie Tripp, Conflicting Agendas? Women’s Rights and Customary Law in African Constitutional Reform in Constituting Equality
Week 6 (October 7): The Canadian Constitution: Part I (including a brief review of U.S. constitutional law on gender equality as background)
Readings Vol. II:
Mary Becker, Cynthia Grant Bowman, & Morrison Torrey, Feminist Jurisprudence: Taking Women Seriously (2d. ed. 2001)
Weatherall v. Canada, [1993] 2 S.C. 872 (Canada)

Week 7 (October 14): The Canadian Constitution: Part II
Readings Vol. II:
Patricia Hughes, Recognizing Substantive Equality as a Foundational Constitutional Principle, 22 Dalhousie L.J. 5 (1999)

Week 8 (October 28): The Indian Constitution
Readings Vol. II:
Daniel Latifi & Anor v. Union of India and other petitions, 4 LRI 36 (September 28, 2002) (Supreme Court of India) from Lexis/Nexis

Weeks 9 (November 4): The South African Constitution
Readings Vol. II:
The Constitution of South Africa, from Constitutions of the Countries of the World 9-17, 22, 37
President of the Republic of South Africa and another v. Hugo, 4 S.A. 1 (1997)

Week 10 (November 11): No class

Week 11 (November 18), Week 12 (November 25): Student presentations

Week 13 (December 2): Conclusions: A look at the constitution as a whole

Readings Vol. II:
Vicki Jackson, Gender Equality and the Idea of a Constitution: Entrenchment, Jurisdiction, Interpretation in Constituting Equality
Seminar in Law and Political Theory: 
Gender Equality in Comparative Perspective

Prof. S. Williams

Required materials:
Reproduced readings (Vol. I and II) available at the IU Bookstore

Reading assignment:
9/2: Vol. I:
