

"Women and the Law" seminar

Lecture deals with women's legal issues

By LISBETH LEVINE
Staff Writer

Women may have come a long way, but legal problems in equal employment and discrimination have not disappeared.

"Women and the Law," a three-part seminar conducted by the Carolina Union this week, provides a mixed media and lecture presentation on controversial legal issues facing women today.

"The 14th Amendment was enacted in 1868. The promise of equality contained in the Equal Protection Clause remains a promise," said Elizabeth Defeis, a law professor at Seton Hall University in New Jersey, in a videotape shown Tuesday night in the first part of the series.

The Equal Protection Clause found in section 1 of the 14th Amendment to the Constitution, states that no state "shall deny to any person within its jurisdiction the equal protection of the laws."

Technically, women can achieve equality under the Equal Protection Clause, but it requires a Supreme Court ruling, said Meyressa Schoonmaker, an attorney and president of the North Carolina Center for Laws Affecting Women.

Two videotapes, "The Equal Protection Clause," and "Title VII: A Case Study," as well as Schoonmaker's lecture, comprised the first seminar of a three-night series dealing with women's rights.

Schoonmaker said the Supreme Court has never applied "strict scrutiny," which requires that the state prove a compelling interest for the law in a case involving women under the EPC.

A heavier burden of justification is required for the state under strict scrutiny cases, according to the legal definition. If a case comes before the court, then the state, in defending itself, has to justify the discrimination with solid proof.

But in a minimum scrutiny case, just a reason, not "solid proof," is needed to justify discrimination.

Minimum scrutiny is most commonly used to determine the constitutionality of state laws, Schoonmaker said. If a law has a reasonable basis, it will be upheld under minimum scrutiny, even if it discriminates against women.

There are very few state laws which fail to pass the minimum scrutiny test, Defeis said in the videotape.

The tape cited two examples in which strict scrutiny was used. One case occurred when the legislation affected a fundamental interest such as the right to vote.

Strict scrutiny was also used when the case involved a suspect classification such as race or creed. Sex has never been considered a suspect classification by the courts, Defeis said in the tape.

"We're striving for a court interpretation of strict scrutiny," Schoonmaker said after the presentation. Women do not have the full force of the Constitution behind them because "the court has never definitely decided that women are entitled to equal protection under the 14th Amendment," she said.

"It appears at this point that the only way we will get strict scrutiny is through the ERA," Schoonmaker said.

Defeis said during the videotape that "ERA puts the force of the Constitution behind the effort to obtain equality for both sexes."

In the 1973 Supreme Court case *Frontiero vs. Richardson*, Justice William Brennan Jr. stated that sex was a suspect class.

The case involved a servicewoman who wanted to claim her husband as a dependent in order to obtain increased benefits. A woman had to prove that her husband was dependent on her for more than half of his support, while a serviceman could automatically claim his wife as a dependent.

Although the court decided the case in favor of the woman, the other justices did not agree with Brennan's opinion.

"Sex, like race and national origin, is an immutable characteristic determined solely by the accident of birth," Brennan wrote. "The sex characteristic frequently bears no relation to the ability to perform or contribute to society."

Defeis, in her argument to ratify the ERA, said, "it seems doubtful that the Equal Protection Clause is adequate to eliminate sex-based classification."

The ERA would invalidate any state laws which discriminate on the basis of sex.

North Carolina has several laws which distinctly discriminate against women, Schoonmaker said. She cited health insurance policies, property taxes and the Equitable Distribution Bill as examples.

The other subject discussed was Title VII, a section of the Civil Rights Act of 1964 which prohibits discrimination in employment on the basis of sex, race, color or religion.

The videotape examined the American Telephone & Telegraph Co. case. The Equal Opportunity Employment Commission found AT&T guilty of sex discrimination, resulting in more than \$75 million in back pay to female employees.

"Although AT&T is a very large case, there are smaller cases all over (the country) that deal with very similar issues," Schoonmaker said.

Schoonmaker also discussed comparable pay, which adjusted the pay scale according to the contribution of a particular job to the whole work effort.

"Comparable pay would benefit women the most," Schoonmaker said. "For instance, secretaries' comparable output is much greater than what they're being paid." Somewhere along the line, she added, they were relegated to a low paying scale, probably by men.

For working women, Schoonmaker called Title VII, "the most important piece of legislation that relates to improvements."



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have brought to NCMH kidney dialysis and transplants, sophisticated intensive care units, open heart surgery, chemotherapy, genetic counseling, premature infant care, CT scanners and others.

In addition to this technology, the hospital operates the North Carolina Jaycee Burn Center, the most comprehensive burn center in the nation. Memorial's Hand Rehabilitation Center, where people who have damaged their hands can regain motion of the limbs, was the first in the United States.

The hospital's Labor and Delivery Suite can accommodate both routine and high-risk pregnancies. NCMH's new Same-Day Surgery Facility allows patients undergoing minor operations to have the surgery and leave the hospital in one day.

To enhance its emergency care, the hospital participates with the army in the

Assistance to Safety and Traffic program. Operated from Fort Bragg, the program can bring critically injured patients from throughout the state to the hospital by helicopter if NCMH is the closest facility to the emergency. The Neo-Natal Transport Team of specialized doctors can bring premature infants from remote areas to the hospital to receive specialized care.

Even though the great advances in medical care have improved treatment, this technology does have its dark side. Health costs have risen substantially since 1952. For example, the hospital's budget in 1952 was 2.1 million dollars; now it is 118 million dollars. Two hundred and five dollars a day pays for a single room and bath that cost \$27 daily 30 years ago.

"The subject of health care cost is a complicated one," Munson said. "Most articles about the escalation look at health care costs in a vacuum without looking at clinical outcome and tech-

nological advances in medicine. "It is easy to be critical of cost when one is healthy and doesn't need hospital and medical care. On the other hand, when one becomes sick or injured, one insists on the best health care available, regardless of the cost. This is a societal expectation. It is a healthy expectation but an expensive one," Munson said.

Whether health care costs continue to rise depends on if society is willing to pay for the new technology developing in medicine every day, Munson said. An example of this, he said, is the availability of kidney dialysis. This treatment was not readily available until the government underwrote the program that now costs 3 million dollars per year. "This is an example of where society, through governmental apparatus, said that this technology should be available," Munson said.

Along the same line of health care

costs, federal cutbacks in Medicare and Medicaid threaten further expansion of NCMH mainly because the facility is a teaching hospital that treats many patients on these programs, Munson said.

"The government created a market that has developed an expectation of the availability and access to health care. Now the government is cutting back on Medicare and Medicaid and the impact is particularly felt by a hospital like Memorial," he said.

To offset these reductions, people with private health insurance are being burdened with extra taxes, Munson said. "In my judgement, this is a form of double taxation," he said.

Nevertheless, NCMH will continue to fulfill its four goals and meet the needs of the community "in a manner that is consistent with our being here," Munson said.

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Poles

people," adding: "One can imprison protesters, club and disperse demonstrators with tear gas or water cannons, but the specter remains: never again will the self-appointed representatives of the workers be able to pretend that they represent anyone but themselves.

An estimated 3,000 Poles massed at the courthouse where Solidarity was registered two years ago, and police in helmets and

plastic shields chased them about two miles to Warsaw University, where the demonstrators dispersed under barrages of water cannons, tear gas and flares.

Students demonstrated for 15 minutes in Warsaw and Krakow earlier in the day and steel workers idled part of a mill in Czestochowa, Western reporters said. They also said security forces with fixed bayonets massed near the shipyards in

Gdansk, where Solidarity was launched more than two years ago. Solidarity was suspended with the imposition of martial law Dec. 13 and was outlawed Oct. 8.

Workers in many Warsaw factories, visibly nervous and fearful, either refused to talk to reporters or said that few protests inside their plants had occurred.

"Nearly everyone worked," said a grizzled worker outside the Ursus tractor factory, a Solidarity stronghold, outside Warsaw. "People are afraid and don't

want to get locked up." Workers at the Huta Warszawa steel works outside the capital claimed managers had told them of sabotage at one mill, and reported brief strikes at a rolling mill and sheet mill.

The strong presence of police outside some factories seemed to frighten workers into submission.

"I have never seen anything like this before," said a woman outside the shipyards in Gdansk. "It's hard to take one step without bumping into them."

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