**Gender and Human Rights**

Semester 2

Irish Centre for Human Rights

School of Law

**Academic Year 2024-2025**

**Course Outline**

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| **Objective** | The course aims at providing students with knowledge of the relationship between gender and human rights. It explores origins, development and challenges of integrating gender into human rights law discourse and practice: from inclusion of women to attention to LGBTI issues. The course introduces students to relevant international bodies and instruments. It also introduces students to the critical analysis of law through the study of feminist approaches, queer theory and decolonial thought. |
| **Times** |  **Day** |  **Time** |  |  **Venue** |
| Wednesday | 2-5pm | 3 |  Seminar Room, ICHR |
| **Lecturer**  | Dr Maëlle Noir - maelle.noir@universityofgalway.ie |
| **Overall Learning Outcomes** | Upon the completion of the course students should be able to:* Find relevant applicable provisions of international instruments;
* Determine the most appropriate provision to use in a particular case;
* Identify gaps and shortcomings of existing international instruments;
* Propose possible ways for improvement;
* Convincingly present arguments in favour of the selected solution;
* Demonstrate awareness of and sensitivity to larger social and political implications of their choices with respect to gender and human rights.
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| **Methodology** | Each subject is introduced through a lecture presentation. The students’ understanding of the subject is further developed through participatory discussions based on required readings. Students are expected to complete readings in preparation for each class based on reflective questions posted on blackboard. Active participation in discussions is essential to the successful acquisition of knowledge and analytical skills. Students will be required to agree their essay topic with the lecturer by week 11 the latest. |
| **Programme(s)** | LL.M. programmes, full-time and part-time. |
| **Course Material** | Required weekly readings form the basis for the course. These readings are either accessible on the internet or at the university library. In exceptional cases they are posted on blackboard. The main reference book is Ekaterina Yahyaoui Krivenko, *Gender and Human Rights: Expanding Concepts* (Edward Elgar Publishing 2020). The book is available in the library in an electronic format. If you wish to purchase it for personal use, you can refer e.g. to the editor’s webpage: <https://www.e-elgar.com/shop/usd/catalog/product/view/_ignore_category/1/id/16817/s/gender-and-human-rights-9781800372849/>  |
| **Essential Texts** | Relevant international instruments, case-law and articles in international journals as indicated for each course on blackboard |
| **Assessment** | * Final essay (80%, 5000 words)
* Class participation (10%)
* Presentation on essay topic (10%)
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**Week 1: Gender and its meanings**

**(15 January 2025)**

Required readings:

Yahyaoui Krivenko, Ekaterina, *Gender and Human Rights*: (Edward Elgar Publishing 2020), Chapter 2.

[Crenshaw Kimberlé, Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics *University of Chicago Legal Forum* (1989) 139.](https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1052&context=uclf)

Combahee River Collective. (1977), Combahee River Collective Statement.

Further readings:

Oyèrónkẹ Oyěwùmí, *Invention of Women: Making an African Sense of Western Gender Discourses* (Minneapolis, US: University of Minnesota Press, 1997).

Butler Judit, Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory, (1988), Vol.40(4), Theatre Journal (Washington, D.C.), 519

Alcoff Linda Cultural Feminism versus Post-Structuralism: The Identity Crisis in Feminist Theory, (1988) Vol.13(3), Signs, 405.

Butler Judit P., *Gender Trouble: Feminism and the Subversion of Identity*. (1990) New York; London: Routledge.

Webster Fiona, “Do Bodies Matter? Sex, Gender and Politics” 17(38), *Australian Feminist Studies* (2002) 191.

Riley Denise, *Am I That Name?: Feminism and the Category of ‘Women in History* (London: Macmillan Press 1988)

Truth Sojorner, “Woman’s Rights!”, in B. Guy and Sheftall (eds.), *Words of Fire: An Anthology of African- American Feminist Thought*, (The New Press, 1995) 36

**Week 2: Feminist critiques of international law and human rights**

**(22 January 2025)**

Required readings:

Katharine T. Bartlett and Rosanne Terese Kennedy, eds., *Feminist Legal Theory: Readings in Law and Gender*, New Perspectives on Law, Culture, and Society (Boulder: Westview Press, 1991), Introduction.

Charlesworth Hilary, Chinkin Christine, Wright Shelley, “Feminist Approaches to International Law”, 85 *American Journal of International Law* (1991) 613.

Otto Dianne, “Lost in Translation: Re-scripting the Sexed Subjects of International Human Rights Law,” in Anne Orford, ed., International Law and its Others (Cambridge: Cambridge University Press, 2006), 318.

Further readings:

Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester University Press, 2000).

Yahyaoui Krivenko Ekaterina ‘The ICJ and Jus Cogens Through the Lens of Feminist Legal Methods’ 28 *European Journal of International Law* (2017) 959.

Ehrenreich Brooks, R., Feminism and International Law: An Opportunity for Transformation (2002) Vol.14 Yale Journal of Law and Feminism, 345.

Otto Dianne, “Lost in Translation: Re-scripting the Sexed Subjects of International Human Rights Law,” in Anne Orford, ed., International Law and its Others (Cambridge: Cambridge University Press, 2006), 318.

Lacey Nicola, “Feminist Legal Theory and the Rights of Women” in Karen Knop (ed.), *Gender and Human Rights*, Oxford: Oxford University Press, 2003,13.

Parisi Laura, “Feminist Perspectives on Human Rights” in Robert A. Denemark (ed) The International Studies Encyclopedia (2010)

Romany Célina, “State responsibility goes private: a feminist critique of the public/private distinction in International law”, in Cook R., *Human Rights of Women, National and International perspectives*, University of Pennsylvania (1994) 85.

**Week 3: International system for protection of women's rights**

**(29 January 2025)**

Required readings

Freeman Marsha A., Chinkin Christine and Rudolf Beate, “Introduction” in Freeman, Marsha A., Chinkin, Christine and Rudolf, Beate (eds.) *The UN Convention on the Elimination of All Forms of Discrimination Against Women. A Commentary*. Oxford: OUP, 2012, 2.

Hodson Loveday, “Women’s Rights and the Periphery: CEDAW’s Optional Protocol” 25 European Journal of International Law (2014) 561.

Read through

Convention on the Elimination of All Forms of Discrimination against Women, adopted by **GA Res. 34/180 on 18 December 1979, U.N. Doc. A/34/46, entered into forc*e* 3 Sept. 1981**

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, adopted by GA Res. 54/4 on 15 October 1999, entered into force 22 December 2000.

Convention on the Elimination of All Forms of Racial Discrimination, adopted by GA Res. 2106 (XX) on 21 December 1965, entered into force 4 Jan. 1969

Further readings:

Yahyaoui Krivenko Ekaterina, *Gender and Human Rights*: Chapters 3 and 5.

Baldez Lisa, *Defying Convention: US Resistance to the UN Treaty on Women’s Rights* (New York, NY: Cambridge University Press, 2014).

Byrnes Andrew and Connors Jane F., *The International Bill of Rights for Women: The impact of the CEDAW Convention* (Oxford: Oxford University Press, 2020).

Donner Laura A. “Gender Bias in Drafting International Discrimination Conventions: The 1979 Women’s Convention Compared with the 1965 Racial Convention”, 24 *California Western International Law Journal* (1993-1994), 241.

Knop Karen (ed.), *Gender and Human Rights* (Oxford: Oxford University Press, 2003)

**Week 4: Queer theories and human rights law**

**(5 February 2025)**

Required readings:

Thoreson Richard, ‘Queering Human Rights: The Yogyakarta Principles and the Norm That Dare Not Speak Its Name’ 8 Journal of Human Rights (2009) 323.

Grewal Inderpal, Kaplan Caren, ‘Global Identities: Theorizing Transnational Studies of Sexuality’ 7 GLQ: A Journal of Lesbian and Gay Studies (2001) 663.

Read through

Yogyakarta Principles. Application of the International Human Rights Law in Relation to Sexual Orientation and Gender Identity, 2007.

Human Rights Council Resolutions: Human Rights, Sexual Orientation and Gender Identity (adopted 17 June 2011 and 26 September 2014): A/HRC/Res/17/19; A/HRC/RES/27/32

Further readings:

Yahyaoui Krivenko Ekaterina, *Gender and Human Rights*: Chapters 3 and 5.

Waites Matthew, ‘Critique of “Sexual Orientation” and “Gender Identity” in Human Rights Discourse: Global Queer Politics Beyond the Yogyakarta Principles’ 15 Contemporary Politics (2009) 137.

UN Programmatic Overview of the Role of the UN in Combatting Discrimination and Violence against Lesbian, Gay, Bisexual, Transgender and Intersex People, latest edition, available here: <https://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNSystem.aspx>

Rao Rahul, “Queer Questions” 16 *International Feminist Journal of Politics* (2014) 199.

Leckley Robert and Brooks Kim (eds) *Queer Theories: Law, Culture, Empire*, Routledge, 2010.

Ryle Robin, *Questioning Gender. A Sociological Exploration*, 2nd ed., SAGE, 2015.

**Week 5: Prohibition of discrimination and principle of equality**

**(12 February 2025)**

Required readings:

Fredman Sandra “Redistribution and Recognition: Reconciling Inequalities”, 23 *South African Journal on Human Rights* (2007) 214.

Tamale Sylvia, *Decolonization and Afro-Feminism*, (Daraja Press 2020), Chapter 6: ‘Repositioning the Dominant Discourses on Rights and Social Justice’

Read through:

Human Rights Committee, General Comment No. 28: Equality of rights between men and women, 2000, article 3. Read with General Comment No 18: Non-discrimination, 1989.

Committee on Economic, Social and Cultural Rights, General Comment No 20: Non-discrimination in economic, social and cultural rights, art. 2, para. 2, 2009 and General Comment No 16: The equal right of men and women to the enjoyment of all economic, social and cultural rights, art.3, 2005.

CEDAW Committee, General recommendation No. 25 -- thirtieth session, 2004 article 4 paragraph 1 - Temporary special measures

Committee on the Elimination of Racial Discrimination, General Recommendation No 25: Gender Related Dimensions of Racial Discrimination, 2000.

Further readings:

Bayefsky Anne F. “The Principle of Equality or Non-Discrimination in International Law”, 11 *Human Rights Law Journal* (1990) 1.

Boerefijn Ineke (ed) *Temporary Special Measures* (Intersentia: 2003)

Cook Rebecca and Cusack Simone, *Gender Stereotyping: Transnational Legal Perspectives,* Philadelphia: University of Pennsylvania Press (2010)

Cusack Simone and Cook Rebecca, “Combating Discrimination Based on Sex and Gender” in Krause, C and Scheinin, M. (eds.) *International Protection of Human Rights: A Textbook*, Turku: Institute for Human Rights, Abo Akademi University, (2009) 205.

Facio Alda, Morgan, Martha I. “Equity or Equality for Women? Understanding CEDAW’s Equality Principles”, 60 *Alabama Law Review* (2008), 1133.

**Week 6: READING WEEK**

**(19 February 2025)**

**Week 7: Femonationalism and the question of Muslim women in Europe**

 **(19 February 2025)**

Guest lecture by Dr.Tiba Bonyad

Required readings:

• Farris, Sara R. In the name of women's rights: The rise of femonationalism. Duke University Press, 2017. Introduction and Chapter 1

• Rahbari, Ladan. "When gender turns right: racializing Islam and femonationalism in online political discourses in Belgium." Contemporary Politics 27, no. 1 (2021): 41-57.

Additional readings:

• Farris, Sara R. "Femonationalism and the" regular" army of labor called migrant women." History of the Present 2, no. 2 (2012): 184-199.

• Sager, Maja, and Diana Mulinari. "Safety for whom? Exploring femonationalism and care-racism in Sweden." In Women's Studies International Forum, vol. 68, pp. 149-156. Pergamon, 2018.

**Week 8: The right to be free from gender-based violence**

**(26 February 2025)**

Required readings

[Kelly Liz, ‘Inside Outsiders: “Mainstreaming Violence against Women into Human Rights Discourse and Practice”, Volume 7(4) *International Feminist Journal of Politics: Comparative Gender Mainstreaming*, 2005, 471](https://drive.google.com/drive/u/0/folders/1eF4fOEIHGGMYXPhtakGDkKEr4ThB8dTI).

[Vijeyarasa Ramona, “CEDAW’s General Recommendation No. 35: A quarter of a century of evolutionary approaches to violence against women”, Volume 19(2) *Journal of Human Rights*, 2020, 153.](https://www.tandfonline.com/doi/pdf/10.1080/14754835.2019.1686347?needAccess=true)

Read through:

CEDAW Committee, General recommendation No. 19 -- eleventh session, 1992 violence against women and General recommendation No 35 CEDAW/C/GC35, 26 July 2017

UN Declaration on the Elimination of Violence Against Women, UN Doc. A/RES/48/104, 20 December 1993

Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, 11 May 2011, CETS No 210.

Human Rights Council, Resolution, Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity, A/HRC/RES/32/2, 15 July 2016

Further readings:

Yahyaoui Krivenko, Ekaterina, *Gender and Human Rights*: Chapter 6

Dubravka Šimonović, “Global and Regional Standards on Violence Against Women: The Evolution and Synergy of the CEDAW and Istanbul Conventions,” *Human Rights Quarterly* 36, no. 3 (2014), 590.

Serra Natalie E. “Queering International Human Rights: LGBT Access to Domestic Violence Remedies” 21 *American University Journal of Gender Social Policy and Law* (2013) 583.

Englehart Niel A., “CEDAW and Gender based violence: an empirical assessment”, *Michigan State Law Review* (2014) 265.

Marshall Jill, “Positive Obligations and Gender-based Violence: Judicial Developments”, Review 10, International Community Law (2008) 143.

**Week 9: Doing legal research and presentations**

**(12 March 2025)**