**Gender and Human Rights**

Semester 2

Irish Centre for Human Rights

School of Law

**Academic Year 2023-2024**

**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 and queer theory. | | |
| **Lecturer(s)** | **Name** | **Office** | **E-mail** | |
| Dr. Jurgita Bukauskaite | ICHR | jurgita.bukauskaite@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. | | |
| **Methodology** | Each subject is introduced through a short 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 8 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 (100%, 5000 words) | | |

**All classes are planned to take place on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as indicated below from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the Seminar Room of the Irish Centre for Human Rights. However, deviations are sometimes impossible to avoid. Any deviations from this time and place will be announced on Blackboard and a notification sent to your NUIG email. So please check your email regularly.**

**Week 1**

* Gender and its meanings:
  + Emergence of ‘gender’
  + Feminist approaches and their impact on understanding of gender
  + Lesbian and gay studies, queer theories: their contribution to visions of gender

Yahyaoui Krivenko, Ekaterina, *Gender and Human Rights*: Chapters 1, 2 and 4.

Charlesworth, Hilary, Chinkin, Christine, Wright, Shelley, “Feminist Approaches to International Law”, 85 *American Journal of International Law* (1991) pp. 613-645

**Week 2**

* Feminist critiques of international law and human rights

Yahyaoui Krivenko, Ekaterina ‘The ICJ and Jus Cogens Through the Lens of Feminist Legal Methods’ 28 *European Journal of International Law* (2017) 959-974

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), 318-356 (posted on blackboard)

**Week 3**

* Human right’s law early engagement with gender
* Gender and human rights law today:
  + Protection of women’s rights

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, pp. 2-34.

Yahyaoui Krivenko, Ekaterina, *Gender and Human Rights*: Chapters 3 and 5 (focus on elements related to women; elements related to sexual and gender minorities will be discussed next week)

Explore and make yourself familiar with the web-site of the Committee on the Elimination of All Forms of Discrimination Against Women.

Understand the overall structure and most important provisions of the

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

**Week 4**

* Queer theories and human rights law
* Gender and human rights law today:
  + Rights of sexual and gender minorities

Yahyaoui Krivenko, Ekaterina, *Gender and Human Rights*: Chapters 3 and 5 (sections of chapters discussing sexual and gender minorities)

Thoreson, Richard, ‘Queering Human Rights: The Yogyakarta Principles and the Norm That Dare Not Speak Its Name’ 8 Journal of Human Rights (2009) 323-339.

Waites, Matthew, ‘Critique of “Sexual Orientation” and “Gender Identity” in Human Rights Discourse: Global Queer Politics Beyond the Yogyakarta Principles’ 15 Contemporary Politics (2009) 137-156

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>

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.

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

**Week 5**

* Gender and human rights law today:
  + Prohibition of discrimination and the principle of equality

Freeman, Marsha A., Chinkin, Christine and Rudolf, Beate, “Article 1” 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, pp. 51-70

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.

Fredman, Sandra “Redistribution and Recognition: Reconciling Inequalities”, 23 *South African Journal on Human Rights* (2007) pp. 214-234

**Week 6**

* Examples of rights:
* Prohibition of violence

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

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

BUKAUSKAITE, JURGITA, Theoretical conceptualisation of domestic violence, in *Understanding Domestic Violence as a Gender-based Human Rights Violation* (Routledge, 2023), 48-69.

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

Serra, Natalie E. ‘Queering International Human Rights: LGBT Access to Domestic Violence Remedies’ 21 *American University Journal of Gender Social Policy and Law* (2013) 583-607

**Week 7**

* Examples of rights:
* Cultural rights

Yahyaoui Krivenko, Ekaterina, *Gender and Human Rights*: Chapter 7

Sullivan, Donna J. “Gender Equality and Religious Freedom: Toward a Framework for Conflict Resolution”, 24 *New York University Journal of International Law and Politics* (1991-1992) pp. 795-856

CEDAW Committee and Committee on the Rights of the Child Joint General Recommendation/General comment No 31 on harmful practices, 2014.

*Maria Eugenia Morales de Sierra v. Guatemala,* Report No 4/01, Case 11.625 (Inter-American Commission on Human Rights) (2001)

**Week 8**

* Examples of rights:
* Right to family life

Yahyaoui Krivenko, Ekaterina, *Gender and Human Rights*: Chapter 8 and conclusions

CEDAW Committee, General recommendation No. 21 -- thirteenth session, 1994, equality in marriage and family relations.

CEDAW Committee, General recommendation No 29 – fifty-fourth session, 2013, Economic consequences of marriage, family relations and their dissolution

Inter-American Commission on Human Rights, *María Eugenia Morales de Sierra v. Guatemala*, Case 11.625, Report No. 4/00, OEA/Ser.L/V/II.111 Doc. 20 rev. at 929 (2000)

CEDAW Committee, Communication No 19/2008, CEDAW/C/51/D/19/2008, adopted on 27 April 2012