

Master of Legal Sciences	
Course: LAW AND GENDER POLICIES	Trimester: 2
	Credits: 4
	Language: English
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Course Description
<p>Women have made great strides in society and at the workplace, but inequality persists. This puzzling phenomenon presents multiple challenges for different disciplines, from sociology and economics to legal and political studies: how does it arise, which are their main components, why does it persist in varied degrees across different societies, what are its effects and costs and, most centrally, which is the role of law and other institutions in its persistence or decline? This course seeks to address gender inequality as an issue and discuss the tools that can contribute to confront it, with a particular focus on the role of law and policy. The first part focuses on a theoretical analysis of contested concepts such as ‘gender’ and ‘discrimination’, as well as on political theory contributions to gender studies and feminist jurisprudence. The second part of the course has a distinctive legal and institutional component. It will particularly address the crucial issue of gender discrimination in the work place with a view on debating legal adjustments and policy proposals to address this phenomenon at the global, European and national levels.</p>

Prerequisites
<p>Students should be interested in the topic and be willing to engage with interdisciplinary approaches and perspectives. Familiarity with basic theories of human (or fundamental) rights and labor law and policy is helpful, though not strictly required. The course will be taught in English, and thus knowledge of this language is essential.</p>

Methodology
<p>Except for a few introductory lectures, sessions will take the form of a seminar, with a brief introduction by the instructor to the topic and main questions or issues to be discussed. It will then be followed by a conversation in which active participation of students based on the readings is essential. Students are also expected to familiarize themselves with the reading materials prior to each session – this will take between 3-4 hours per session.</p> <p>The course will stimulate interdisciplinary inquiry, critical thinking, analytical writing and presentation skills. At the end of the course, the students should have acquired a sound understanding of the central questions and normative concepts explored as well as a capacity to connect local and global controversies over gender equality and nondiscrimination in the workplace.</p>

Schedule

<p>FIRST SECTION</p>	<p><u>PART I. Gender, Law and Equality: Theoretical Framework</u></p> <p>TOPIC 1: Gender, Anti-discrimination Law and Structural Injustice</p> <p>a) Gender Inequality as a Social Problem b) The Social Construction of Gender c) Anti-discrimination Law and Structural Inequality</p> <p>TOPIC 2: Gender, Equal Opportunities and Positive Action</p> <p>a) Formal and Substantive Equality of Opportunity b) Positive Action Measures: Detractors and Defenders c) Positive Action and Structural Injustice</p> <p>TOPIC 3: Justice, Gender and the Family</p> <p>a) Is the Family beyond Justice? b) Gender Inequality and the Public/Private Dichotomy c) The Personal as Political</p> <p>TOPIC 4. Social Inclusion and the Politics of Difference</p> <p>a) The Sameness/Difference Debate. Gender, Power and Non-Domination. Assimilation v. Inclusion b) Democracy and Special Representation: Interests, Opinions and Perspectives</p> <p>TOPIC 5. Do we still Need a Gender Perspective?</p> <p>a) From Positive Action to Gender Mainstreaming. Gender Mainstreaming and Structural Inequality: Dilemmas and Disappointments b) Can Women Have it all?</p>
<p>SECOND SECTION</p>	<p><u>Part II: Gender Discrimination in the Workplace</u></p> <p>TOPIC 1: Equality, Human Social Rights and Gender in the Era of Globalization [1st & 2nd session]</p> <p>a) Equality and Non-Discrimination Regulations in the Workplace: a Multilevel Perspective b) Decent work, Dignity and Gender c) The Main Principles in the Treatment of Gender Discrimination at Work: Gender Mainstreaming and Empowerment d) Formal Equality and Substantial Equality. The implications in the Workplace</p> <p>TOPIC 2: The Forms Discrimination in the Workplace [3rd & 4rd session]</p> <p>a) Gender Discrimination and Multiple Discrimination b) Direct and Indirect Discrimination at Work c) Sexual Harassment and Gender in the Workplace</p>

	<p>d) The Instruments Against Gender Discrimination at Work: the Equality Plans</p> <p>TOPIC 3: Caregivers and Domestic Work from a Gender Perspective [5th session]</p> <p>a) Corresponsibility versus Reconciliation b) Family Care in Europe: Mediterranean and Nordic Models c) Maternity Leaves and Social Benefits d) Domestic Workers and Gender.</p> <p>TOPIC 4: Women Workers and Gender Issues on Occupational Health [6th session]</p> <p>a) Gender, Work and Health from a Holistic Perspective b) Women's Health and Reproductive Issues in the Workplace c) Gender and Occupational Health in the European Union</p> <p>TOPIC 5: Working Hours, Rational Use of Time and Gender [7th session]</p> <p>a) Rational Use of Time: the Position of the International Labour Organization b) Telework and Labour Conditions in Women c) Flexitime Measures versus Part-time Work: a Gender Perspective</p>
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Activities
<p>The course will combine theoretical sessions where students will put in common ideas from the readings with more practical sessions where they will critically analyze different normative tools and judicial decisions at the global, regional and local level.</p> <p>This will serve to acquire the following knowledge:</p> <ol style="list-style-type: none"> 1. Fundamental morals and policies of the principle of equality. Judicial equality, equality of opportunities and affirmative action. 2. The problem of structural inequality: institutional planning and protection of vulnerable groups. The causes of discrimination contemplated in the judicial system: gender, racial origin or ethnicity, religion or conviction, disabilities, age and sexual orientation. 3. Equality in the work place. Mechanisms of protection against discriminatory behavior. The legal nature and content of company plans for equality. The fight against assault because of gender and sexual assault as new forms of eliminating discrimination in the workplace. 4. Make proposals on labor conditions and gender and on the balance of work and family life, especially in regard to a new organization of working hours. <p>Students will also gain the following capabilities and skills detailed below:</p> <ol style="list-style-type: none"> 1. The ability to identify situations of discrimination and measure the impact of institutional action in different contexts. 2. Skills to approach the phenomenon of inequality through a global

- perspective, systematic and interdisciplinary.
3. Critical analysis of existing standards and the ability to develop legal policies on equality. Looking at the requirements of equality in the labor market: in particular the application and evaluation of plans of equality in the workplace.
 4. To understand in depth the application of jurisprudence of equality and nondiscrimination.
 5. To be able to do audits of equality and nondiscrimination. Identifying situations of discrimination in collective bargaining, in job training and in wage structures and to articulate equality policies.

Evaluation		
Item	%	Notes
Continuous	40%	First section: Gender, Law and Equality. Theoretical Framework (attendance, participation, and a final short essay between 3,000 and 6,000 words)
Continuous	60%	Second section: Gender and Labor Relations (attendance, participation, and a final short essay between 3,000 and 6,000 words)
Mechanism by which the student will be able to be re-evaluated again in the case of having failed the first evaluation: an exam with 5 questions about topics related to the required readings. It's prohibited to have any material or reading to answer the exam. It's only possible to attend this exam if the student has followed the course according to the previous general rules of participation in the ordinary course. The exam will be in the date fixed by the Department.		

Materials
<p><u>PART I. Gender, Law and Equality: Theoretical Framework</u></p> <p>TOPIC 1: Gender, Anti-discrimination Law and Structural Injustice</p> <p>Nicola Lacey, "Legislation Against Sex Discrimination: Questions from a Feminist Perspective", <i>Journal of Law and Society</i>, v. 14, n. 4, 1987, pp. 411-421</p> <p>Iris Marion Young, "Equality of Whom? Social Groups and Judgments of Injustice", <i>The Journal of Political Philosophy</i>, v. 9, n.1, 2001, pp. 1-18, esp. 9-18</p> <p>Cadman Decision, ECJ, Case C-17/05 (2006); Gruber Decision, ECJ, Case C-249/97 (1999)</p> <p>Mari Mikkola, "Feminist Perspectives on Sex and Gender", <i>The Stanford Encyclopedia of Philosophy</i>, Stanford University, 2011</p> <p>TOPIC 2: Gender, Equal Opportunities and Positive Action</p> <p>Iris M. Young, "Affirmative Action and the Myth of Merit", in <i>Justice and the Politics of Difference</i>, Princeton University Press, 1990, esp. pp. 192-206 and 210-214</p> <p>Julie O'Brien, "Affirmative Action, Special Measures and the Sex Discrimination Act", <i>University of New South Wales Law Journal</i>, v. 27 (3), 2004, pp. 840-848</p>

Kalanke Decision, ECJ, Case C-450/93 (1995); Marschall Decision, ECJ, Case C-409/95 (1997); Abrahamsson Decision, ECJ, Case C-407/98 (2000); Art. 141 Amsterdam Treaty; Directive 2002/73/EC.

Owen Fiss, "Affirmative Action as a Strategy of Justice", *Philosophy & Public Policy*, 1997, n. 17, 37-38

TOPIC 3: Justice, Gender and the Family

Susan M. Okin, *Justice, Gender and the Family*, Basic Books, 1991, pp. 89-109 and 124-133.

Carole Pateman, "Feminist Critiques of the Public/Private Dichotomy" in *The Disorder of Women: Democracy, Feminism, and Political Theory*, Stanford University Press, Stanford, 1989, pp. 118-136
Okin.

Susan M. Okin, "Vulnerability by Marriage", in *Justice, Gender and the Family*, Basic Books, 1991, pp. 134-169.

TOPIC 4: Social Inclusion and the Politics of Difference

Catherine Mackinnon, "Difference and Dominance: On Sex Discrimination", in *Feminism Unmodified*, Harvard University Press, pp. 32-45

Iris Marion Young, *Inclusion and Democracy*, Oxford University Press, 2000, pp. 133-153

Alison Jaggar, "Sexual Difference and Sexual Equality", in A. Jaggar (ed.) *Living with Contradictions*, Westview Press, Boulder, 1994, pp. 18-27

TOPIC 5: Do we still Need a Gender Perspective?

Maria Stratigaki, "Gender Mainstreaming vs. Positive Action. An Ongoing Conflict in EU Gender Equality Policy", *European Journal of Women's Studies*, v. 12, 2005, pp. 165-186

Anne Marie Slaughter, "Why Women Still Can't Have It All", *The Atlantic*, July/August 2012, pp. 85-102.

Emanuela Lombardo and Petra Meier, "Gender Mainstreaming in EU. Incorporating a Feminist Reading", *European Journal of Women's Studies*, v. 13, 2006, pp. 151-166.

Part II: Gender Discrimination in the Workplace

TOPIC 1: Equality, Human Social Rights and Gender in the Era of Globalization

Basic Readings

-Directive 2006/54/EC, of the European Parliament and of the Council, of 5 July 2006, on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)

-European Commission, Strategy for equality between women and men 2010-2015, COM (2010) 491 final

Further reading: Lewis, J., Campbell, M. & Huerta, C. (2008). Patterns of paid and unpaid work in Western Europe: gender, commodification, preferences and the implications for policy. *Journal of European Social Policy*, Vol 18(1): 21–37.

TOPIC 2: The Forms Discrimination in the Workplace

Basic Readings:

-Judgment of the Court (Eighth Chamber), 22 November 2012, Case C-385/11

-Commission Decision of 26th April 2006, on the European Commission policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment, Brussels, 26th April 2006, C(2006) 1624/3

Further reading: Chacartegui Jávega, C. (2010). "Gender and sexual orientation in women: the double discrimination", *US-China Law Review*, David Publishing Company, vol. 7, num. 11.

TOPIC 3: Caregivers and Domestic Work from a Gender Perspective

Basic Readings

-Council Directive 2010/18/EU, of 8 March 2010, implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC

-López López, J., Chacartegui Jávega, C., Gonzalez Cantón, C., (2013). "Social Rights in Changing Labor Markets: Caring for Caregivers in the European Union", en AA.VV. (dir. STONE, K., and ARTHURS, H.), *Rethinking Workplace Regulation: Beyond the Standard Contract of Employment*, New York, Russel Sage Foundation.

Further reading: Lester, Gillian (2005). *A Defense of Paid Family Leave*, 28 *Harvard J.L. & Gender* 1.

TOPIC 4: Women Workers and Gender Issues on Occupational Health

Basic Readings:

-Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

-European Agency for Safety and Health at Work, *Mainstreaming Gender into Occupational Safety and Health*. Proceedings of a seminar organised in Brussels on the 15 June 2004 by the European Agency for Safety and Health at Work.

Further reading: Forastieri, V. (2010). *Women Workers and Gender Issues on Occupational Safety and Health*, International Labor Office.

TOPIC 5: Working Hours, Rational Use of Time and Gender

Basic Readings:

International Labor Organisation (2007). Decent Working Time: Balancing Workers' Needs with Business Requirements. Conditions of Work and Employment Programme (TRAVAIL)

Further reading: Smith, B. (2002). Time Norms in the Workplace: Their Exclusionary Effect and Potential for Change, 11 Columbia Journal of Gender & Law 271