

Course title: Gender-based violence and International Protection of Human Rights

Language of instruction: English

Professor: Patsilí Toledo.

Professor's contact and office hours: patsili.toledo@upf.edu Wednesday 16:30 – 17:30h.

Course contact hours: 45

Recommended credit: 6 ECTS credits

Course prerequisites: There are no prerequisites for this course

Language requirements: Recommended level in the European Framework B2 (or equivalent : Cambridge Certificate if the teaching language is English, DELE or 3 semesters in the case of Spanish)

Course focus and approach:

The course focuses on the international responses to diverse forms of gender-based violence in various geographic and cultural contexts, from a human rights and intersectional perspective.

Course description:

It was as recently as 1992 that a UN Committee (the Committee on the Elimination of Discrimination against Women) asserted that gender-based violence against women was a form of discrimination and a human rights violation and not just a private matter in which the State should not interfere. Since then, a number of instruments and mechanisms have been developed within the UN Human Rights System as well as in regional human rights' protection systems to address such violence and, in recent years, to also include protection of other persons affected by gender-based violence, in particular, the LGBTIQ+ community.

The course, therefore, will review the historic evolution that led to frame gender-based violence as a human rights violation and analyze the existing instruments and tools available at the international level (both UN and regional) to ensure that states adequately address gender-based violence against women and LGBTIQ+ individuals.

The course will focus on international binding instruments, including international conventions (both, general and specifically addressing gender-based violence) and jurisprudence from international courts, as well as non-binding instruments such as recommendations from specialized bodies and organs at the UN and regional levels. It will examine the existing mechanisms and procedures available at the regional and international levels for individual complaints or communications as well as for reports of wider situations of gender-based violence. The course will also examine the developments to address gender-based violence in International Criminal Law, including the evolution in jurisprudence towards framing gender-based crimes as international crimes of genocide, crimes against humanity and war crimes.

Learning objectives:

By the end of the course, the students will be able to:

- Understand and analyze diverse forms, manifestations and contexts of gender-based violence from an intersectional and human rights perspective.
- Understand the historical evolution in International Human Rights Law and International Criminal Law to recognize gender-based violence as a human rights violation and an international crime, and the State’s obligations towards the eradication of such violence.
- Analyze and compare diverse universal and regional instruments and mechanisms -at the UN level and at the Inter-American, European and African levels- addressing gender-based violence against women and LGBTIQ+ people, and how they have been used by survivors, activists and civil movements from diverse geographic and cultural contexts.

Course workload: The course workload includes lectures combined with class discussions, readings, and presentations of teamwork assignments.

Teaching methodology: The course will be mostly interactive and includes lecturing, classroom discussions and debates, case studies, readings, and group research and student’s presentations on concrete cases and practical use of international mechanisms.

Assessment criteria:

- Midterm exam: 20%
- Teamwork presentations: 30%
- Class participation: 20%
- Final exam: 30%

BaPIS absence policy

Attending class is mandatory and will be monitored daily by professors. Missing classes will impact on the student’s final grade as follows:

Absences	Penalization
Up to two (2) absences	No penalization
Three (3) absences	1 point subtracted from final grade (on a 10-point scale)
Four (4) absences	2 points subtracted from final grade (on a 10-point scale)
Five (5) absences or more	The student receives an INCOMPLETE (“NO PRESENTADO”) for the course

The BaPIS attendance policy **does not distinguish between justified or unjustified absences**. The student is deemed responsible to manage his/her absences.

Only absences for medical reasons will be considered justified absences. The student is deemed responsible to provide the necessary documentation. Other emergency situations will be analyzed on a case-by-case basis by the Academic Director of the BaPIS.

The Instructor, the Academic Director and the Study Abroad Office should be informed by email without any delay.

Classroom norms:

- No food or drink is permitted in class.
- Students will have a ten-minute break after one one- hour session.

Weekly schedule:

WEEK 1

Session 1

1. What is gender-based violence?

- Social understanding of GBV today
- Historic and conceptual evolution: gender, discrimination, bias and violence
- Gender-based violence against women, girls and LGBTIQ people: forms and contexts
- Importance of an intersectional approach to gender-based violence

Reading:

Council of Europe (2019). *Gender Matters. A manual on addressing gender-based violence affecting young people*. Second edition, pp. 15-42.

WEEK 2

Session 2

2. The path to understand GBV as a human rights violation

- What a 'human rights violation' means?
- International human rights obligations of the states
- 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Reading:

Kelly, L., & Westmorland, N. (2016). Naming and Defining 'Domestic Violence': Lessons from Research with Violent Men. *Feminist Review*, 112(1), 113–127.

Session 3

3. Instruments and mechanisms to address GVB at the UN System

- CEDAW Committee and GBVAW
- CEDAW Committee General Recommendations
- State's periodic reports and recommendations and the role of civil society organizations (Shadow Reports)

Reading:

- UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Convention)

WEEK 3

Session 4

- *Work in groups*: prepare a presentation based on a *shadow report* to any country, in the last 5 years, presented to the CEDAW Committee.

Reading:

- CEDAW General Recommendation Nº 35 (2017) on Gender-based violence against women
- A chosen *shadow report* to a State party official report to CEDAW in any country (in the last 5 years), retrieved from the OHCHR website.

Session 5

- *Work in groups*: prepare a presentation based on a *shadow report* to Spain, presented to the CEDAW Committee in 2023.

Reading:

- A chosen *shadow report* to Spain's official report to CEDAW reviewed during 2023, retrieved from the OHCHR website.

WEEK 4

Session 6

- Groups presentations on *shadow reports*.

Session 7

- CEDAW's Inquiry procedures in cases of serious, grave or systematic violations: The Inquiry concerning Canada with regard to missing and murdered aboriginal women

Reading:

Committee on the Elimination of Discrimination against Women (2015) *Report of the inquiry concerning Canada* CEDAW/C/OP.8/CAN/1

Session 8

- CEDAW's Jurisprudence on GBVAW
- Procedure and case studies

Reading:

Cusack, S. and Timmer, A. (2011) Gender Stereotyping in Rape Cases: The CEDAW Committee's Decision in *Vertido v The Philippines*, *Human Rights Law Review* Volume 11, Issue 2, June 2011, Pages 329–342

WEEK 5

Session 9

- UN Special Rapporteur on violence against women, its causes and consequences

Reading:

UN Special Rapporteur on violence against women, its causes and consequences (2018) *Online violence against women and girls from a human rights perspective A/HRC/38/47*

Session 10

- UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity
- The Yogyakarta Principles and LGBTIQ+ people rights

Readings:

O'Flaherty, M.; Fisher, J. (2008) Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles *Human Rights Law Review* Volume: 8 Issue 2 (2008)

UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (2018) *Protection against violence and discrimination based on sexual orientation and gender identity A/73/152*

WEEK 6

Session 11

- The role of other UN Treaty bodies and Special Procedures: Torture and gender

Reading:

UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2016) *Gender perspectives on torture and other cruel, inhuman and degrading treatment or punishment A/HRC/31/57*

WEEK 7

Session 12

- Conference: Abusive treatment inflicted on women and girls in the Irish Magdalene Laundries and the Spanish Patronage for the Protection of Women centers, during the XX century.

Session 13

Midterm exam

Session 14

4. Instruments and mechanisms to address GVB at regional human rights systems

- The Inter-American System of Human Rights: The Commission and the Court
- The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará)
- Inter-American jurisprudence on GBV

Reading:

Patterson, E. (2016). Reconciling indigenous peoples with the judicial process: An examination of the recent genocide and sexual slavery trials in Guatemala and their integration of Mayan culture and customs. *Revue Quebécoise de Droit International*, 29(2), 225-252.

WEEK 8

Session 15

- The European System of Human Rights
- The European Convention on Human Rights
- The European Court of Human Rights (ECHR)
- ECHR Jurisprudence on GBV

Reading:

Spijkerboer, T. (2018) Gender, Sexuality, Asylum and European Human Rights. *Law Critique* (2018) 29:221–239

Session 16

- The Council of Europe Convention on preventing and combating violence against women and domestic violence
- GREVIO – Group of Experts on Action against Violence against Women and Domestic Violence

Reading:

Peroni, L. Violence Against Migrant Women: The Istanbul Convention Through a Postcolonial Feminist Lens. *Feminist Legal Studies* 24, 49–67 (2016).

WEEK 9

Session 17

- The African System of Human Rights
- Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol)
- African Union human rights bodies

Reading:

Durojaye, E. (2018) Involuntary Sterilisation as a Form of Violence against Women in Africa. *Journal of Asian and African Studies*, Vol. 53(5) 721–732

Session 18

5. GBV as international crimes

- Historic evolution
- International Ad Hoc Tribunals for Ruanda and Former Yugoslavia
- Jurisprudence

Reading:

Min, P. G. (2003). Korean "Comfort Women": The Intersection of Colonial Power, Gender, and Class. *Gender and Society*, Dec., 2003, Vol. 17, No. 6 (Dec., 2003), pp. 938-957

Aroussi, S. (2017). Women, Peace, and Security and the DRC: Time to Rethink Wartime Sexual Violence as Gender-Based Violence? *Politics & Gender*, 13(3), 488-515

WEEK 10

Session 19

- The adoption of the Rome Statute of the International Criminal Court
- Substantive and procedural aspects relevant to GBV
- Challenges in GBV cases decided by the ICC

Reading:

Altunjan, T. (2021). The International Criminal Court and Sexual Violence: Between Aspirations and Reality. *German Law Journal*, 22(5), 878-893.

Session 20

Final Exam (1st part of presentations)

Session 21

Final Exam (2nd part of presentations)

Last revision: May 2023

Required readings:

Altunjan, T. (2021). The International Criminal Court and Sexual Violence: Between Aspirations and Reality. *German Law Journal*, 22(5), 878-893.

Aroussi, S. (2017). Women, Peace, and Security and the DRC: Time to Rethink Wartime Sexual Violence as Gender-Based Violence? *Politics & Gender*, 13(3), 488-515

Committee on the Elimination of Discrimination against Women (2015) *Report of the inquiry concerning Canada (with regard to missing and murdered aboriginal women)*, CEDAW/C/OP.8/CAN/1

Council of Europe (2019). *Gender Matters. A manual on addressing gender-based violence affecting young people*. Second edition, pp. 15-42.

Creek, S. J. and Dunn, J. (2014) Intersectionality and the study of sex, gender and crime. In: Gartner, R. and McCarthy, B. *The Oxford Handbook of Gender, Sex, and Crime*, New York : Oxford University Press, pp. 40-58.

Cusack, S. and Timmer, A. (2011) Gender Stereotyping in Rape Cases: The CEDAW Committee's Decision in *Vertido v The Philippines*, *Human Rights Law Review* Volume 11, Issue 2, June 2011, Pages 329–342

De Brouwer, A.-M. (2009). What the International Criminal Court has Achieved and can Achieve for Victims/Survivors of Sexual Violence. *International Review of Victimology*, 16(2), 183–209

Durojaye, E. (2018) Involuntary Sterilisation as a Form of Violence against Women in Africa. *Journal of Asian and African Studies*, Vol. 53(5) 721–732

Kelly, L., & Westmorland, N. (2016). Naming and Defining 'Domestic Violence': Lessons from Research with Violent Men. *Feminist Review*, 112(1), 113–127

- Min, P. G. (2003 Korean "Comfort Women": The Intersection of Colonial Power, Gender, and Class. *Gender and Society*, Dec., 2003, Vol. 17, No. 6 (Dec., 2003), pp. 938-957
- O'Flaherty, M.; Fisher, J. (2008) Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles *Human Rights Law Review* Volume: 8 Issue 2
- Patterson, E. (2016). Reconciling indigenous peoples with the judicial process: An examination of the recent genocide and sexual slavery trials in Guatemala and their integration of Mayan culture and customs. *Revue Quebécoise de Droit International*, 29(2), 225-252.
- Peroni, L. (2016) Violence Against Migrant Women: The Istanbul Convention Through a Postcolonial Feminist Lens. *Fem Leg Stud* 24, 49–67
- Scott, J. (2010) Gender: Still a Useful Category of Analysis? *Diogenes* 225: 7–14
- Spijkerboer, T. (2018) Gender, Sexuality, Asylum and European Human Rights. *Law Critique* 29:221–239
- UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (2018) *Protection against violence and discrimination based on sexual orientation and gender identity* A/73/152
- UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2016) *Gender perspectives on torture and other cruel, inhuman and degrading treatment or punishment* A/HRC/31/57
- UN Special Rapporteur on violence against women, its causes and consequences (2018) *Online violence against women and girls from a human rights perspective* A/HRC/38/47

Recommended bibliography:

- Byrnes, A.; Emerton, R.; Adams, K.; Connors, J. (2005) *International Women's Rights Cases – Women's Human Rights: Leading International and National Cases*, 1st, Cavendish Publishing, London
- Chinkin, C.; Charlesworth, H. (2006) "Building Women into Peace: The International Legal Framework." *Third World Quarterly*. 27(5):937-957 Routledge Publishing.
- Creek, S. J. and Dunn, J. (2014) Intersectionality and the study of sex, gender and crime. In: Gartner, R. and McCarthy, B. *The Oxford Handbook of Gender, Sex, and Crime*, New York : Oxford University Press, pp. 40-58.
- Edwards, A. (2010). *Violence against Women under International Human Rights Law*. Cambridge: Cambridge University Press.
- Fredman, S. (2018) *Comparative Human Rights Law* Oxford: Oxford University Press.
- Freeman, M.; Chinkin, C. and Rudolf, B. (Eds.). (2012) *The UN Convention on the Elimination of All Forms of Discrimination Against Women*. A Commentary. Oxford: Oxford University Press.
- Hellum, A., & Aasen, H. (Eds.). (2013). *Women's Human Rights: CEDAW in International, Regional and National Law* (Studies on Human Rights Conventions). Cambridge: Cambridge University Press.

McIntosh Sundstrom, L.; Sperling, V. and Sayoglu, M. (2019) *Courting Gender Justice. Russia, Turkey, and the European Court of Human Rights*. Oxford: Oxford University Press.

Merry, S. (2003) "Constructing a Global Law-Violence against Women and the Human Rights System." *Law & Social Inquiry*. 28(4):941-977 University of Chicago Press.

Montoya, C. (2009). "International Initiative and Domestic Reforms: European Union Efforts to Combat Violence against Women." *Politics & Gender*, 5(3), 325-348.

Mowbray, A. (2012) *Cases, Materials, and Commentary on the European Convention on Human Rights*. Third Edition. Oxford: Oxford University Press.

Ní Aoláin, F.; Cahn, N.; Haynes, D. and Valji, N. (2018) *The Oxford handbook of gender and conflict*. Oxford: Oxford University Press.

O'Flaherty, M.; Fisher, J. (2008) Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles *Human Rights Law Review* Volume: 8 Issue 2 (2008)

Šimonović, D. (2014). "Global and Regional Standards on Violence Against Women: The Evolution and Synergy of the CEDAW and Istanbul Conventions" *Human Rights Quarterly*. 36(3):590-606.

Sosa, L. (2017). *Intersectionality in the Human Rights Legal Framework on Violence against Women: At the Centre or the Margins?* Cambridge: Cambridge University Press.

Swaine, A. (2018). *Conflict-Related Violence against Women: Transforming Transition*. Cambridge: Cambridge University Press.

Wagner, M. (2003) "Belem Do Para: Moving toward Eradicating Domestic Violence in Mexico." (Comment) *Penn State International Law Review* 22 issue 2

Women's Initiatives for Gender Justice (2019) Civil Society Declaration on Sexual Violence, of *The Hague Principles on Sexual Violence*.