INTERNATIONAL CONFERENCE

GENDER AND “THE LAW”: Limits, Contestations, and Beyond

4 - 6 June 2014, Izmir, TURKEY

Artwork “Scenarist” by Elif Karadayı

www.socialstudies.org.uk
ICGL 2014

International Conference:

Gender and “The Law” : Limits, Contestations, and Beyond

Dates: 04-06 June 2014
Venues: Dokuz Eylul University, Gediz University, Izmir

Organisers:

London Centre for Social Studies (LCSS), UK
Department of Econometrics, Dokuz Eylul University, Turkey
Faculty of Law, Gediz University, Turkey
Department of Anthropology, Indiana University, USA

Keynote Speakers
Prof Sara Friedman, Anthropology Department, Indiana University
Prof Juliet Mitchell, Psychoanalysis & Gender Studies, University of Cambridge
Prof Lisa Webley, Empirical Legal Studies, University Of Westminster
Prof Julia Eckert, Institute of Social Anthropology, University of Bern
Prof Heaven Crawley, Centre for Migration Policy Research, Swansea University
Prof Robert Wintemute, Department of Law, King’s College
Prof. Valorie K. Vojdik. College of Law, University of Tennessee

Conference Committee
Prof Muhammet Ozekes (Dean of the Law Faculty, Gediz U.), Prof M.Vedat Pazaroğlu (Dept of Econometrics, Dokuz Eylul U.), Dr Sibel Safi (Law Faculty-Gediz University, LCSS, UEL), Dr Ozlem Biner (Dept of Anthropology, U. of Cambridge), Dr Nevzat Şimşek (Dept of Economics, Dokuz Eylul U.), Dr Latif Taş (Law Faculty, Humboldt U.), Dr Nalan Kahveci (Law Faculty, Dokuz Eylul U.), Ms Feray J. Baskin (Dept of Anthropology, Indiana U.)
Ms. Sertaç Sehlikoglu (Dept of Anthropology, U. of Cambridge), Mr. Şeref Kavak (Department of Politics, Keele U.), Mr. Ufuk Uçar (Law, LCSS), Ms. Ozlem Erden (Education, Indiana U.)
Table of Contents

KEYNOTE ABSTRACTS .................................................................................................................. 4

Strangers Before the Law: Queering National Reproduction .................................................. 4
The Legal Profession, Gender, and Talent Misrecognition ..................................................... 4
What’s Law Got to Do with it? The Possibilities of Emancipation ......................................... 5
Discrimination Based on Sex, Sexual Orientation, and Gender Identity: Close Cousins and Common
Symptoms of Religious Patriarchy ............................................................................................... 6
Sexual Violence against Men and Women: Using a Masculinities Approach to Deepen Feminist
Theories of Gender-Based Violence ............................................................................................ 6

Panel Abstracts ........................................................................................................................... 8

Exploring the Limits of Law: Gender Empowerment and Women Domestic Workers in Pakistan ..... 8
The Issue of Gender-Sensitive Penal Law in Appearance and Practise: A Case of Honour (NAMUS)
Killings in Turkey ...................................................................................................................... 9
Economic Growth and Gender Equality: Collision and Collaboration ......................................... 9
Honour Killing Asylum Applications and Asylum Gender Gap in Interpreting the 1951 Geneva
Convention .................................................................................................................................. 10
Identity and Language Maintenance/Shift among the Turkish Female Community in Strasbourg,
France ......................................................................................................................................... 12
India’s Rape Victims: How "Human" Are They? ........................................................................ 13
Motive Homophobia. LGBT Mobilization and Criminal Justice in Brazil and Argentina ........... 13
The Hush Money of Patriarchy: The Right to Have Severance Pay of Workwoman Due to Marriage
Establishing Turkey’s Prostitution Regime: Legislating the Practice and the Place of Prostitution in
Early Republican Turkey .......................................................................................................... 14
Socio-Political and Cultural Processes Underlying the Resistance Towards the Criminalization of
Forced Marriage in Times of Violent Conflict under the Rome Statute of the International Criminal
Court ............................................................................................................................................ 15
Closing the Gender Gap in the Labor Force? Debates and Policy Developments in Turkey Meltem Ince
Yenilmez & Lütfi Uçal. Yasar University, Turkey ...................................................................... 16
Analysis of Law and Affect within Framework of Rape Laws ..................................................... 17
Feminist Restorations. Power, Hegemony and the Potential For Feminist Restorative Justice In The
Case Of Australian Clergy Abuse ............................................................................................... 18
Gender Equality and the Freedom to Practice Religion: Sharia Law in Australia, Canada and the
United Kingdom ......................................................................................................................... 19
Killed by Hatred of Killed by Love? An intersectional Challenge to Legal Constructions of Gendered
Violence in Finland and Turkey .................................................................................................... 19
The Value of the Permit: The Regularization of Migrant Domestic Workers in Turkey .................. 20
Gender Construction through the Legal Concept of “Family” in Colombian Social and Family Law.
Literature and Law: The Role of Literature in the Gender Equality ............................................ 21
Mediated Accounts of Legal Recognition in India ........................................................................ 22
Transfer as an Accommodation for Victims of Sexual Harassment ........................................... 24
Love under Suspicion: Legal Limits to Binational Marriages in Spain ........................................ 24
<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>On the Margins of International Refugee System: Gender, Sexuality and Asylum</td>
<td>25</td>
</tr>
<tr>
<td>The Sexualization of Political Rule: The Case of Elagabalus</td>
<td>26</td>
</tr>
<tr>
<td>Legislative Quota, Women’s Movement and Politics. Polish Case</td>
<td>27</td>
</tr>
<tr>
<td>Are There Gender Patterns of Litigation? Dispute Experience and Language of Polish Men and Women</td>
<td>28</td>
</tr>
<tr>
<td>Gender and Legal Technicality: Rethinking the Discourse of Divorce Mediation</td>
<td>28</td>
</tr>
<tr>
<td>Canon Law on Child Sexual Abuse: Timothy Jones. La Trobe University, Australia</td>
<td>29</td>
</tr>
<tr>
<td>Gender Justice: Formal Rules in an Informal Context</td>
<td>30</td>
</tr>
<tr>
<td>Women on the Frontline: Gender, Law and Neo-Nazism in Contemporary Greece</td>
<td>31</td>
</tr>
<tr>
<td>Different and Equal - Same Sex Marriage, Incremental Justice and Human Rights</td>
<td>32</td>
</tr>
<tr>
<td>The Vile Act: Sexual Violence and Gendered Interpretations of the Law in the Ottoman Empire during World War I</td>
<td>33</td>
</tr>
<tr>
<td>Gender Equality in Organizational Leadership: The Promise and Limits of Equality Legislation</td>
<td>34</td>
</tr>
<tr>
<td>Failure to Teach Gender Equality in Legal Education: A Survey in Ankara</td>
<td>35</td>
</tr>
<tr>
<td>Islamic Jurisprudence: Role of Women Scholars in Islamic Family Law Reforms in Morocco</td>
<td>36</td>
</tr>
<tr>
<td>New Perspectives on Gender in Shari’a-based Family Law Studies: Moving Beyond the Women’s Rights</td>
<td>37</td>
</tr>
<tr>
<td>Sexting, Gender, and the Regulation of Childhood Sexuality</td>
<td>38</td>
</tr>
<tr>
<td>From Masochists to Battered Women: Psychiatric Constructions of Victims of Domestic Violence and Their Legal Significance</td>
<td>38</td>
</tr>
<tr>
<td>The Dynamics of Legal and Illegal Livelihoods and Gender Relations, the Case of Displacement Camps in Khartoum, Sudan</td>
<td>39</td>
</tr>
<tr>
<td>Intersexuality of Gang Rapes in Turkey: Court Decisions and Media Coverage</td>
<td>40</td>
</tr>
<tr>
<td>Why is there no provision on poverty in the UN Convention on the Elimination of Discrimination against Women?</td>
<td>41</td>
</tr>
<tr>
<td>Developing Legal Reforms to Reduce Domestic Violence in Qatar</td>
<td>42</td>
</tr>
<tr>
<td>Soviet Norms, Traditionalism, and Gender Equality in Dagestan</td>
<td>43</td>
</tr>
<tr>
<td>Marriage and Undocumented Migration: Legislation Theory and Practice and its Gendered Repercussions in Italy and Portugal</td>
<td>43</td>
</tr>
<tr>
<td>Feminist Agendas, Gender Violence and Judicial Practices in Brazil: Reflexions in the Light of Social System Theory</td>
<td>44</td>
</tr>
<tr>
<td>The Legal Problems Faced by Transgender Communities in Turkey: The Derogation and Questioning of the Identity</td>
<td>45</td>
</tr>
<tr>
<td>Gender Equality in Turkish Constitutional and Criminal Law</td>
<td>46</td>
</tr>
<tr>
<td>Sexual Harassment Laws in Australia – the Language of ‘It’s Her Problem’</td>
<td>47</td>
</tr>
<tr>
<td>You Can’t Get a House on Campus, You Are Not Married: Gendered Codes, Institutional and Customary Laws in Pakistan</td>
<td>48</td>
</tr>
<tr>
<td>Same Sex Marriages and Concept of Family</td>
<td>49</td>
</tr>
<tr>
<td>Affect and the Law: ‘Intimate Homicide’ - A Case Study</td>
<td>49</td>
</tr>
<tr>
<td>Medical Control over Bodies of Labor Migrants from CIS to Russia</td>
<td>50</td>
</tr>
<tr>
<td>New Identities and Social Change: Social Interactions between Nuns and Sex Workers</td>
<td>51</td>
</tr>
<tr>
<td>Gender, Family Migration Rules and Caring for Ageing Relatives</td>
<td>52</td>
</tr>
<tr>
<td>Gender Standpoint and Veiling</td>
<td>54</td>
</tr>
</tbody>
</table>
WOMEN’S ACCESS TO JUSTICE: THE CONNECTION BETWEEN VIOLENCE AGAINST WOMEN AND PROHIBITION OF DISCRIMINATION IN THE JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS ......................... 55
CONSTRUCTION OF SEXUALITY AND SEXUAL CRIMES ........................................................................... 56
ONE STEP FORWARD, THREE STEPS BACK: WOMEN’S RIGHTS IN TURKISH CIVIL AND PENAL CODES OF 1926 ...... 56
GENDER AND THE NEW REPRODUCTIVE TECHNOLOGIES IN SLOVENIA ................................................ 59
GENDER MAINSTREAMING IN POST-CONFLICT COUNTRIES: AN ANALYSIS OF POST-CONFLICT RECONSTRUCTION PROCESS” ............................................................................................................... 60
THE WORKING CONDITIONS OF FEMALE EMPLOYEES IN NIGHT Shifts .................................................. 61
DOES GENDER MATTER FOR ECONOMIC CONVERGENCE? ................................................................. 61
THE ARDL TEST OF GENDER KUZNETS CURVE FOR G7 COUNTRIES ....................................................... 62
THE FLESH OF LIBERAL LAW – EXAMINING THE SILENCING OF MARGINALIZED COMMUNITIES IN THE “ANTI-FGM” DEBATES .................................................................................................................. 62
IN SUPPORT OF DANGEROUS RESEARCH – THE ROLE OF COLLEGIALITY AND FRIENDSHIP IN FORGIVING US FOR THE MISTAKES WE MAKE WORK WE DO .............................................................. 63
AFFECT AND LAW .................................................................................................................................. 63
THE FEMALE GENDER AND CUSTOMARY LAW IN NIGERIA; THE YORUBA PERSPECTIVE ......................... 64
CAN SECULARISM SPARE WOMEN FROM HONOR VIOLENCE? ............................................................ 65
INTERSEXUALITY AND VIOLENCE ........................................................................................................ 66
IT’S YOUR FAULT ................................................................................................................................... 67
VIOLATION OF WOMEN’S RIGHT TO LIFE: HONOUR CRIMES IN TURKEY ............................................. 68
AN EXAMINATION OF LGBT INMATES IN TURKEY UNDER THE LIGHT OF THE X/TURKEY CASE BY THE EUROPEAN COURT OF HUMAN RIGHTS .................................................................................. 69
CONSTRUCTING ATTACHMENTS WITH THE ‘DEEP SOVEREIGNS ’: GENDERED SUBJECTIVITIES AND ‘LAW-PRESERVING VIOLENCE’ IN SOUTH-EASTERN TURKEY ............................................................................................... 69

LIST OF AUTHORS AND PRESENTERS .................................................................................................... 70
Keynote Abstracts

Strangers Before the Law: Queering National Reproduction
Prof. Sara Friedman, Indiana University, USA

This talk examines subjects designated as strangers before the law, understanding the preposition “before” in both its temporal and spatial senses. Approaching law as a mechanism for making the strange familiar, it analyzes how legal norms and practices strive to produce equivalences that may instead create a queered version of the normative legal subject, one whose rights-bearing status cannot easily be assumed. The talk focuses on heterosexual marriage and family as gendered social and legal forms that require work to produce and maintain over time. It asks how states use family and immigration laws to mold these gendered relationships in a certain image. It addresses the following questions: 1) What are the laws and policies that aim to foster state-approved forms of marriage, intimacy, and family? 2) How might we analyze these regulatory proliferations as signs of intense anxiety and insecurity concerning the status of the heterosexual family in contemporary societies and its contributions to reproducing the national family? 3) What does it mean to bring the stranger (variously conceived) into the state-approved intimate domain of national reproduction? How do family and immigration laws and policies produce both normative and deviant intimacies through the process of managing stranger anxiety? The talk will address these questions by drawing on findings from the speaker’s own research on marital immigration from China to Taiwan and comparative cases.

The Legal Profession, Gender, and Talent Misrecognition
Prof. Lisa Webley, University of Westminster, UK

Much attention is currently focused on equality and diversity within the legal profession in England and Wales, not least because the profile of law graduates has markedly changed and diversified over the past 20 years, and yet the senior legal profession does not reflect the increasing number of women and Black, Asian, and Minority Ethnic (BAME) entrants over that period. This paper will argue that if the legal profession fails to recognise merit because it succumbs to gendered notions of power, authority, excellence and legitimacy, then the effects are felt far beyond the profession by wider society through the text of the law, lawyering and judging. This paper is informed by data collected for a study of diversity in the legal profession in England and Wales, commissioned by the Legal Services Board (Sommerlad, Webley et al., 2010), previous studies undertaken for the Law Society of England and Wales and a range of law firms (with Duff) and by data analysed for a ten-year project examining the messages transmitted by the legal profession about professional identity.
and ethics (Webley, 2008). It will explain the gendered conceptions of law and lawyering hidden behind an apparently neutral and objective façade and it will posit that although there have been real changes in gender equality within the UK and far greater legal protections from women and for men, men and women within the legal profession remain in thrall to ways of being that privilege some groups of men over all others.

**What’s Law got to do with it? The possibilities of emancipation**

Prof. Julia Eckert, University of Bern, Switzerland

Can law be a means of emancipation? And what can emancipation mean today? Considering the inextricable linkages between gender inequities and wider social relations of domination, exploitation and exclusion, I want to explore the contradictions of law as an expression and affirmation of the status quo and as a potential means of its transformation. To consider the hopes put in law as productive expressions of myriad visions of justice, which, while being shaped by law, themselves transform legal meaning in iterative processes, opens our understanding of normative change. Drawing on different normative realms, the trajectories of such visions of justice can only be understood in relation to the figurations which structure social struggles.


Heaven Crawley, Centre for Migration Policy Research (CMPR), Swansea University, UK

Feminist critiques of international refugee law have argued that it is impossible to understand the experiences of women refugees and asylum seekers without first understanding the gendered contexts within which their experiences of persecution occur (Indra 2009; Crawley 2001; Edwards 2003). Although the 1951 Refugee Convention is ostensibly gender neutral, in practice it often fails to provide protection to women (Greatbach 1989; Macklin 1995; Boyd 1999; Crawley 1999b, 2000b; Spijkerboer 2000; Campbell 2001; Haines 2003). This is because the dominant interpretation of refugee law has evolved through an examination of male asylum applicants and their activities, both reflecting and reinforcing existing gender biases within states. This body of work and the campaigning and advocacy efforts of women’s organisations and refugee groups to highlight the consequences for women as asylum seekers has, over the past decade, resulted in significant and important changes to policy and practice including the production of guidelines to assist decision takers in understanding the importance of gender in policies and procedures for refugee status determination.
Despite these developments, there is evidence from many countries that gender-related and gender-specific forms of persecution continue to be viewed as falling outside the scope of the refugee definition (Crawley and Lester 2004; Kneebone 2005; Freedman 2009; McKinnon 2010; Musalo 2010). Moreover it appears that the framing of ‘women’ (and also ‘children’, but not adult men) as ‘innocent’ and ‘vulnerable’ victims of male violence minimizes the political, racial and religious causes of persecution that affect women and the agency of women based on these causes thereby creating and sustaining a problematic hierarchy of oppressions (Carpenter 2005; Freedman 2009; Edwards 2010; Crawley 2011; Oswin 2011). It will be suggested that the naturalizing discourses associated with the category ‘Refugee Women’ not only depoliticize and decontextualise their experiences but also suggest that men are more ‘legitimate’ targets of violence (Kneebone 2005), in turn undermining access to international protection more generally.

**Discrimination Based on Sex, Sexual Orientation, and Gender Identity: Close Cousins and Common Symptoms of Religious Patriarchy**

Prof. Robert Wintemute, Kings College London, UK

The paper abstract is not available.

**Sexual Violence against Men and Women: Using a Masculinities Approach to Deepen Feminist Theories of Gender-Based Violence**

Prof. Valorie K. Vojdik, Tennessee University, USA

This paper explores the invisibility of sexual violence against men during war, a phenomenon that has occurred throughout history, yet historically has been hidden and normalized under international law. Feminists have illuminated the gendered nature of violence against women, yet have not recognized or adequately theorized sexual violence against men. Masculinities theory is a valuable lens that reveals the gendered nature of violence against men, revealing the mutually reinforcing and multidimensional nature of violence against both men and women in society. Sexual violence against men and women are not distinct phenomenon, but are inter-related and mutually constitutive. Both function as gendered tools to empower particular male groups within specific social spaces. Further, male-on-male sexual violence during war is part of a larger continuum of violence against men and boys within society, in the military and other social institutions such as schools, prisons, and the workplace. Broadening theories of gender violence to recognize and theorize violence against men and boys challenges the legal and social silence that normalizes violence against male bodies. For feminists, it provides a richer account of gender violence against both men and women.
Panel Abstracts

[Paper No 7]

**Exploring the Limits of Law: Gender Empowerment and Women Domestic Workers in Pakistan**

Ayesha Shahid. Brunel University, United Kingdom

Domestic work is a major source of employment in the informal labour market that provides livelihood to the disadvantaged social groups across the globe. It is perceived as work with low economic value and an extension of unpaid household duties that hardly get any recognition for the work performed. Historically domestic work for others' households has remained a principal way of earning a living for women. Affluent families in the developed and developing countries employ both local and migrant women domestic workers. Pakistan is one such developing country where women in large numbers are employed as domestic workers by the upper and middle class echelons of society. Yet of the eleven labour policies framed by various governments since the creation of Pakistan in 1947, none has addressed the issue of domestic workers, nor are domestic workers covered under the labour legislation. Through the lens of post modernist legal feminism and legal pluralism this paper attempts to deconstruct the role of law as a ‘site for discursive struggle’ by exploring the relationship between law, gender and empowerment in a legally pluralistic society as Pakistan. It advances the argument that women's lives are shaped by sharp gender and socio-economic disparities leading to unequal power relations vis-a-vis their employers, state and society. Access to justice through formal legal system is very often contingent upon the socio-economic position of the domestic workers. Women in domestic service have to negotiate the barriers of poverty and inequality before being able to employ the law as their ally.

It is in this background that the paper questions the potential and efficacy of formal black letter law as a tool for empowering women domestic workers in their struggle against exploitative treatment in the workplace? As a critique of the impact of legality it attempts to find out what factors are at play, which limit the domestic workers’ scope for legal action? What are the obstacles that hinder the implementation of the principles of equality and nondiscrimination? And finally considering the limits of law and by looking beyond formal law what could be the future strategy to address gender discrimination and inequality faced by the Pakistani women domestic workers?
The Issue of Gender-Sensitive Penal Law in Appearance and Practise: A Case of Honour (Namus) Killings in Turkey
Derya Tekin. Queen's University Belfast, United Kingdom

Penal laws are aspired to be explicit and precise to not only enlighten citizens about the acts acknowledged as ‘crime’ by the state, but also to prevent arbitrary implementations through restricting the discretion of judges. Punishment of honour killing in Turkey provides a considerable example regarding this duty of penal law. The conceptualisation and actualisation of honour in Turkey significantly differs from its western understanding. It corresponds to the notion "namus" that is somehow pertinent to women sexualities, bodies, lives and individualities. Although women are labelled with or without namus, men bear the responsibility to keep it clean when it stained. According to cultural mores, men cannot have namus per se, because their namus is always contingent upon the namus of their mothers, wives, daughters, and sisters. At this juncture, honour killings correspond to namus killings which are a gender-based crime that are predominantly committed by men against women and girls who break the established societal norms. The Penal Code in Turkey does not provide an explicit prohibition regarding honour (namus) killings while killings in the name of custom (tore) are listed among the aggravating circumstances of a crime, and constitute aggravated homicide that requires life imprisonment (Article 82/k). This legal loophole leaves a room for interpretation of implementers. Moreover, the justification of the article 82 provides the grounds for sentence reduction based on "unjust provocation". Due to the fact that honour is not specifically included as one of the aggravating circumstances, unjust provocation can be easily referred to lessen the sentences of the perpetrators of honour killings. As honour is accepted as a vital element of Turkish culture, these sentence reductions are rarely challenged. This paper, thus, questions the role of law in terms of its discourse and historical interaction with social patriarchal values. It also emphasises the necessity of gender-sensitive approach of implementers on the face of legal loopholes.

Economic Growth and Gender Equality: Collision and Collaboration
Vijaya Nagarajan. Macquarie University, Australia

The discourses of competitive markets and economic growth have shaped development activities and donor participation for several decades in the economic south. In more recent times there has been a widespread conversation on why economic growth has not translated to gender equality,
acknowledging that such assessment requires a place for cultures, customs and histories that complicate the straightforward logic of market economics. These conversations have often relied on Indices as the common language to initiate actions and explain inequities. Using this language has been one way of impacting on these dominant discourses as demonstrated by the Women’s Economic Opportunity Index. While a common language may facilitate conversations, it also has the potential to impede other discourses including the rights discourse, and must be used carefully as an elaborator rather than an inhibitor.

This paper focuses on Solomon Islands as an example of a Pacific state that has been the recipient of significant development aid to promote the dual goals of economic growth and gender equality. The Indices have been hard at work ranking Solomon Islands as 97 out of 189 economies in the ‘Ease of Doing Business Index’ while simultaneously ranking it as 124 out of 128 in the ‘Women’s Economic Opportunity Index’. This paper examines the manner in which the discourses of economic growth and gender equality have both collaborated and collided in this space. It assesses the role of indices in regulating the conduct of institutions, including development organisations, the Solomon Islands government and non-government organisations. In doing so it projects the potential benefits of a common language espoused by these Indices, but also the need to guard against the pitfalls.

This paper is informed by the research undertaken as a Gender Advisor in the Pacific Sector Development Program within the Asian Development Bank during 2013.

[Paper No 17]

Honour Killing Asylum Applications and Asylum Gender Gap in Interpreting the 1951 Geneva Convention

Sibel Safi. Queen Mary, University of London, United Kingdom

The Geneva Convention on the status of refugees offers the basic definition and the problem emerges when the serious human rights violation like honour killing that do not clearly has its base on one of these Convention grounds which can constitute a legitimate premise for refugee recognition. Honour killings have often been seen as a private or domestic issue and a further barrier to the recognition of gender-related persecution within current definitions and interpretations of the Geneva Convention is the way in which persecutory practices which may be common in ‘Third world’ countries are assigned to cultural differences. The states refer the’ particular social group criteria’ in order to accept the fear of honour killing as a ground for asylum. However the methods of interpreting PSG utilized in judicial systems, creates lack of uniformity that negatively affects the
adjudication of honour killing asylum claims, resulting in inconsistent judgments and unjust disparities.

This article provides an overview of honour killings, the mechanisms of current asylum law by comparing with the UK, Australia, US and New Zealand honour killing asylum decisions, with a brief explanation on the requirements of a viable particular social group criteria and the lack of uniformity in the adjudication of PSG. The research establishes lack of state protection in some countries with gender discriminated legislation and customary law for the honour killing cases, and the viability of the proposed PSG under governing legal interpretations, the mechanism of the case law and its inclusive assurance of asylum protection for many women who might otherwise be denied refuge, debating the cultural relativism and universalism approaches at the same time. This research concludes with a humanitarian appeal, offering reform for interpreting the Geneva Convention, emphasizing the need for a uniform extension of asylum to women fleeing the threat of honour killings.

[Paper No 18]

Work-Life Balance – A rationalized myth of the European Employment Strategy
Christina Wolff. University of Potsdam, Germany

This paper addresses the European guidelines concerning Work-Life Balance as a pattern of modern models of employment. Based on a qualitative document content analysis embedded in the theoretical assumptions of neo-institutionalism (cf. Wobbe 2001), the idea of a political concept of Work-Life Balance is understood as a cultural pattern which is accelerated by European Commission and European Council. Since 1998, the employment guidelines are legally determined and continuously reformulated in the Treaty of Amsterdam (ex.-Art. 125-130 EGV, today Art. 145-150 AEUV). The main objective is to establish equal job opportunities for women and men in Europe (cf. European Commission).

Work-Life Balance has become a buzzword - not only as an employment strategy, but also as a career expectation of employees. Employees seek to have free time for family, leisure, sport and time-outs. On the other hand they claim a stable working environment, sufficient payment and flexible working time. Organizations are encouraged to do their best for improving working conditions and increase the employee satisfaction.

In European Policy, Work-Life Balance has become an institutionalized pattern (‘script’) of the modern sphere of employment since the 2000s. This institutionalization leads to the assumption that
there has to be harmony between different spheres of life for men and women. In the 1980s and 1990s, the problem of reconciling family and work is only understood as a women issue. In this paper, the shift to Work-Life Balance in the guidelines of the European Union is analyzed as rationalized myth of gender-neutral measures.

The paper demonstrates that language and formulation of the provision of the law and the configuration of measures diverge. Formal structures are used as legitimation and appear as norms; national organizations copy this rationalized myths. However, Work-Life Balance is basically just a new label of family-friendly measure for women designed along gendered perceptions of work-family reconciliation.

[Paper No 19]

**Identity and language Maintenance/shift Among the Turkish Female Community in Strasbourg, France**

Feray J. Baskin. Indiana University, United States

In this research project, I will examine how Turkish immigrant women express their linguistic identities through their daily interactions and how they maintain or shift away from their vernacular language.

The research will be carried out in Strasbourg, France among four different categories of Turkish women.

My research questions are: 1) what linguistic codes are these women deciding to use and with whom? 2) How are they using language as a tool for the social reproduction of their identity? 3) How does language become a form of social and cultural capital for the Turkish immigrant women in Strasbourg France?

My main research methodology will be ethnography: participant observation, interviews, and qualitative data collection and analyses. It will also include discourse and conversation analyses of materials acquired and transcribed through interviews and participant observation.

The findings of my research will contribute to a better understanding of the Turkish immigrant women in the French society and their language uses within it. It will also be relevant to potential language policies in the education system and immigration policy in France, as well as in other European countries.
India's Rape Victims: How "Human" Are They?
Kimberly Rhoten. Centre for Health Law, Ethics & Technology, Jindal Global Law School, India

The language of Indian rape convictions leads to one unassailable conclusion: woman-victims are depersonalized body-sites of violence. For example, in the over 200-page "Delhi rape"/"December 16th rape" conviction, the victim is mentioned briefly without personhood and only when absolutely necessary. The sole adjectives utilized to describe the victim are "defenseless" and "helpless. Her body is thus left to the perils of Foucauldian docility—domination by the society (or in this case, court). Interestingly, this trend of dehumanizing woman-victims continues within the hands of judges who convict the perpetrators--therefore, a superficial triumph for the victim is simultaneously a loss of her body's humanness, citizenship and often, woman-hood.

As India prohibits the naming of rape victims, no court rape decision in India retains the victim’s actual name. In effect, this has created an entire body of law in which the prosecutrix (most often the victim is a woman) is largely ignored, at best, or dehumanized to a powerless body, at worst. This treatment has seeped into India’s media outlets-- thus, resulting in the further dehumanization but within the hands of the larger non-legal society. The protests and rallies of support spawning from the December 16th Delhi rape are in part, if not wholly, due to the fact that the victim’s father's expressed a culturally unfamiliar (at that time) willingness to release her name—in effect, making her a human being. There has been little work done on the use of and meaning of such language within India's judiciary. I will critically examine Indian rape court decisions within the epistemological spaces of language, power, docility, rape and body-hood to discern the meaning of such language and its potential for downstream effects.

Motive Homofobia. LGBT Mobilization and Criminal Justice in Brazil and Argentina
Horacio Sivori. State University of Rio de Janeiro, Brazil

Criminal punishment is an uncomfortable edge in the juridical formulation of collective claims based on sexual identity categories. In this paper I address some concrete tensions involved in that approach in two Latin American countries notorious for the size and accomplishments of both their legal reform movements and LGBT rights: Brazil and Argentina. I explore the range of meanings produced in and around two criminal court proceedings where homophobia and derived categories
emerged as motive in cases of lethal violence. The first crime took place in the city of São Paulo, Brazil, in 2000. Edson Neris was beaten to death by a gang of skinheads who saw him walk holding hands with another man in a downtown park. The second killing took place in Corboba, Argentina, in 2010. Natalia (a.k.a. Pepa) Gaitan was shot point blank by her girlfriend’s step-father, a neighbor of the victim in a suburb of that provincial capital. Both crimes were quickly investigated and tried, with some media visibility and LGBT mobilization around them. In my ethnographic research on the cases, based court records, press clippings, and interviews with legal operators and activists involved in the criminal investigations and trials, I explore the contexts and actors associated to the criminal justice reconstruction of the violent events, their victims and perpetrators. Whereas both processes are emblematic of a particular search for justice which connects them to a shared narrative of violence based on sexual prejudice; their differences inscribe them in the social, political and moral topographies of two South American cities. Those reveal a variety of relational contexts, emotional contents, and intersections with other markers of social difference, whose history and embodied, performative dimensions, both public and intimate, seem worth interrogating.

[Paper No 24]

**The Hush Money of Patriarchy: The Right to Have Severance Pay of Workwoman Due to Marriage**

Eda Aslı Şeran. Galatasaray University, Turkey

In this article, “the right to have severance pay of workwoman due to marriage” will be discussed according to feminist theory in Turkish Labour Law framework. The code which regulates the mentioned right in Turkish Labour Law will be taken under review by the principles of gender equality and prohibition of discrimination which are the results of modern legal systems. To evaluate in this context, the qualification of the women labour must be revealed. Therefore, in the first part, the feminist approach of the women labour will be explained by Marxist and materialist feminist theory arguments. After appointing the women labour in the hierarchical fictionalized gender system, as a new part, the legal statute of the workwomen will be designated by The Turkish Republic and The European Union norms. The key concepts of this part are the prevention of discrimination and the affirmative action which is the leading pro-support concept of equality. In case of the last part, “the right to have severance pay of workwoman due to marriage” will be interpreted in such theoretical framework. Reaching the created effect of such code which is assumed as supportive for workwomen in the Turkish Labor Law is aimed in the article.
Establishing Turkey’s Prostitution Regime: Legislating the Practice and the Place of Prostitution in Early Republican Turkey

Emine Evered. Michigan State University, United States

This paper examines a significant means by which early Turkey governed its citizenry— and thus their sexualities; how it framed prostitution in terms of public health and demographic geopolitics and how it thereafter proceeded to establish a thorough regulationist regime. In the formative years of the Turkish republic, the regulation of prostitution was prioritized as an initiative geared towards biopolitical ends; safeguarding the nation’s public health and eliminating syphilis. Viewing syphilis and other sexually-transmitted diseases as a threat to the nation’s population and its economy, medical officials and physicians working for the Ministry of Health and Social Assistance played a crucial role in this identification and definition of prostitution as a public health risk. From this basis of analyzing the medicalized framing of prostitution, this paper proceeds to address the legislative implementation of a comprehensive prostitution regime within the early republic. In doing so, the paper examines how prostitution was defined as a practice both institutionally and spatially by the state. Deriving from unique research on official and unofficial primary documents, this paper reveals how prostitution was defined by state medical officials and legislatively regulated in order to achieve comprehensive surveillance and policing throughout the country— sometimes amid debates between those state interests promoting regulation and those concerned with matters of morality. In doing so, we witness how a modernist nation-state, otherwise characterized as progressive with regard to the status of women, instituted a regulatory regime both for defining appropriate sexual practices (and places) and for mandating the licensing and medical examination of some of its most marginalized female citizens. In conclusion, the varied responses from both state officials and women to such state-imposed regulationist policies are also addressed.

Socio-Political and Cultural Processes Underlying the Resistance towards the Criminalization of Forced Marriage in Times of Violent Conflict under the Rome Statute of the International Criminal Court

Hannah Baumeister. Aberystwyth University, United Kingdom

Hegemonic accounts of sexualised and gender-based war violence centre around war rape, sexual slavery, enforced prostitution, forced pregnancy, and enforced sterilization. A crime that so far has only been addressed by the Special Court for Sierra Leone is that of forced marriage in times of
violent conflict. Women who experience it are victims and witnesses of war violence who are abducted by male fighters in the context of violent conflict. They are forcefully taken to the fighters’ camp, labelled a fighter’s ‘wife’, and subsequently subjected to various acts of sexualised violence and forced labour. However, forced wives also perpetrate acts of war violence, exercise merciless authority over subordinate abductees, and participate in looting campaigns and in direct combat.

When the Rome Statute of the International Criminal Court was drafted, the Women’s Caucus for Gender Justice, an umbrella organisation of women’s organisations based in the Netherlands, argued for the international criminalisation of forced marriage in times of violent conflict, understanding a stronger and consistent jurisprudence on this sexualised and gender-based crime as a priority for advancing gender justice through the ICC. However, its efforts were unsuccessful.

This paper will explore the socio-political and cultural factors that influenced the non-criminalisation of forced marriage in times of violent conflict under the Rome Statute of the International Criminal Court. It will examine

• who the driving actors behind the exclusion of forced marriage from the ICC Rome Statute were.
• in which domestic and international cultural and socio-political contexts they operated.
• how they interpreted the crime.

It is expected to find that

• international non-governmental organisations in general and women’s organisations in particular played a vital role in the development of IL regarding forced marriage.
• countries with strong patriarchal structures where common laws and religion play a leading role opposed the developments.
• domestic norms explain the resistance towards change in IL regarding forced marriage.

[Paper No 30]

Closing the Gender Gap in the Labor Force? Debates and Policy Developments in Turkey Meltem Ince Yenilmez & Lütfi Uçal. Yasar University, Turkey

In a capitalist society, employment is one of the most important phases of economic and social problems. For an efficient economic growth and macroeconomic stability, the participation of women in the market is vital. Although women's economic activities are very hard to compare across countries, it is usually indicated that women’s roles are trapped between home and labor market activities. The general perception concerning the role of women in the society is definitely worth studying since this assumption imprisons women to houses as wives or mothers and thus
detaches them from the labor force. However, there is still noticeable labor market discrimination in occupations, wages and self-employment. Therefore, economists and sociologists are concerned with these signals of gender inequality generated by wage gaps, occupational segregation and social justice. Consequently, the well-compensated policies have to be ranked to increase the ratio of female employment and priorities should be given to female workers for decent wages. Despite the limitations of the survey data in Turkey, the labor force reports are classified by sex, wage/self-employed/unpaid family workers and by sector of economic activity. This paper examines the question of why the female employment is low in Turkey in the light of the economic, political, and social reasons. The literature about the female employment is so diversified especially in the feminist theory from all aspects. The absence of female paid workers in the labor market as well as the lack of demand challenges is the core problems to be solved. Nevertheless, increasing the locus of female employment from family to the labor market emerges as the primary target of policy makers.

[Paper No 34]

**Analysis of Law and Affect within Framework of Rape Laws**

Jasmine George & George Jose. TARSHI & Christ University, India

India witnessed two major protest movements around issue of rape in the last four decades: the Mathura Rape of 1978 and the recent December Delhi 2012 cases. In both cases the masses, through a simple 'act' of protest, engage with an 'institution' such as law and attempt to bring about change within a larger set up. In this given scenario, the paper is an attempt to develop a relation between Affect (the Act) and Law (the institution). It deduces three possibilities to understand them at three different levels of engagement: affect of law, affect on law and affect in law. The paper within these three possibilities seeks to understand and analyze public outrage (Act) and Court Decisions (Institution) within the similar possibilities limiting it to the given case scenario.

The legislators at various levels made an effort to bring about affect in law (here I would like to distinguish it from affect on law) by amending legislations around rape. There was a sense of euphoria among the masses for being able to bring about 'effect' the law, but there was no affect on the overall law. It is interesting to note that both judgments went against the public understanding and demands of public on rape. The definition of rape neither changed nor was it challenged as it still uses the colonial Victorian understanding of rape. In spite of its limited engagement at an outer level, it definitely was able to affect the institutions outside the legal set up. The interconnections of
law, media and other institutions were definitely affected by the mass protests which forced these institutions to examine their understanding of rape.

In both these cases there was a direct impact on the existing legislation due to public engagement. Through different ways of negotiations there was an overall effort to affect the law. Whether there was a direct impact on the understanding of law, or whether these laws were able to change the understanding around the concept of rape are the questions this paper aims to discuss in detail. Furthermore, this paper aims to answer to what extent it is possible to change a definition created by law by using the same legal instruments. Is it possible to bring upon a change in the societal constructs of concepts that were created by law in the first place? Was the effect of law similar to the effect on law and what exactly do us, as the users of these instruments, aim for?

[FPaper No 36]

Feminist Restorations. Power, Hegemony and the Potential For Feminist Restorative Justice In The Case Of Australian Clergy Abuse
Kate Gleeson. Macquarie University, Australia

Feminist engagement with restorative justice has produced divergent critiques, reflecting a general feminist ambivalence (if not hostility) to the criminal justice system. On the one hand, the inclusion of victims’ perspectives has been said to offer, potentially, a more satisfactory justice than state-based retribution with greater capacity for the realization for individual agency. On the other hand, the reification of the state as arbitrator and ‘restorer’ has provoked longstanding feminist critiques of the patriarchal state and the hegemonic power of law. The potential for restorative justice in the case of sexual offences brings with it special considerations that mirror this dichotomy. In general, feminist critiques of the inappropriate nature of restorative justice in cases of current intimate and partner sexual violence have precluded its use in this area of criminal law. However, in the case of historical sexual abuse by clergy and other members of the Catholic Church, Church-based compensatory schemes of restorative justice have operated in Australia since 1996. While subject to numerous criticisms about its operation in practice, the Catholic Scheme Towards Healing has generally been praised for its restorative ideals of ‘truth telling’ and financial reparations. This article provides a feminist critique of Towards Healing to determine the potential, if any, of restorative justice in the case of historical sexual abuse by clergy and other members of religious institutions as an accessory to the power of the criminal justice system.
Gender Equality and the Freedom to Practice Religion: Sharia Law in Australia, Canada and the United Kingdom

Amira Aftab. Macquarie University, Australia

The Sharia Law debate provides an exemplar of contemporary manifestations of the multiculturalism-feminism debate, and associated questions of the role of law and possibility of legal pluralism in providing for religious freedom and gender equality. The potential scope of Sharia Law in western liberal democracies is illustrated by the Canadian example, when, in 2003 Canadian Islamic groups requested the establishment of Islamic Tribunals under the provisions of Ontario’s 1991 Arbitration Act. The Act essentially allowed individuals to authorise a third party to resolve civil disputes within a legal framework of their own choosing, including religious laws such as Sharia. After intensive debate, however, this situation was overturned in 2006, with amendments to the Act bringing an end to faith-based arbitration. Arguments raised by women’s groups in the debate concerned the use of the law by religious groups to establish and operate tribunals that essentially reinforce patriarchal models of family and control.

Although no such tribunals have operated in Australia, the fundamental associated questions about the role of the state in providing for religious freedoms are relevant to the Australian multicultural society. Specifically, in understanding the affect that accommodating religious groups under the law would have in terms of allowing dominant members of such groups to exercise power and hegemony over vulnerable members, such as women. Compared to both Canada and the United Kingdom (UK), the Sharia Law debate in Australia is undeveloped. In this paper I outline the debate in the Australian context, specifically in relation to the area of family law; and contrast it to the experience in Canada and the UK, in order to explore and better understand the multiculturalism-feminism debate that underlies the conflict between religious freedoms and gender equality.

Killed by Hatred of Killed by Love? An intersectional Challenge to legal constructions of gendered violence in Finland and Turkey

Daniela Åkers. University of Helsinki, Finland

This paper is an intersectional, interdisciplinary study of the constructions of gendered violence in Finland and Turkey, in particular with reference to majority and minority positions in society. The paper is based on the findings of the author’s LL.M. thesis, and particularly well suited for the conference theme "Power and Hegemony". The study investigates the perception of “the violence of
the other”, i.e. the essentialised violence, and the normalisation process of (certain kinds of) violence. The categorisation of the so-called collective gendered violence and so-called individual gendered violence are investigated in the thesis as social constructions.

The paper accounts for a discourse analysis of twelve (six Finnish + six Turkish) judgements, inspired by Foucauldian views on discourses, where knowledge and power are intertwined. Four discourses are found in the study: male violence, female behaviour, normalised/individual violence and essentialised/collective violence. The discourse analysis mainly focuses on the creation of legal facts in the argumentation of the court. In the study, context is particularly stressed. Therefore, the paper observes a general analysis of gendered violence and majority/positions in Finnish in a societal, political, legal and historical context. The majority/minority positions in focus are Finnish majority population/(Muslim) immigrant minority population in Finland, and Turkish majority population/Kurdish minority population in Turkey.

The paper has a feminist and intersectional theoretical framework, where social constructionism and discourse analysis are used as methodology and method. As a main focus of the paper, means of alterity are investigated. The study is critical in its nature and poses a challenge to the legal paradigm of objectivity.

The conclusion of the paper is that the constructions of legal facts in courts are often discriminating upon vulnerable groups. In the study, these are mainly women and minority group members. The interaction and interconnections of the discourses often lead to multiple discrimination, where the female minority member is particularly vulnerable, her perspective being invisible in the construction of the legal facts.

[Paper No 40]

The Value of the Permit: The Regularization of Migrant Domestic Workers in Turkey
Ayse Akalin. Istanbul Technical University, Turkey

Effective on Feb 1st 2012, the Turkish government issued a decree that allowed irregular migrants working as domestic workers to apply for “residence permits for work purposes-RPWP” to legalize their statuses. The regularization programme was important for not only being a first of its kind but also for strictly targeting women migrants employed in carework. The Ministry of Labor announced that by June 2013, about 8,000 RPWPs were issued in Turkey where tens of thousands of migrant women are estimated to be working. The new regulation stipulated that the employers pay their
caregiver’s health insurance premiums for the course of the terms of the permits. Having to pay the health premiums of their workers has however introduced an unprecedented financial and affective burden on the employers. The new system does not only add to the cost of migrant labor which is desirable precisely for being low cost but it also complicates the practice of employing migrants, the demand for who has stemmed partially for their flexible employment patterns. The RPWPs thus carry the potential of negating the appeal of employing migrants overall. Yet, those families who obtained work permits for their caregivers for the first one year term appear willing to renew the permits as the permits eliminate the possibility of the deportation of their beloved children’s caregivers. The invaluable value of the child is thus “held hostage” by the Turkish Government as it searches for new external funding resources for the new General Health Insurance Scheme that is part of the Health Transformation Programme in effect since 2003. The end result is the temporary regularization of some thousands of women strictly under the sponsorship of their employers with no talks on the basic rights of other irregular migrants in sight. This paper looks at the impact of the RPWPs on the valorization of the labor of migrant women employed in carework.

[Paper No 45]

Gender Construction through The Legal Concept of "Family" in Colombian Social and Family Law
Isabel Cristina, Jaramillo Sierra & Helena Maria Alviar Garcia. University of Los Andes, Colombia

The concept of “family” plays an important role in the way national legal regimes distribute power and resources. However the idea of what a family is or should be is not univocal for all branches of law. In this paper we aim to unveil the different meanings and ideologies that underlie the concept of family in two specific fields of law in Colombia: social law and family law. By doing this we seek to show how these two branches of law create different ideologies and definitions that have meaningful distributive effects which affect the way we construct gender.

For this purpose we conceive law as a factor that intervenes in resources and power distribution. This approach is based on three premises: the first one is that individuals among society are differently situated with regard to access to power and resources, some have more, others have less. The second one is that legal rules contribute to the arrangement of this distribution. The third one, which is a direct consequence of the second one, is that a change in the rules can affect the way that power and resources are distributed among individuals. Legal rules structure the way individuals interact, they frame their relations. By this we mean that law decides which are the resources at
stake, what exchanges and demands can be expected and what tools are available for the parties in dispute for resources (Alviar & Jaramillo, 2012).

Studying the concept of family under this approach will shed light on the way law assigns bargaining power and roles to families and its members demanding from them to perform certain functions in order to receive resources which are administered by public servants or judges in charge of applying the law. By doing this the legal regime has a direct but unperceived effect on the way gender is constructed. The unveiling of the current distribution of power legitimated by legal rules might prove to be a successful political enterprise which aims to show legal rules and gender not as reified concepts but as contingent power arrangements which can be challenged.

[Paper No 47]

**Literature and Law: The Role of Literature in the Gender Equality**

Lerzan Gultekin. Atılım University, Turkey

The aim of this paper is to discuss the contribution of literature to develop a new consciousness in society to prevent social repression and violence on women, referring to a couple of famous, Western and Turkish novels such as Scarlet Letter, The Mill on The Floss, Tess, Anna Karenina and a recent novel by Z. Livaneli Bliss, including a short story based on the memoir of Faruk Erem in his The Memoir of a Criminal Lawyer.

The common theme of these works is psychological and physical violence (such as honour-killings) against women which continues throughout history because culture has always been patriarchal, so is the legal system in any given society and period. Since literature reflects the culture and society that produce it, each of this works mentioned above reflect the culturel codes, customs and traditions and ideologies of the periods and societies they were written in.

Literature is always ideological as Bakhtin and New Historicists, Foucault, Althusser always claim, because man is ideological as a subject. In this respect, what makes literature unique is not the fact that it reflects social reality as an ideology, but how it represents and refracts it. In other words, literature is not a mere reflection of social reality. Any item of social meaning when enters a novel or a short story or drama is transformed, refracted to become a part of artistic action, the work itself. Hence, it re-enters social reality as a different catagory as Bakhtin argues. Therefore, literature reflects conflicting ideologies because human consciousness is surrounded by various ideologies which can be in conflict.
In Turkey, despite the recent changes in the new Penal Code due to the process of EU membership which has brought legal measures to prevent honour – killings, do not seem sufficient to achieve a change in consciousness unless it is completed by economic development and good education system.

Therefore, the answer to a simple question such as why do these writers write these novels is: to attract the attention of the reading public as much as possible to develop a new consciousness about women issue and gender equality as much as other social problems.

[Paper No 48]

**Mediated Accounts of Legal Recognition in India**

Maria Tonini, Lund University, Sweden

On July 2nd, 2009, the Delhi High Court 'read down' section 377 of the Indian Penal Code, decriminalizing sodomy and, by extension, homosexuality. The judgment and its aftermath received an unprecedented amount of positive media coverage. The judgment was framed as a pivotal moment for India as a nation, as well as a formal legitimation of the LGBT community. The media continued to cover issues of LGBT rights over the following years, paying special attention to the inconsistent stand of the government on the matter and contrasting it with the rigour and authority of the Courts.

Through an analysis of media items (print and television) spanning from 2009 to 2012, I illuminate the discourses sustaining the representation of the judgment and its aftermath. I choose to look at mediated accounts because I argue that mainstream media, especially in post-liberalization India, holds considerable power in producing influential representations of how India imagines itself.

What emerges from my analysis is the uncontested authority of the judiciary, posited as the agent of progress and guarantor of recognition. By contrast, the political class is presented as unreliable and regressive. In the context of sexuality, relying only on legality and the judiciary may lead to forms of recognition of sexual identities and rights that follow neo-liberal ideas of progress and global modernity, while leaving deeper structural inequalities untouched.
Transfer as an Accommodation for Victims of Sexual Harassment

Stacy Hickox. Michigan State University, United States

Discrimination law in the United States has prohibited harassment based on sex and other protected classes for 50 years. Similarly, the EU Equal Treatment Directive prohibits sexual harassment in the workplace. Yet the number of harassment charges filed in the U.S. continues to grow, with over 30,000 filed in the last three fiscal years; 36% of those charges have alleged sexual harassment. The U.S. Equal Employment Opportunity commission encourages employers to “take all steps necessary to prevent sexual harassment from occurring,” including “developing appropriate sanctions.” Both settlements and judgments in harassment claims tend to focus on monetary relief even though the victim may be more interested in getting away from her harasser.

This research focuses on the availability of a transfer to a different job away from a harasser as relief in discrimination claims. Harassment victims are unlikely to be granted a transfer as part of a court’s relief in a discrimination claim in the U.S., and employers cannot be directly forced to discharge or transfer a harasser. Victims who can show that harassment caused a work-related injury may be eligible for workers’ compensation, but not a transfer. Even victims of harassment who develop a disability such as post-traumatic stress disorder as the result of the harassment have been unsuccessful in obtaining a transfer as an accommodation in the United States. In contrast, Sweden’s Ordinance against Victimization specifically provides for transfer of a victim of workplace bullying to protect against further victimization. This research takes the position that to successfully prevent from sexual harassment from continuing, victims of sexual harassment should be able to force their employers to transfer them or the harasser. Without such relief, a victim is much more likely to resign and potentially claim constructive discharge, resulting in higher damages as well as replacement recruitment costs for the employer.

Love under Suspicion: Legal Limits to Binational Marriages in Spain

Verónica Anzil, Jordi Roca Girona & Roxana Yzusqui. Universidad Rovira i Virgili, Spain

Mixed or binational marriages have existed for centuries, but they became a growing phenomenon only a few decades ago, in the context of globalization and transformations occurred in the field of sentimental love. Global search for a spouse traces routes linking the rich countries of Western Europe, North America and Asia/Pacific with the Caribbean, Latin America, Eastern Europe and South-East Asia.
Between 1996 and 2012, in Spain binational marriages went from 4% of all marriages at the beginning of the period, to 17% at its highest point. Considering all mixed couples for the stated period, almost 60% were marriages between Spanish men and foreign women.

Spain is the EU country with the greatest sustained increase in immigration from the '90 to the final years of the XXI century's first decade. This migratory growth was essential to promote a dramatic increase in intermarriages. An inevitable association ensued: with the immigration conceptualized as a social problem, mixed couples are perceived as suspicious of trying to, under the appearance of marriage, circumvent immigration laws in order to access the benefits of Spanish nationality.

From 1995 onwards, in Spain (and later in the EU) rules applying exclusively to binational couples wanting to marry or register their marriage celebrated in a third country have been approved. Their aim is to determine the 'purpose of the marriage', in order to avoid the so-called 'marriages of convenience'. One of the legal instruments created for this purpose is the individual interview practiced with each spouse by public servants. Judicial reasoning used for allowing or denying marriages are detailed in the Department of Registers and Notaries’ resolutions, final administrative authority evaluating the appealed cases. These resolutions -hardly exploited by social sciences, so far- are one of the main sources of this communication. Its analysis, along with the analysis of European and Spanish legislative framework, is the aim of this study. Our contribution, held from a gender perspective, highlights discrimination in the application of the law towards couples who do not meet 'normative' standards, or spouses with some specific characteristics. The whole process conveys an idea of what is/should be a 'love-story' to be considered as such when it has consequences on immigrants’ legal status.

[Paper No 54]

On the Margins of International Refugee System: Gender, Sexuality and Asylum

Eda Hatice Farsakoglu. Lund University, Sweden

Over the past decades, political organizing around women’s, LGBT and human rights in national and international contexts, prepared the ground for a relatively inclusionary interpretation of international refugee law in order to make immigration provisions for asylum cases based on gender identity and sexual orientation possible. Since the beginning of the 1990s, the original signatories of the 1951 Refugee Convention provide refuge to individuals who are subjected to harassment, violence and discrimination on the basis of their sexualities or gender identities if they manage to cross an international border. Under the mandates of international law, those refugee claimants are
required to prove both their “membership to a particular social group” and their “well-founded fear of persecution” for being so. However, as the vast literature on gender and sexuality persecution claims has already demonstrated, these mandates of the law often nurtured - and were nurtured by - essentialist, normative, and ethnocentric imaginations of identities, communities, and refugee producing countries. Taking such criticism seriously, in the last five years, the UNHCR revised its gender, sexual orientation and particular social group asylum claims guidelines. However, my recently conducted ethnographic study with and among the Iranian refugees, who are seeking asylum on the grounds of sexual orientation and gender identity persecution, waiting for resettlement to a third country or trying again as ‘rejected’ asylum seekers via the management of UNHCR in the transit migratory space of Turkey, illustrates well that, along with other social differences like nationality, class, and generation, gender and sexuality, as two distinct but interrelated axes of power, continue to play an important role in the shaping and continuation of belonging politics of the international refugee system.

In this paper, I utilize scholarly legal literature, international refugee law texts, and interviews with Iranian LGBT transit refugees as well as with lawyers and representatives of non-governmental organizations who work with and for ‘sexual minority’ refugees in order to examine the contemporary dimensions of gender identity and sexual orientation persecution cases in the international refugee system. To examine these dimensions and to provide clues of how to promote a more just refugee system, the paper draws on an intersectionality framework as well as on feminist and queer epistemologies of border-crossings.

[Paper No 55]

**The Sexualization of Political Rule: The Case of Elagabalus**

Aleardo Zanghellini. University of Reading, United Kingdom

This paper is part of a larger project analysing the specific ways in which political authority and political power have been sexualised in particular places and at different times during European history. The project argues that the ways in which we treat the sexuality of same-sex attracted rulers or holders of public office reveals something important about the modes of sexualization of political authority and political power. The project’s arguments are developed through an in-depth analysis of case studies; specifically, the project focuses on a number of different political figures whose sexuality was put on trial, either literally or metaphorically, by their contemporaries and, to some extent, later generations. The project analyses the primary sources where these trials have been recorded or staged (judicial documents, historical accounts, media reports, etc.). Using the
methodology of legal pluralism, the project treats courtroom trials on par with media ‘trials’, as well as other sites in which a political figure’s sexuality was subjected to significant scrutiny, commentary and censure (for example historical chronicles). The paper presented at this conference is extracted from the part of the project devoted to the ancient world. It focuses on the figure of the 3rd century CE Syrian Emperor of Rome Elagabalus, whose sexuality and unconventional gender identity and presentation were the object of much controversy. The paper analyses the writings of relevant Roman historians to show how critical the Emperor’s sexuality and gender presentation were to the historians' understanding and portrayal of Elagabalus’s reign. The paper argues that in these historians’ accounts, the poor quality of Elagabalus’s rule is directly presented as a function of his sexual and gender identity.

[Paper No 56]

Legislative Quota, Women’s Movement and Politics. Polish Case
Malgorzata Fuszara & Jacek Kurczewski. University of Warsaw, Poland

Poland in past has seen a few attempts to introduce quotas as a mechanism to equalise opportunities. In June 2009 first Women’s Congress that was held in Warsaw, with over 4,000 women taking part, inspired legislative actions - one of them was to propose a citizens’ bill on gender parity on electoral candidate lists. Such initiative needs minimum 100,000 signatures in support. Collection of signatures in public places, such as shopping centres, theatres, museums etc., provided an excellent opportunity for publicising the issue. As a part of successful pro-quota campaign, meetings with politicians were held (e.g. with the president, the prime minister, heads of parliamentary caucuses and political parties, speaker of the lower chamber, heads of the legislative committees of the lower and the upper chamber). Those meetings provided new data on the attitudes among authorities and party leaders towards gender parity or quotas in Poland. The draft law on quotas as a citizens’ initiative underwent the first reading in the lower chamber of the Polish parliament on 17 February 2010. Finally a law on 35% quota for both genders was passed (January 2011). This example is starting point for Authors to analyze interactions between women’s movement, politicians, legal regulations and legislative process.
Are There Gender Patterns of Litigation? Dispute Experience and Language of Polish Men and Women

Jacek Kurczewski and Malgorzata Fuszara. University of Warsaw, Poland

Authors are surveying the litigation patterns in Poland since late 1970s. The new research materials are to be gathered in early 2014 on nation-wide representative sample using questionnaire focusing on experience of disputes and models of disputing behavior. The use of language to fight the other had been one of the research subjects. This will be supplemented by results of statistical analysis of gender as a variable in bi-national small Polish town studied in 2012 as well as the previous studies conducted in 1970s and in 2000s. It will allow to answer whether men and women participate in disputes of the same or different type; do they differ as to the preferred modes of settlement; is there a gender difference in readiness to access the court or to attempt conciliation. Earlier research suggested that women more often than men felt victims to verbal assault and that the difference is decreasing. Authors are looking into the factors behind the decrease - 1) such disputes are less threatening to women due to the cultural change; 2) court is less often considered as the appropriate institution to deal with such cases.

Gender and Legal Technicality: Rethinking the Discourse of Divorce Mediation

Shu-Chin Grace Kuo. National Cheng Kung University, Taiwan

In my paper, I do not focus on comparing the advantages and disadvantages of mediation and the adversarial system or on which one is more suitable for divorce disputes. Instead, using the theory of legal technicality, I discuss three divorce-related disputes and how legal techniques affect the strategies of disputants, especially female disputants. I argue that Taiwanese women should no longer necessarily be seen as a gender disadvantaged group because of the legal system’s gender neutrality. However, societal and cultural gender norms influence divorce disputes in more subtle ways, particularly when intertwined with legal techniques in the dispute settlement process.

Indeed, bringing divorce disputes into the adversarial system has been profoundly criticized for two reasons. One, the patriarchal legal system lacks a sense of gender (Fineman 1995; 1998 ) and gives more critical time to disadvantaged groups, such as women and minorities (Grillo 1992). Second, the paradigm of divorce disputes has shifted from the courtroom to the conference room. Due to the psycho-social elements that weigh heavily in divorce disputes, the courtroom is no longer perceived
as the suitable field for settling divorce disputes. Social workers and other relevant professionals tend to be more involved in conference room settlements, and therefore, mediation is seen as more suitable for divorce disputes than the adversarial system (Shaffer 1988; Signer 2009).

Legal technicality is “a form of reasoning and argumentation,” which includes various types of formatted conventional documents, such as letters of intent; protocol; analogies of legal interpretations; and precedent citations (Riles 2011:64-65). Legal techniques are usually considered trivial, value- and gender-neutral, and theoretically unimportant. However, as at least one legal scholar has emphasized, “law without legal technique is not law at all” (Riles 2011:67).

My paper is organized into three major sections. The first part briefly reviews the discourse of divorce mediation, including the paradigms prevalent in the United States and Taiwan. The second part explains my rationale for applying legal technicality theory to divorce mediation, particularly through the lens of gender. The third part analyzes three divorce mediation cases in Taiwan. I hope to contribute to a greater understanding of how gender affects the law, particularly, the techniques of law.

[Paper No 66]

Canon Law on Child Sexual Abuse: Timothy Jones. La Trobe University, Australia
Prostitution’s Law and Nation Building. The Cavour Regulations of 1860

Maria Casalini. University of Florence, Italy

The aim of this paper is a reflection on the role assigned to the regulation of "prostitution" in the process of construction of gender identity of the Italian women during the formation of the unified state.

It’s difficult to overestimate, in this view, the meaning of the Cavour Regulations of 1860, intended to bring about a major change to the code of sexual morality in Italy. With the introduction of one of the strictest laws in Europe, the "free choice" to occasionally practice prostitution, considered traditionally a resource to draw upon in times of need by the women of the lower class during the Ancien Regime, is encoded in the new state as a criminal offense. The survival, in other words, of a "sexually deviant" female figure, which is to one side essential to ensure compliance with the rules of double moral standards, is revealed on the other hand as "dangerous" for the preservation of the nation’s "public virtue", identified in the paradigm of the Risorgimento with the defense of “honour” of women.
With the introduction by the newly formed "Police of morals" ("Polizia dei costumi") of the practice of "forced registration" for the (alleged) illegal prostitutes in the Albo delle tollerate ("Register of the Tolerated"), the Cavour Regulation stipulates in fact their expulsion from civil society. Furthermore, the decision of internment in brothels (subject themselves to strict sanitary control) was entrusted exclusively to the male discretion, as well as the possibility of a "release" from what looks to all intents and purposes a detention facility.

In practice, the most obvious consequence of the new regulation is an exponential increase in the number of "demimondaines". But what matters most is the symbolic value that the Cavour Regulations assume in the context of an overall operation of nation-building in which the dimension of the "biopolitics", as suggested by Banti, is an essential component.

The paper intends to show that, at the time of the establishment of the unified state, the legislation on prostitution strengthen the gender specific declination of what Michel Foucault defined as the "deployment of sexuality" in his reconstruction of the mechanisms of power / knowledge in the eighteenth century.

In addition to the official documentation, the paper is based on the analysis of the Schedario prostitute clandestine ("Filing of illegal prostitutes") compiled by the Police Department (1860-1887), now in the State Archives of Florence.

[Paper No 68]

**Gender Justice: Formal Rules in an Informal Context**

Lidia Rodak. University of Silesia Faculty of Law and Administration, Poland

In spite of all the legislation introduced to combat discrimination and provide equal opportunities, gender inequality persists in nearly all institutions. The problem is that formal rules alone are generally not sufficient to promote change. They must be considered together with the informal context.

My main hypothesis is that the effectiveness of formal rules promoting equality is dependent on the strength of informal rules derived from patriarchal hierarchical norms: the stronger the informal rules, the weaker the formal rules.

To this end, I will investigate to what extent new formal institutions arising from European legislation change the existing dynamics of formal and informal rules with regards to gender issues.
in Poland. My examples come from EU equity law, a set of directives on gender equality in the form of anti-discrimination law and international equity regulation.

I will demonstrate that Polish courts are substantially gendered and that formal equity rules are the weakest type of formal rules to bring about change, so revealing that new directives have little power to reach their desired aims. The context of “nested newness” (F. Mackay 2009), provides further insight to how new formal rules are introduced within old institutional systems and how they interact with informal rules. The existence of patriarchal-oriented social norms means that judges are not free of gender stereotypes. “Informally-embedded formal rules” (Stinchcombe 2001) also influence the way law is applied in Polish courtrooms, with a strong tendency to give preference to formal rules and text over other interpretations.

From my research, it is possible to identify the following ways in which informal context can influence the effectiveness of formal rules:

1. Formal rules are not implemented (“dead rules”).
2. Formal rules are only formally respected, but don’t eliminate forms of inequality (e.g. indirect discrimination)
3. Formal rules are not effective because they are in conflict with other formal rules (e.g. strict anti-abortion law).
4. Formal rules are not developed because they are in conflict with informal rules (in vitro regulations, or not ratified Convention on preventing and combating violence against women).

[Paper No 74]

**Women on the Frontline: Gender, Law and Neo-Nazism in Contemporary Greece**

Marianthi Anastasiadou & Jasmine Samara. Aristotle University & Harvard University, Greece & United States

The recent rise of neo-Nazi groups in Greece has brought into focus new dynamics and discourses regarding gender and law. While commentators of various political affiliations question whether “rule of law” exists in contemporary Greece, neo-Nazi groups articulate new rights and duties, identify distinctive “problems” and offer (both legal and extra-legal) “solutions”, and emphasize idealized gender roles grounded in notions of natural law. By analyzing discourse on women and gender in the public writings of neo-Nazi groups, our research examines how “natural”/”social”
rights and “unwritten”/“official” law are understood and invoked in relation to women. In particular, we ask: How is law perceived as helpful (or not) in dealing with the problems and solutions neo-Nazism identifies as being especially pressing for women? Which “law”? We examine how the social category of “women” is constructed and what rights are articulated for women in Greek neo-Nazi discourse. We examine recruitment materials to understand how legal and extra-legal “solutions” are marketed to women, as well as the symbolic uses of “women” in the formulation of neo-Nazi ideologies.

Since insufficient research has been conducted on women in neo-Nazi activism in contemporary Greece, this research explores the naturalization of motherhood and suggested “gender complementarity”, the racialization and hierarchization of “women” within neo-Nazi discourses in Greece as well as the implications they pose to “equality rights”-based frameworks (which have a tenuous hold in Greece in any case). Examining the alternative notions of “citizenship” such ideologies offer, we ask: how are these similar and different from existent legislation and dominant discourses/practices on citizenship in Greece? We hypothesize that emphasis on women’s “special” and “racial” roles may gain appeal under neoliberal austerity conditions. At the same time, we identify areas of overlap between neo-Nazi groups and existing practices and positions of non-neo-Nazi right, center and left groups regarding women, as well as with state policies. Thus, an examination of neo-Nazi proposals sheds light on the limitations of existing feminist/social activist projects in Greece, revealing disparities and violence that may be masked by the rhetoric of “equality rights”.

[Paper No 75]

**Different and Equal - Same Sex Marriage, Incremental Justice and Human Rights**

Erich Hou. Cardiff Law School, United Kingdom

This paper explores the relationship between the State and its individuals, particularly the sexual minorities. Starting from Wilkison v Kitzinger [2006], it examines the legalisation of same sex marriages in England and Wales and why this human rights exercise posed such a problem to the UK.

Using a socio-legal approach, it analyses the process of incremental justice in the legal recognition of same sex relationships. The main chapters begin with the outright ‘separate and unequal’ hostility and criminalisation towards same-sex relationships, through the ‘separate but equal’ Civil Partnership Act 2004, to the ostensibly equal measure of Marriage (Same Sex Couples) Act 2014.
Although it starts with a historical account, the key focus of the research is the last two decades during which the State, in response to human rights legal challenges, has adopted ever more sophisticated arguments to sustain its position of permitting such relationships to be treated less favorably.

After examining the right to marry under the relevant national and international human rights, it concludes that any measure of segregation (‘separate and unequal’ or ‘separate but equal’) is unfeasible under the scrutiny of human rights.

Although the traditional definition of marriage exclusively between a man and a woman has its historical and religious origins, such heterosexism no longer satisfies the principle of equality, autonomy and dignity. The State may have abandoned the heterosexist practice but the State Church has not. Through 1,000 years of religio-legal discipline, some individuals still hold the traditional heterosexist view. Their attempt to justify such heterosexism (‘same but different’) has created direct conflicts with the State’s positive obligation to protect the sexual minorities (‘different but same’).

In order to resolve such conflict, this thesis suggests a new legal framework - ‘different and equal’. It also suggests shifting the current legal focus from the obsession of marriage to family. In balancing the State’s interference of individual religious or conscientious freedom, the reinterpretation of the right to marry and found a family under the new ‘different and equal’ legal framework is necessary and perhaps the only workable framework to guarantee equal dignity and opportunity.

[Paper No 76]

The Vile Act: Sexual Violence and Gendered Interpretations of the Law in the Ottoman Empire during World War I

Stefan Hock. Georgetown University, United States

Literature on the First World War in the Middle East is in the midst of a renaissance as we approach the centennial anniversary of the war’s outbreak, and a myriad of new questions are emerging beyond the military and political aspects of the war. I wish to examine the scope and limits of the law in Ottoman western Anatolia during World War I as it relates to sexual violence. Recent scholarship has convincingly demonstrated that the First World War increasingly brought women in contact with the state, though the extent to which the war’s violence penetrated beyond the front lines and into the home front has not been adequately studied in the Ottoman context. Inquires into
sexual violence have, moreover, largely been limited to the context of the Armenian Genocide. I argue that while the Committee of Union and Progress (CUP) promulgated laws designed to protect Muslim women and young boys from sexual abuse, the exigencies of the war obviated any chance of such laws being upheld and actively enforced. As Carl Schmitt argued decades ago, politics and wartime violence cannot be neatly separated, and the CUP’s policies directed towards sexual violence demonstrate that while it was not wholly divorced from social realities, it nevertheless privileged its mission of saving the Ottoman Empire “not by those old books of international law, but only by war.”

Police records housed in the Ottoman archives present us with a rich source base with which we can examine the relationship between law, gender, and state ideology. Specifically, how was justice was or was not meted out provides insight into the state’s line of thought about who was a criminal, in what situations the law could and could not be applied, and at what points the state needed to intervene to protect victims of sexual violence. I argue that these interactions between the Ottoman state and its noncombatant women, men, and children shaped gendered expectations of citizenship that persisted well beyond the war years.

[Paper No 77]

Gender Equality in Organizational Leadership: The Promise and Limits of Equality Legislation
Michelle Kaminski. Michigan State University, United States

Legislation that outlaws gender discrimination in employment has enabled women in many countries to gain access to improved employment opportunities and to narrow the gender pay gap. While legislation has moved societies towards equality, the legal approach of non-discrimination has some significant limits. One such limit is that laws typically address employment or membership in an organization, but not leadership of the organization.

Across a wide range of organizational types (business, government, and labor), women remain underrepresented in leadership. This is an issue for at least two reasons. First, women have a somewhat different approach to leadership. Although the gender differences in leadership style have often been overstated, studies have demonstrated some specific patterns. Women are more likely to be transformational leaders, more likely to have a cooperative style, and are less tolerant of unethical practices. Second, women often bring up different issues than men, and change the terms of the debate. In order to be fully equal, women’s voices need to be heard as leaders and not just as members.
This paper will examine two different approaches to promoting gender equality in the leadership of work organizations: outcome and process approaches. Outcome-based approaches typically involve a quota or target goal for a specific position within an organization. One challenge is that where leadership is elected, such as in labor unions or governments, the law has tended to be silent on gender equality in leadership. A handful of countries, mostly developing nations, have reserved seats for women in the national legislature. And some labor unions have experimented with reserved seats for women.

Process-based approaches focus on the process of selecting leaders, usually in the context of hiring or promotion. One example is requiring that a woman be included in a pool of applicants. Process approaches have generally been implemented as a result of an organization’s internal policies and/or bylaws, rather than through legislation.

This paper will examine the extent to which legislation in the E.U and North America incorporates process and outcome criteria, and the extent to which they have been successful in promoting equality in leadership.

Failure to Teach Gender Equality in Legal Education: A Survey in Ankara

Cigdem Sever. Atılım University, Turkey

Feminist legal theory had firstly focused on legal obstacles to gender equality and the effect of cultural norms to the legal norms. Whereas second-wave feminism broadened the debate to a wide range of different type of rights and de facto inequalities, feminist lawyers focused on the application of law, specially the sexism in court decisions and decision-making process of the judges. Therefore, in the light of the critical legal movement and legal realism, they tried to develop a new feminist legal methodology and jurisprudence to understand the sexism in decision-making process. Accordingly, there was also a need to challenge the conventional legal education. The lack of the gender sensitive approach to law is still an important deficiency in the undergraduate legal education. However, feminist legal theory and teaching law in a feminist manner has been argued in Turkey very lately. There are still many sexist expressions in the course books and special courses on feminist legal theory are exceptional in the curriculum. To emphasis this deficiency, it has been conducted a survey in Ankara in six Faculties of Law to measure the perception and attitude of undergraduate law students on gender equality. 483 students were included in the survey from the universities of Ankara (138), Atılım (72), Başkent (38), Çankaya (67), Gazi (69), Ufuk (56) by convenience sampling. In the questionnaire, there were questions on their daily attitudes on gender
equality and on some criticized norms and decisions in family law, criminal law and labour law. It has been found out that there were statistically non-critical differences among the faculties in terms of the answers. More importantly, the perception of the first classes and fourth classes was very similar, which means they have not been given enough information on gender equality as a law faculty student. The questions on the criticized norms and decisions showed that the tendencies in the answers on different fields of law were also different.

[Paper No 80]

Islamic Jurisprudence: Role of Women Scholars in Islamic Family Law Reforms in Morocco

Zainab Alwani. Howard University School of Divinity, United States

The divergence between Islamic law in theory and Islamic law in practice is the result of how Islamic family law was written into state law in the 19th and early 20th centuries throughout the Muslim world. A growing body of scholarship suggests that the process of legal codification was both selective and partial (Hallaq 2009; Tucker 2008). Far from advancing the legal status of women, legal codification actually narrowed the range of rights that women had access to, at least in theory, in classical Islamic jurisprudence (Quraishi and Vogel 2008; Sonbol 2008). Hence, for vocal factions of Muslims, the sphere of family law is regarded as a fundamental stronghold for religious values, and any concessions to perceived Western influence therein are met with particularly vociferous resistance.

This paper aims to: (1) examine the wave of changes in the approaches to Islamic jurisprudence, contemporary interpretations of Islamic texts related to women in order to advance women’s rights; (2) document the voices of Muslim women scholars and their work on Islamic family law, and their contributions to Islamic jurisprudence in general including the Mudawana reforms in Morocco (2004); and (3) Study and analyze how these legal aspect influence Muslim women socioeconomic reality.

Interviews were conducted with selective women and men jurists who are involved in this work. Questions have discussed several legal strategies for advancing women’s rights. It will assess the strengths, weaknesses, and likely outcome of each approach. Such strategies include implementing international law and secular reform, utilizing the domestic legislative process, reinterpreting the Qur’an and the hadith, exercising ijtihad, and contesting the development of Islamic law. The paper also seeks to outline the most promising strategies for advancing gender justice in Islamic states and
beyond. The paper will conclude by discussing failed reform strategies, outlining effective reform strategies, and exploring the role of sharia on gender justice, family stability and societal development.

[Paper No 81]

New Perspectives on Gender in Shari‘a-based Family Law Studies: Moving Beyond the Women’s Rights

Zainab Alwani. Howard University School of Divinity, United States

With so much focus on Muslim women’s rights and gender studies in the academy over the last few decades, a greater awareness of Shari’a-based family laws has developed especially in the West. The study aims to foster critical and collaborative conversations by drawing on intellectual debates on these subjects over the past two decades.

The first part will review the principle of equality between the sexes from a Qur’anic perspective. Teachings based on Islamic sources (Qur’an and Sunna) will also highlight specific gender roles in Shari’a-based family law. Since there is no class or ethnic discrimination in Islam, a Qur’anic model will be outlined to show how the Qur’an acknowledges zawjiyya (pairing) as the widely used Qur’anic expression to describe the male-female relationship. To define how men and women have an equivalent impact on social and family relations, the Qur’anic model will also examine the concept of gender equality. The paper will outline the foundation of gender relations as wilayah (protectors of each other), and define the relationship between men and women as partners (awliya') in establishing a healthy family and society.

The second part of this study will focus on the distinction between Islamic sources and Muslim cultures (‘urf) which have developed over the centuries. Culture and religion may interact in many ways, leading to a wide range of responses in Muslim families and societies. Islamic legislation is based on interpretations of the sources in different contexts with specific local traditions (‘urf) constricting the moral norms of society by having an influence on the legislation. Today local moral customs (‘urf) differ both from those of ancient Arab society and from one society to another, and this creates tension between what is legal and what is moral. Although some of the traditions and institutions were not consistent with the divine Qur’anic value system, they persisted over the centuries until they became so enmeshed with Islamic history that many people, even Muslims, believed they were part of the Qur’an and Sunna. This section will address whether these cultural systems infiltrated Islamic law. The paper will conclude by discussing promising and failed cultural
strategies, and exploring the role of sharia on gender justice, family stability and societal development.

[Paper No 82]

**Sexting, Gender, and the Regulation of Childhood Sexuality**  
Murray Lee & Thomas Crofts. University of Sydney, Australia

This paper explores the dimensions of and responses to ‘sexting’ by young people in the Australian context. The paper draws on an analysis of child pornography laws in Australian jurisdictions, and also on extensive empirical work as part of a two year Criminology Research Grant funded project. It takes a critical approach to the criminalization of sexting by young people and demonstrates that most such behavior does not conform to the discourses of teen sexting that have seen something of a moral panic take place in the news media, by politicians, and in other public forums. The paper also details the gendered dimensions of sexting by young people and argues that these are much more complex than many researchers have hitherto acknowledged. It concludes that in order to respond to sexting by young people it is important to understand the interrelationships between networked subjectivities, gender, sexuality, and localized cultures and practices.

[Paper No 83]

**From Masochists to Battered Women: Psychiatric Constructions of Victims of Domestic Violence and Their Legal Significance**  
Marilyn McMahon. Deakin University, Australia

The formal end of the doctrine of lawful chastisement in the late nineteenth century made possible the prosecution for assault of husbands who physically abused their wives. Yet the criminalization of domestic violence and the recognition of abused wives as crime victims did not occur until nearly a century later. Among the many factors contributing to the delayed recognition was the psychiatric construction of the female victim of domestic violence. For most of the twentieth century the dominant psychodynamic conceptualization of these victims was as masochists who both provoked and sought the abuse. In this framework the responsibility of male perpetrators was diffused and the violence was viewed as a ‘communication’ or ‘relationship’ problem within the family. However, social and historical changes promoted by feminists and associated with changes in family structure eventually led to the recognition of the ‘battered woman’ as a victim of crime and the prosecution of domestic violence as criminal conduct. This development was influenced by, and contributed to, psychological approaches to domestic violence that emerged in the 1970s. In particular, the
emergence and forensic dominance of battered woman syndrome constituted a new psychological approach to victims that eschewed notions of masochism. The syndrome provided an explanatory model of violence in intimate dyadic relationships and a detailed understanding of the victim of violence. Although controversial, the syndrome assisted in the identification of domestic violence as widespread, harmful and actionable by reconceptualising violent behavior within intimate relationships as criminal conduct and postulating the essential normalcy of the victim. These developments more clearly located responsibility for the abuse with the perpetrator, facilitated the recognition and criminal prosecution of domestic assault and strengthened defenses asserted at trial by battered women who killed their abusive partners.

[Paper No 84]

The Dynamics of Legal and Illegal Livelihoods and Gender Relations, the Case of Displacement Camps in Khartoum, Sudan

Amira Osman. The Gender Centre for Research & Training, United Kingdom

The Sudanese Islamic patriarchal state has used its power to frame and define the legality of different livelihood strategies and to criminalise those who practice what the state refers to as, illegal livelihood strategies. For example, the Khartoum State Public Order Act (KSPOA), which was introduced in 1996 marginalised women’s role in public life, praised their roles at domestic level and prevented them from working in certain occupations, such as restaurants, hotels and petrol stations.

Based on empirical research data, this paper investigates the patterns of the newly developed livelihoods strategies (legal and illegal) practiced by women and men at the camps and argues that internally displaced women at Al-Salam and Mayo displacement camps in Khartoum were able to develop a wide range of legal and illegal livelihood strategies. To protect their illegal livelihood, women were able to develop risk minimising and protection techniques, such as building personal relations with police officers, who would inform them when and where a kasha (rounding up and arresting) was most likely to happen, thus showing resilience and great ability to cope with the laws that tended to criminalise their livelihood activities. On the other hand displaced men seemed less fortunate in developing new livelihood strategies.

The paper also highlights the impact of these livelihoods on gender roles and relations by first exploring the ‘adjustment period’ during which gender roles and relations began to change and how men reacted to the change. Second, it highlights men’s roles at the reproductive level, women’s non reproductive roles and women and men community roles.
Intersexuality of Gang Rapes in Turkey: Court Decisions and Media Coverage

Umut Ozkaleli. Zirve University, Turkey

Combatting violence against women has been a driving force for mobilization of women’s movements in Turkey since 1980s. Today, women and young girls in Turkey not only face domestic violence but there are ongoing cases of rape of underage girls. Some of these are gang rapes. While women’s and feminist organizations along with some columnists form a strong public opinion and awareness against rape and violence against these young girls, public faces a strong counter approach through the courts as victims are presented as “mature, all knowing and consenting” individuals. This paper examines two different gang rape cases. In one case the rape survivor, N.Ç., was a 13 year old girl who was gang raped by 26 people some of whom were civil servants and in the other the survivor is a 14 year old, E.A., who was gang raped by 8 military personnel all of whom were specialist sergeants. The cases will be examined first by analyzing the courts’ approach to the victims and perpetrators, how the arguments developed to move the act of rape away from criminalization. Feminist activists and scholars have been advocating the need for understanding violence against women as a crime against individual’s rights and bodily integrity. While there are improvements and shift towards this end in the legal system in Turkey, the social norms still treat women not as individuals but as objects belonging to society and family. The paper argues that, when these girls are accepted as “mature consenting” individuals, the legal system twists the concept of individual rights to deny the victimization of women and young girls under the disguise of treating them as “individuals”. In these examples, rape of girls are not perceived as crimes against society and family but girls’ individual rights are also not acknowledged. On the contrary, patriarchal community, as it is symbolically represented by civil servants and military personnel, is protected against the rights of the female individual by stressing the “individuality” of these rape survivors. The paper will examine court decisions along with newspaper interpretation of these decisions to reach an intertextual understanding of rape cases.
Why is there no provision on poverty in the UN Convention on the Elimination of Discrimination against Women?
Meghan Campbell. Oxford University, United Kingdom

The Convention on the Elimination of Discrimination of All Forms of Women (CEDAW) has been described as the Magna Carta for women’s human rights. Despite its commitment to address the totality of women’s issues, it is somewhat surprising to find that there is no specific obligation in CEDAW requiring states to report on or remedy women’s poverty. This paper asks why no such obligation was included in CEDAW and do any past reasons for exclusion have the potential to affect or influence how poverty might now be brought into the CEDAW framework?

In answering the question: why did the drafters choose not to include poverty in a treaty eliminating all forms of discrimination against women, this paper relies on the largely unstudied UN’s records on the drafting of CEDAW. This paper argues that although poverty was not explicitly rejected, it was still not incorporated into the substance of CEDAW for several concurring reasons. First, poverty at this time was not seen as a source of discrimination against women or even more broadly as a human rights issue. Rather, women’s poverty was viewed both as a political and a development issue. This in turn explains why certain socio-economic rights which do appear in CEDAW are largely guaranteed to rural women only. Poverty was seen as a development issue that primarily affected women of the global South, who were perceived as pre-dominantly rural. Second, the historical record indicates that states, especially states from the West, were concerned about increased state-expenditure associated with anti-poverty measures. Third, the possibility of discussing poverty was foreclosed by the politics of the Cold War. Neither the capitalist nor communist system could engage in a debate on women’s poverty as each would deny that their economic system created or maintained poverty. Rather, Article 11 of CEDAW, the provision on employment, became the battle-ground for their ideological differences related to women’s economic status and condition. This analysis of the past historical reasons for exclusion provides a legitimate foundation for arguing that the changes and current understanding of poverty and equality can evolve using substantive equality in CEDAW to address women’s poverty.
Gender based injuries, such as those caused by domestic violence are rarely recognized by laws and even more rare do these injuries receive legal remedies. In most societies, domestic violence is thought to belong in the private realm of the family, where state and society laws should not interfere.

In the case of Qatar, it is assumed and often argued that intimate partner violence is justified on the basis of religion. In a recent survey of almost 800 Qatari nationals, data showed that the youngest age group of male respondents (18-24) were more likely to justify domestic violence than any other age group. Does the fact that in Qatar, women make up 80% of university students pose a threat and a challenge to young local men? Does this resentment towards local women, translate into having negative attitudes towards women, leading to the justification of violence?

Is religion the source of justification for domestic violence, or is it more a matter of economics? And what are the implications of blaming of Islam, when in fact it might be traditional patriarchal concerns with maintaining economic control that is the real culprit.

Recently, the issue of domestic violence has attracted a great deal of attention in Qatar. The Qatar National Strategy (2011-2016) has called for the implementation of legislation against domestic violence.

This papers documents the efforts of a group of students at Qatar University to do just that: draft legislation to criminalize domestic violence. In order to make sure they are incorporating as many perspectives as possible to ensure the effectiveness of the proposed legislation, students are also conducting interviews with law enforcement authorities, judges, religious scholars/leaders, and women who work with victims of domestic violence, and victims of domestic violence themselves.

The proposed legislation will be benchmarked against similar legislation in the Arab and Muslim world. We will compare existing domestic violence legislation in the Muslim world specifically in Malaysia, Morocco along with the proposed legislation in Saudi. Finally we will draft a proposed domestic violence legislation based on relevant articles from Muslim countries’ domestic violence legislation.
Soviet Norms, Traditionalism, and Gender Equality in Dagestan
Khalida Nurmetova. Free University Berlin, Germany

The North Caucasus, and the Republic of Dagestan in particular, is a region where traditionalism in form of both Islamic and cultural norms (adat) is deeply rooted in regulating social conduct. This is especially true in regards to woman: their role, status and behavior being strictly regulated and fiercely protected. With the advent of the Soviet regime, a radical breakup of the local traditions was attempted. Soviet propaganda saw it as a fight against “remnants of the past” and promoting the “emancipation of women”, especially of “mountain woman” in the rural highlands. This was often followed my violent methods and the criminalization of rites and customs. Nonetheless, especially in regard with women, people continued secretly following traditions, even under the threat of criminal charges.

The collapse of the Soviet Union was followed by an Islamic revival. A discussion of the necessity of restoring Sharia law and courts, allowing plural marriages, and the wearing of hijab began. Many saw it as a natural process of “going back to the origin” and getting rid of alien gender equality rules imposed by the Soviet regime. Even though the mass media and common opinion in the Russian Federation presents the population of the North Caucasus, including women, as eager to return to the traditional style of life, local sociological polls, however, show a different picture. When asked “Do you want to be a citizen of Islamic Republic of Dagestan?” and “Do you want polygamy?” a significantly greater percentage of respondents answered negatively. This shows a disconnect; that even though there are leaders and groups that propagate Islamic and traditional legal values, common opinion continues to favor a secular state and gender equality, echoing opinions from the recent Soviet past.

In my paper I would like to demonstrate the current discussion on Sharia law and plural marriages in light of recent opinion polls in Dagestan, principally as to the limits and role of state ideology in changing established gender relationships to promote and/or hinder equality. I would be using materials that I collected during my visit this autumn to Dagestan that I obtained through interviews with academics, journalist, etc. as well as literature collected there and in Germany.
Marriage and Undocumented Migration: Legislation Theory and Practice and its Gendered Repercussions in Italy and Portugal

Marianna Bacci Tamburlini. Institute of Social Sciences, University of Lisbon, Portugal

The paper will propose a perspective on the interplay between conjugal behavior, migration processes, and legal frameworks in the Portuguese and Italian context, based on the fieldwork carried out for the PhD research project “Conjugality and citizenship: experiences of undocumented migrants in Italy and Portugal”. Such analysis leads to crucial reflections regarding the role of law and its implementation in determining and reproducing gender imbalances. Legislation and enforcement of marriage and migration control, amongst other factors, mediate the different experiences of men and women involved in international mobility processes, as well as affecting power relations and inclusion and exclusion processes in contemporary European societies.

Firstly, such study contributes to expose the gap between formal law and its practice, which mediated by public employees and officers in specific geographical and social contexts and influenced by social constructions on gender and family. This process leads to an unequal application of the law, a high degree of arbitrariness of decisions regarding immigration status and contribute to the reproduction of highly gendered expectations and constructions regarding the “acceptable” family models. The paper further suggests how the law may have unintended consequences, especially in the context of discourses invoking the protection of vulnerable sections of society, mainly women, as a justification for restrictive measures and the criminalization of undocumented flows.

The empirical data on which the qualitative analysis is founded focuses on couples living in these two countries, in which, before marriage, one partner was undocumented, whereas the other had a formally recognized permanent residence or Portuguese/Italian nationality. The construction of discourses and legal regulations regarding migration flows, in particular those considered “irregular”, and regarding “marriages of convenience”, which have a deep influence on the formation and transformation of conjugal ties, will be taken into account in the study of such interaction. Approaching these issues leads to a reflection on the importance of categorizations used in legislation, state discourse, and its repercussions on the perceptions and representations of the couples involved.
Feminist Agendas, Gender Violence and Judicial Practices in Brazil: Reflexions in the Light of Social System Theory

Ana Paula Sciammarella & Andrea Catalina Amaya. Universidade Federal Fluminense, Brazil

The critical feminist theory of law characterizes the legal system as closed and refractory with regards to the demands of women. The legal system is seen as yet another mechanism that upholds traditional gender norms, a system that reproduces with in its practice gender archetypes, which reinforce gender inequality and discrimination against women (Lavigne: 2009; Smart: 2012; Campos: 2011). The empirical analysis and framework provided by critical feminist legal theory precedes the enforcement of Law 11.340/06 (The Maria da Penha Act) which encourages new reflections on legal decisions regarding so-called ‘gender conflicts,’ in Brazil. Heavily influenced by standards laid out in international decrees regarding the rights of women, the Maria da Penha law introduces many innovative elements. Simultaneously, the legislation creates the normative or standard category, definition for what is to be identified as “gender based violence,” in Brazil. The objective of this study is to reflect theoretically and empirically on the role of the judiciary in the administration of conflicts that involve the application of Law 11.340. The introduction of the ‘new normative category’ of ‘gender-based violence,’ its management, treatment by those pertaining to the legal system in Brazil (i.e. judges, defense and prosecuting lawyers, members of the multidisciplinary teams within specialized courts, network of protection and preventive services) will be analyzed. Simultaneously, it is the purpose of this paper to point out the contributions of Niklas Luhmann’s social systems theory (1983 and 1985) to the understanding of socio-professional practices and relations in Brazil’s legal system; and their impact on the realization of the outlooks and prospects surrounding efforts focused on the creation and implementation of the Maria da Penha Law. The analysis and findings presented in this article are the result of participant observation carried out by the authors, of cases tried in the Specialized Courts for Domestic and Family Violence against Women in Rio de Janeiro, Brazil.
The Legal Problems Faced by Transgender Communities in Turkey: The Derogation and Questioning of the Identity.

Emrah Karakuş. İstanbul Şehir Üniversitesi, Turkey

Contrary to Turkish legal system’s self-manifestation of its democratic and gender-blind characteristics, transgender communities in Turkey and their legal experiences pose a greater litmus test for this self-assertion. In most of these experiences, transgender individuals face extensive human rights violations exerted by police, loss and dispossession of their rights through expulsions from their houses and in the legal decisions of the courts, and various forms of threats fuelled by hate discourse and legitimation of hate crimes in the court decisions. In this research paper, it is aimed at exploring the relationship between law and gender in Turkey though the analysis of how transgender communities are subjected to illegal practices and human rights violations within the legal system. To what extend is Turkish legal system affected by the institutionalised un-written based custom and heteronormative-patriarchal norms? What are the main rationale and the characteristics of the legitimation behind the loss of rights and human rights violations relating transgender communities? The research is based on the interviews with transgender communities in İstanbul and Ankara as well as support groups and lawyers working voluntarily at LGBT organizations in these cities, archival research on the reported human rights violations, and the court cases involving transgender individuals. It is mainly argued that transgender identity is controlled and disciplined through the deterritorialization of transgender communities and victim derogation. The existence and citizenship of transgender communities are repetitively questioned in the Turkish legal system while their identity is derogated in the discourse and practice.

Gender Equality in Turkish Constitutional and Criminal Law

Sezen Kama. Istanbul Medeniyet University, Turkey

Gender equality is one of the main issues in Turkish Constitutional and Criminal law. In both legal frameworks, there are some efforts to solve gender related problems; nevertheless, there have been still ongoing discussions on the eve of a new constitution. It is therefore accepted that examining gender equality and showing its deficiencies in Turkish constitutional and criminal law is the best road map for law makers.
Turkey is an intersection point between the East and the West. This geographical unique situation helps it to unify cultural, traditional and legal characteristics of both regions. Covering values of these two different regions has caused controversial and complicated gender problems.

From this point of view, the principle of equality must be examined firstly to understand gender equality in Turkish constitutional law since it is the main regulation which reflects changing legal understanding in Turkish constitution. In addition, this principle has been enshrined in all the constitutions of the Republic of Turkey since 1924 with or without the emphasis on gender equality. In addition particularly after the EU candidateship process, some provisions and new crime types have been promulgated with the reform of the penal code which shows changing perspective on gender equality. However, the problem is how these legal reforms have affected gender equality and what their deficiencies are.

[Paper No 101]

**Sexual Harassment Laws in Australia – the Language of ‘It’s Her Problem’**

Karen Streckfuss. Monash University, Australia

Sexual harassment under Australian law has consistently been defined as ‘the making of unwelcome sexual advances or engaging in other unwelcome conduct of a sexual nature in circumstances in which a reasonable person having regard to all the circumstances, would have anticipated the possibility that the complainant would be offended, humiliated or intimidated’. Courts have interpreted and constructed this to include both objective and subjective elements. This paper deconstructs this interpretation and considers how such linguistic and discourse constructions have helped define what it is to be a female participant in the workforce. This is particularly so because overwhelmingly women are the subjects of sexual harassment in Australia and the construction of ‘unwelcome’ and whether a ‘reasonable person would have anticipated that the complainant be offended, humiliated or intimidated’ has meant that such words have helped define and produce a normative narrative about what it means to be a female worker and how she should respond to harassment in the workplace.

Further, such ‘protective legislation’ while aimed at protecting women has managed to isolate women particularly as it is viewed as the ‘complainant’s complaint’ rather than as a systemic problem within Australian society. This paper consequently explores the limits of the meaning of the language of sexual harassment within the confines of an individual based ‘complaint’ system. The emphasis and construction through legal language of the ‘individual complainant’ has served to marginalise and divide women within the workplace. This seemingly obvious legal norm has
constructed the sexual harassment complaint as one that ‘concerns her only’. This is particularly apt in light of the first sexual harassment case in which the court has been asked to deal with the issue of ‘tendency evidence’: Robinson v Goodman [2013] FCA 893 and the difficulty of adducing such evidence. The traditional individualising of a complaint has meant that this protective legislation has confined itself to the facts of an individual case resulting in the exclusion of other evidence of sexual harassment within the wider workplace.

[Paper No 105]

**You Can’t Get a House on Campus, You are Not Married: Gendered Codes, Institutional and Customary Laws in Pakistan**

Shirin Zubair. University of Duisburg – Essen, Germany.

In this paper, I address issues related to the gendered divisions, institutional laws and regulatory discourses in Pakistani universities. Struck by the ubiquitous silence and invisibility of women in higher academic and administrative positions, my self-reflexive narrative captures the ambivalent positioning of being a proclaimed feminist within the patriarchal academic milieu. I particularly draw on Moroccan feminist Mernissi’s (1993) views on purdah (veil) as a symbolic division of Muslim space on the basis of gender, which restricts women’s freedom of movement and access to education. She argues that this exclusion and seclusion of women by veil has to do with the power struggle between fundamentalist men and unveiled women in contemporary Muslim societies. By invoking discourses on religion, morality and law, control is exercised not only over the syllabi, teaching pedagogies, but also covertly over linguistic codes and meaning-making processes through regulating women’s bodies, dress-codes and sexuality. The customary laws embedded in sexist language, discriminatory regulations and practices, along with anecdotal data from my teaching, administrative and everyday lived experiences, illustrate the way these hegemonic structures of patriarchy are naturalized through discursive linguistic codes and institutional practices. From a feminist standpoint, I reflect on my experiences and everyday struggles as an academic to argue that patriarchal and sexist discourses on religion and morality are used not merely to regulate women’s bodies and dress codes, but also to curtail their autonomy as citizens. I present personal and anecdotal data: introducing feminist texts, critical pedagogy and experience of university administration’s discriminatory laws, regulations and everyday practices.

I conclude by highlighting the complex linkages between the linguistic codes (e.g. veil and four walls) customary laws and institutional practices.
Same Sex Marriages and Concept of Family
Anil Guven Yuksel. Yildirim Beyazit University, Turkey

The family, considered as the smallest unit of society, has been the most important tool of social control for the State Institution due to similar mechanisms operated. States, for centuries, has used these small units to control and especially in times of revolution- to change and convert the society. Because of its very important position, Family has been regulated institutionally in legal systems, or even in some systems the "family protection” has been landed with States as a constitutional duty. At the same time, “Marriage” which is the contract generates the family institution has been connected to various rules and has become one of the sacreds symbolizing the social structure as series of rituals. Even though the traditional definition of family consists of men, women and their future children, the concept has been transformed by the expanding presence of gay relationships in social life. This conceptual transformation is very important, because it may lead to many other effects in social and legal area. In several countries whose number is increasing day by day, especially in Europe, forms of same-sex marriage or civil unions are already recognized. This study will examine the impacts of the linguistic transformation which occurs in the way of gay individual’s becoming a social “right” subject on legal system. Examination mentioned, firstly requires a closer look on “homosexuality” and "family" concepts. Subsequently, the impacts and the responses that have been created by the transformation, on society should be addressed. At the end, these conceptual transformations which force the states to make changes in legal systems should be based by what the thinkers, like Wittgenstein, Saussure, Laclau, say about language philosophy and then the relationship between language, society and rights (law) should be introduced. All these analyzes link us to a discussion on “Right Theory” at the point of "being a human" or "to be counted as an individual in society". What we expect from this discussion is to be revealed the potency of new rights recognized by linguistic transformations on more fundamental changes in system’s perception.

Affect and the Law: 'Intimate Homicide' - A Case Study
Adrian Howe. Griffith University, Australia

As feminist scholars have observed for some time now, the operation of partial defences to murder, especially the provocation defence, provides wonderful opportunities to explore affect and the law. The law of provocation is, after all, western societies' most emotional law. Privileging 'infidelity'—
inspired rage, provocation defences have for centuries allowed men to get away with murdering wives. The foundational 1706 case of Mawgridge explains why this is so:

...when a man is taken in adultery with another man’s wife, if the husband shall stab the adulterer, or knock out his brains, this is bare manslaughter: for jealousy is the rage of a man, and adultery is the highest invasion of property.

Despite decades of reform efforts in anglophone jurisdictions, male possessory right expressed as jealous homicidal fury still mitigates murder in so-called 'intimate homicides' today.

This paper takes as a case study the affect-laden early 21st-century reform movement to abolish provocation in England and Wales. In the face of strident opposition from sections of the judiciary and the House of Lords, the reformers finally succeeded in abolishing provocation, replacing it with a new defence of loss of control in the Coroners and Justice Act 2009. Most controversially, 'sexual infidelity' was expressly excluded as a trigger for loss of control. Interestingly though, the reformers did not think to alter the differential standard embodied in the objective test for loss of control. This is extraordinary to an Australian observer, our High Court having abolished the differential standard according to ‘sex’ two decades ago. The ground for doing so was equality: in a modern democracy, men and women should be held to the same standard of self-control in the event that they succumb to homicidal fury. That notion somehow passed the English reformers by. So, usually, does the profoundly sexed operation of excuses for murder, scarcely any commentator noticing that two sets of intimate femicide cases, five of them committed in a jealous rage, neatly bookended a decade of reform activity and opposition.

The question animating the paper is this: how is affect playing out in intimate homicide cases in the post-reform era?

[Paper No 109]

Medical Control over Bodies of Labor Migrants from CIS to Russia
Violetta Khabibulina. First Saint-Petersburg State Medical University named after acad. I.P.Pavlova, Russian Federation

This research analyzes new Migration Policy Concept and legislative documents dealing with international labor migrants as well as practical implications from perspectives of: i) medical social control, ii) how this legislation is gender-sensitive, and iii) whether it considers the dependents of a labor migrant?
Findings allow stating that the legislation is quite disorderly and doesn’t create required foundation for interaction of various international actors-institutions involved into International Labor Migration policy and its implementation, which is assumed, should be mutually effective for the sending and receiving countries.

Medical exams are set up in order to prevent the infected/narcotized bodies of labor migrants to stay on this side of the Russian border, however from biostatistical point of view it is not clear how accurate and valid data used for the justification the official discourse of “dirty and contagious” labor migrants. There are no any specific attention to a female labor migrant with her specific limitations to pass the medical exams or to be deported followed by preliminary staying at the deportation [prison] center.

And what is an alarming that the Concept and official discourse have created potential risks for Russian public health:

- Female migrants who are pregnant or with some forbidden diseases are more likely to become illegal workers;
- Pregnant migrants with HIV+ may put the life of a fetus under risk, including vertical transmission of HIV+;
- The racist political decisions are well supported by underpaid health practitioners, who may transform antihumanistic attitudes to other [‘~normal’] citizens.
- Highly-qualified health professionals don’t have results on local data-analyses simply because the system doesn’t exist and no access to international findings.

Thus, author reveals the discriminatory discourses and offers main suggestions to shift the “mentality” of Russian policy-makers towards good health governance within international cooperation. The scientifically weighted public policy should be developed and accepted by Russian authorities in order to adapt the Migration Policy to the modernized goal for Russia to become the economically developed welfare state (the state of well-being for all) that cannot be in compliance with any discrimination with regards to the health condition of foreign labor migrants.
New Identities and Social Change: Social Interactions between Nuns and Sex Workers

Gabriela Farinha. PhD Renato Treves, University of Milan, Portugal

In 2012, integrated in the Lisbon’s Public Budget, the Catholic order of the nuns Oblates of the Most Holy Redeemer have elaborated, subscribed and presented a project for the creation of a “Safe House”: a house to be run by a cooperative of sex workers, where women could continue their sexual activity but in a safe, protected and clean environment.

The ongoing interactions between nuns and sex workers might have led to the former’s public project, which seems to represent a change in the nun’s usual approach to sex work and sex workers but also to the Portuguese dominant legal abolitionist perspective, regarding the recognition and claim of “sex workers” legal rights.

Does the elaboration and presentation of the project “Safe House” entail the reproduction of the institutional normativities of religion and law or a digression from them? Does it mean that somehow, from the ongoing interaction of these two groups of distinct women, a collaborative action for social change has occurred, pushing for the transformation of religious, legal and gender cultural and social structures?

The paper aims to present the first empirical and sociological theoretical findings of an ongoing research project in which the controversy between duality/dualism of social structure and agency are analyzed as well as the mechanisms of social change and social reproduction.

Following Archer’s realist ontology as a meta-theory for the analyses of the empirical field, the main concern of the project is, in its first phase to understand, how the emergent properties (constrains and enablements for causes of action) of the social structure (distribution of material resources; opportunities; capital modes of production; work relations, organizations and institutions) and the cultural system (prepositions, theories or doctrines) conditions the realization of nun’s and the sex worker’s vested interests.

The second moment of the analyses is focused on how, through the social and socio-cultural interaction between nuns and the sex workers, changes might have occurred in the way these women interact with the social structure and cultural system’s enablements and constraints. At this point the focus is on the concept of social reflexivity, by critically reviewing Giddens’s, Bourdieu’s and Archer’s theories of the structure and agency divide. Did the ongoing interactions between nuns
and sex workers, influenced the intra reflexivity of nuns and sex workers about their inner self and their own conditions? If yes, what are the relations and mechanism between intra and interaction and reflexivity? Which factors might allow the agent to be more or less reflexive about the social structures and cultural constrains and in which terms reflexivity, and which kind of reflexivity, is a factor involved in the inter and interaction between the nuns and the sex workers?

The third and last moment of the analyses focus on the safe house project framed as a possible collective action of these women for claiming legal and social rights.

In summary, the paper will examine the connections between structural causation and subject’s causation, between intra- and interaction and the mechanisms and social practices of change of the religious, legal and gender structures, in order to understand how actors, immersed in social and gender structures (as internalized normativities, interactional patterns or normative roles), might have engaged in practices of social change and which factors and mechanisms have led to it.

[Paper No 113]

**Gender, Family Migration Rules and Caring for Ageing Relatives**

Heli Askola. Monash University, Australia

Global ageing raises many equality issues, many of which are gendered - these include poverty among older women (rooted in the gender division of labour and the multilayered inequalities that women typically experience) and the diverse caring and health needs of older women, who often survive to higher ages than men. As is often the case, dealing with such issues is more difficult in a cross-border context. Concerns over the potential financial costs of family migration – which remains the leading channel of legal entry into the European Union (EU) as well as to more traditional immigration countries, such as Australia – have prompted many states to change the rules on family-related migration in order to try to minimise the financial risk to host countries from immigrants’ dependent family members. In the European context, EU law adds further layers of complexity by privileging the relatives of mobile EU citizens and also by providing some family reunion rights to some non-EU citizens (but not granting such rights to non-mobile citizens of Member States).

This paper focuses on caring for older relatives, and the legal issues that arise in the cross-border context, especially situations where adult children have immigrated to another country and wish to bring elderly dependent relatives, usually their mothers, to join them in order to care for them in old age. It argues that family reunion rights are fragmented and heavily influenced by various vectors of
inequality, such as nationality/migration status, class and gender, and often contribute to further civic stratification and disadvantage.

[Paper No 114]

What a Difference Law Makes: Atmosphere, Affect and Force in Legislation on Forced Marriage in Australia
Maree Pardy, University of Melbourne, Australia

This paper is a meditation on the affective dimensions of law, feminist judgement and cultural difference. It probes law’s ‘transmission of affect’ through an analysis of recently introduced legislation to criminalise forced marriage in Australia. How does Law and specific legislation produce governable scapes, environments and bodies through atmospheres, that is, through the circulation of emotions and affect? The paper will address these questions in three parts. First it considers the affective features of constructing problems (forced marriage) as requiring a legal response. Secondly, it examines the emotional labour of feminist judgements about such problems particularly when they are framed as problems of women and culture. Thirdly it argues that the logic of othering, which is at the heart of such laws, is an attempt to domesticate the strangeness epitomized by forced marriage. Part of my argument is that the law both generates and reflects atmospheres of crisis, risk, even horror at cultural strangeness yet Law’s encounter with ‘strangeness as strange’ is denied and occluded through its attempts to control and contain it. The paper traces these atmospherics through an analysis of the legislation, the submissions to the legal consultation process, and parliamentary speeches during the passing of the law, media coverage of the law and the recent (delayed) community responses to it.

[Paper No 115]

Gender Standpoint and Veiling
Hengameh Ashraf Emami, Northumbria University, United Kingdom

Veiling has been one of the most controversial women’s donning in 21st century. The question of veiling has become one of the dominated debates in politics, media and academic.

Drawing on extensive fieldwork, recorded interviews with Muslim women, will explore social exclusion and inclusion of research participants in Britain. Furthermore, the research participants will express their identities through donning veil. Thirty oral history interviews were carried out in Newcastle and Glasgow, since it is believed that an oral history interview allows women to explore their life trajectory and express the subject of hijab in their own way to share their identities.
Empirical research combined with the heated debate and discourse on veil and Muslim women in the West. The paper will explore the meaning of veiling practices, through oral history interviews with Muslim women in two generations in two cities of Newcastle and Glasgow. Gender discourse will explore the religious and cultural practices of those women and meaning of veil for them. Furthermore, this paper will examine the ways in which Muslim women negotiate their identities through practicing, not practicing veil in Britain. This also will highlight the impact of veiling, non-veiling on their everyday life of those women who chose to wear or not wear veil. The myth of veil and agency of veiling was used for exploring various aspects of identities of British Muslim women and the ways veil imply for their empowerment. British Muslim women standpoint on veiling may be define as a “simple expression of voice.” Positionality of the researcher will be discussed and will be examined how it influenced the formation of the fieldwork. Epistemological approach combined with standpoint theory to do this chapter. Moreover, discourse analysis (DA) was used to analysis interviews’ data.

Jack Straw’s comments concerning Muslim women who cover their faces worsened the already unfavourable climate towards Muslim women and they became increasingly subject to racist discourse (Ghannoushi, 2006). Behimji (2012, 44) “A Muslim woman’s personal decision to wear the full niqab was considered to be a menace to British values and was equated with an extreme political ideology.”

[Paper No 119]

**Women’s Access to Justice: The Connection between Violence against Women and Prohibition of Discrimination in the Jurisprudence of the European Court of Human Rights**

Nisan Kuyucu. Ankara University, Turkey

Violence against women is being described as a type of gender discrimination in international law. Till September 2013 only in 12 of cases before ECtHR on violence against women, the applicants adduced prohibition of discrimination. This shows the connection made by international law between violence against women and gender discrimination has not had any effect on the ECtHR case-law. Besides, only a few violence against women cases has brought before the Court. In this article, it will be examined whether there is a connection between fewness of violence against women cases, and especially considering the fact that most of the claims of Article 14 is made by men, and the position of the ECtHR regarding the prohibition of discrimination in violence against women cases.
[Paper No 120]

**Construction of Sexuality and Sexual Crimes**  
Ezgi Saritas. Ankara University, Turkey

While dealing with sexual crimes, the concept of sexuality is usually taken for granted on policy level as well as by academicians and activists. Such an approach limits our discussion to whether a certain act is to be punished and how heavy the punishment should be. When such an approach is adopted in historical analysis, the question is about whether a certain act was accepted as a crime at a certain period of time and the how much the punishments to be imposed differ from the modern ones. For instance in the context of Turkey, Ottoman kanun-şeriat system is evaluated in terms of the punishments it imposes for certain acts. Other works evaluate the laws as legitimatizing certain acts while rendering others illicit yet do not question how these acts were defined through various discourses during the period at issue. Moreover the modern and pre-modern are placed against each other disregarding certain continuities between different legal systems. In such a framework sexuality remains unquestioned and it is assumed that law is an external force regulating the sexuality. However as Foucault noted law also produces desire and there is no such external relation between law and sexuality. In this paper I will critically evaluate the work on history of sexual crimes with a perspective that does not look for sexualities as they are defined in the modern heterosexual matrix. There is also an increasing amount of work that re-evaluates the history of sexualities by using gender as a category of analysis. The paper also examines the importance of such works regarding sexual crimes. Such an analysis is not only important to provide a more accurate account of the history; historicizing sexuality and its criminalization is also important to question certain discourses which reproduce certain dichotomies of gender hierarchies while aiming to combat sexual offenses.

[Paper No 123]

**One Step Forward, Three Steps Back: Women’s Rights in Turkish Civil and Penal Codes of 1926**  
Zuzana Giertlova. Columbia University, United States

I. Introduction

The political emancipation of women in Turkey in 1920s and 1930s was married to the nationalistic fervor, which dictated the legal terms of the new Republic. While at the conception of modern Turkish Republic, the national founders embraced various definitions of “Turkishness” and multiple
competing ideologies, the legal texts from the era, specifically the Civil Code of 1926 and the Criminal Code of 1926/27, outlined the Kemalist government’s expectations for the behavior of Turkish citizens, and thus expressed the most prominent form of Turkish national ideology. Taken as nationalist and simultaneously ‘modernizing’ documents, the two Codes in some instances complemented and at other times contradicted one another in propagating the governmental agenda, resulting in a complex and controlled definition of the citizenry. This paradoxical relationship manifests most clearly in the family law, which largely focused on the redefinition women’s roles in the society. While the Westernizers, arguing for education and full political emancipation of women, took a more liberal stance in regard to granting women equal political economic and social rights, the Islamists strongly opposed any such proposals that would reshape the more traditional roles of women. Yet, in many ways these discussions left reality far behind, concentrating on the “ideal Turkish woman” rather than addressing all the complexities of an actual emancipation agenda. Thus, especially from a legal standpoint, the role of a woman in society was constrained to an “ideal” woman, one that at the center of her family or educating herself for the sake of her children and the greater Turkish nation, while the darker problems such as abortion or infidelity, fell in a category of “victimless” crimes regulated by the penal code. As such, the new criminal code closely monitored key feminist concepts—control over the female body and sexuality. This oversight, as this paper will argue, thus ideologically defied the civil code which aimed to heighten the control that a woman had over her life and property, even if that control was meant for the ideal women alone. Furthermore, the codes’ respective goals of promoting the good and Ottoman Propaganda and Turkish Identity: Literature in Turkey during World War I. p.125. London: Tauris Academic Studies, 2007. Print. Judith Jarvis Thomson makes women’s rights the special bedrock over fetus rights in her article, A Defense of Abortion (1971) Where Thms n’s a tic e c ntin es t be h t y debated he w k c nt ib tes t be ne f the f ndamenta a g ments behind ab ti n as a w man’s ight regulating the bad in women stemmed from the nationalist need to define its citizenry on semi-biological basis. Undoubtedly, the concept of Turkish nationalism raised many problems, including the issues of Westernization in relation to conception of Turkish identity, and perhaps most pertinent to the topic at hand, the polemic of legal governmental authority divorced from the Ottoman past. As remarked by many historians, nationalism, through its connection to positivism, often took on the issues of gender. As a concept, “[n]ationalism has always been a masculine conception subordinating the feminine. It is, at one and the same time, a distinctly racial conception that stems from a certain assumption, if not a ‘scientific’ premise, of purity of blood” (Hallaq 119). Understanding nationalism to be a “masculine subordination of the feminine” as Hallaq did, the family law outlined in the Turkish Civic Code in 1926 must be understood not only
in legal and political terms, but needed to be considered from the gendered perspective also. In his analysis, Hallaq continued to argue that “…the man, defined and literally constituted the nation as the subject of the state. As an archetypal figure, he likewise constituted it as an object of sovereignty. In this design, women became instruments of reproduction, while the modern state appropriate the right to determine ‘the uses of women’s reproductive skills’” (Hallaq 119). Thus, the question at hand is whether, and if so how, did the Turkish state define the social role of women according to “the uses of their reproductive skills?” More specifically, how do the two legal codes appropriate this patriarchal “right?” Seeing as there already existed the conception of “an ideal woman” in the Young Turk and Kemalist thought when the legal codes were formulated, the Civil and the Penal Codes function in conjunction, positively to preserve and heighten this ideal, and negatively, to restrict and eradicate any deviance from it. The legal delineation of women’s role paid particular attention to women as members of the public sphere, rather than the private sphere. By legally acknowledging the civil rights of women, the Civil Code invited women into the public sphere, and the Criminal Code defined the terms on which women could exist outside of the home. Concerning women’s rights in regard to public vs. private spheres, I tend to agree with the line of argument defended by Hallaq and Miller, who both implied that the inclusion of women in the public sphere did not as much mean that women existed as individuals in the public sphere, but rather that they literally and figuratively became the public sphere. Furthermore, this distinction became even more pronounced in the Penal Code, where, as Ruth Miller’s work on women’s rights in the Turkish civil code demonstrates, the very definition of criminality changed to be communal rather than individual, as “the purpose of criminal law was to protect the purity of the social organism from defect, that is, it was crimes that struck at this Z che ists p sitivism as “[a]nother important element in the Young Turk ideological make…[it was] the belief that objective truth could be correctly interpreted by the use of scientific methods. As a corollary of this positivism, both the Unionists and the Kemalists had a great, some- what naive, faith in the power of ed cati n as a m t f change” (Z che ; 1990 253) Seeing as ed cati n f w men was ne f the primary goals of the Kemalist government, this connection to positivism cannot be disregarded. purity that were th most dangerous (Miller; 2005, 86). Thus, abortion could be seen as a transgression against a greater social good, and so could adultery. This trend of thinking about criminality also applied to rape, which saw the victim of rape to be the society: for instance, if the perpetrator married his victim, the penalty was lessened (Dustur 629 n.258). As a result, the newly established legal system made special provisions to regulate women as a public space, rather than to protect them as individuals within the public sphere. Lastly, the disconnection between the “ideal woman” and the realities that women faced during the Republican period and beyond, reflected a larger trend in Turkish
legislation of the era. The Kemalist reforms of the ‘20s and ‘30s set up a framework for an ideal citizen, which became increasingly problematic as time went on because, as Miller pointed out, this “…is a system divorced from its social relevance…it is a system in which purity of function or purity of idea is more important than utility of function or utility of a idea. Finally, in the context of criminal law, it is a system in which crime is purely discursive” (Miller; 2005 2). Especially within the context of women’s rights, the ideal woman alone could thrive and be protected under the new legal system while the actual problems women were facing went unaddressed. Using the above as the basic ideological framework, this paper will postulate 1.) that the highly gendered nature of the Turkish Civil and Penal Codes reflected the masculine nature of Turkish nationalism, 2.) that the disconnect between women’s reality and the ideal allowed for abstract legislation of family law and criminal laws pertaining to women, and lastly, 3.) that while the Civil Code included women in the public sphere, the Penal Code failed to protect women’s individual rights in this sphere. To better understand the sources of this disconnect, the historical shaping of Turkish women’s identity will be discussed first. Secondly, the two codes will be considered, particularly on the issues of divorce, infidelity, abortion, and rape. To better contextualize these legal changes, a brief summary of their reception will be included at the end. 4 While the above discussed law was a Young Turk regulation, the legitimization of rape via marriage was reaffirmed by art. 434 of the Penal Code of 1926/7.

[Paper No 124]

Gender and the New Reproductive Technologies in Slovenia
Marina Vrhovac. University of Ljubljana, Slovenia

Paper deals with the availability of assisted fertilization technologies (AI, IVF etc.) in Slovenia. It focuses on the rule of law, which allows these technologies only to women in heterosexual pair, which means that it discriminates against all other women who do not have rights under the law (single heterosexual women, disabled and homosexual women). It discusses the emergence of single women as gender with specific properties, which would »justify« the lack of access to artificial insemination by law. Gender of single women is a construct of political and public discourse in the media constructed during the time when the law on infertility treatment and bio-medically assisted procreation procedures, amendments to this law and the referendum had taken place. Paper analyses gender roles, talking about women - mothers, patriarchal political authorities and society, the right of choice, and the body as a field of political discourse. Finally, it presents a critical analysis of political and public discourse.
Gender Mainstreaming In Post-Conflict Countries: An Analysis of Post-Conflict Reconstruction Process”
Shanthi Hettiarachchi. Keele University, United Kingdom

Gender mainstreaming in post-conflict reconstruction process. Recent developments in the fields of gender and development and post-conflict reconstruction and reconciliation have led to an interest in gender mainstreaming (GM) among national governments, NGOs and UN agencies. GM has become a significant part of post-conflict reconstruction processes in most of the post-conflict countries such as South Africa, Rwanda, Namibia, Indonesia, Mozambique, Serbia, Bosnia, Angola, Eritrea, Yugoslavia and El Salvador. This presentation evaluates the gender mainstreaming policies, programmes and measures implemented by selected post-conflict countries and the study was conducted on “Gender mainstreaming in post-conflict countries: an analysis of post-conflict reconstruction process”. This paper addresses the following key question: how have post-conflict countries mainstreamed gender in reconstruction process and what measures have been taken?. Using gender mainstreaming as a new trend of policy concept of the UN system in the process of post-conflict reconstruction, this paper examines the practice and application of the theoretical concept in this process. This study draws upon mostly on literature review and it is based on qualitative method. Qualitative data were gathered through documents such as existing research and policy documents of the national governments and international organisations. Whilst this study was based on qualitative data analysis, qualitative content and thematic analysis were used.

My findings highlight the fact that the gender mainstreaming policies, programmes and projects in post-conflict countries in the world are apparent that most have put into practice similar approaches such as legal and constitutional reforms, education and employment, empowerment, economic and livelihood and ensuring political rights of women. These approaches taken by these post-conflict countries quite similar and often fall into five main types of approaches; called i) welfare, ii) equity, iii) anti-poverty, iv) efficiency, and v) empowerment which were discussed by Feminist development theorist; Caroline Moser (2003). Together they are called the fivefold policy approaches in post-conflict reconstruction. However, the national governments in these countries have not much considered the cultural barriers such as patriarchal values, male domination and social norms that often restrict mainstreaming gender approaches in their reconstruction process. Most of these countries have not yet taken considerable steps in ideological changes of the society.
[Paper No 126]

**The Working Conditions of Female Employees in Night Shifts**
Merda Elvan Tunca. Pamukkale University, Turkey

The aim of this paper is first of all to clarify the basic definition of female employee in the scope of Turkish Labour Law. The female employees have specific rights as a result of being a mother and a female in Turkish Labour Code. Recently the labour law rules are issued bylaws according to the Turkish Labour Act No. 4857. One of these bylaws as mentioned below is called “The Regulation about The Working Conditions of Female Employees in Night Shifts” which entered into force in July 2013. We would like to analyse the articles of this regulation in this study. The content of this regulation consists of the definition and working time of the female employee, the medical consent of the doctor permitting female employee to work in night shifts and the prohibits in the case of pregnancy and maternity. Comparing this regulation to the former regulation it has more progressive and useful rules in favour of female employees. Also it takes care of the medical conditions of female employees. We intend to criticize the articles of this regulation, determine the lacking issues and offer new suggestions that should be made according to the national, international law and demands of female employees in the scope of principle of equality.

[Paper No 129]

**Does Gender Matter for Economic Convergence?**
Dilara Kılınç & Hakan Yetkiner. Izmir University of Economics, Turkey

This study focuses on the role of female share in employment on income convergence. The theoretical part of the paper shows how the share of females in employment can have a positive effect on income convergence. The empirical part of the paper presents estimates of female share in employment on income convergence for 34 OECD countries in the period 1951-2010 using 5-year span panel data. We find that the female share in employment has a positive and statistically significant contribution to income convergence in the sample period. In addition, the positive contribution of the female share in employment increases significantly when openness, income inequality and the share of females in tertiary education (human capital) are added to the model as control variables. These findings suggest that increasing the female share in employment will contribute positively to income convergence.
**The ARDL Test of Gender Kuznets Curve for G7 Countries**

Dilara Kılınc, Esra Onater and Hakan Yetkiner. Izmir University of Economics, Turkey

The Gender Kuznets Curve (GKC) hypothesis argues that economic development has a non-linear effect on the female share of workers. There is, however, growing debate on the exact shape of this non-linear relationship. The aim of this paper is to test the GKC hypothesis in order to determine whether data supports a quadratic or a cubic GKC for each G7 countries in the long run. The ARDL bounds testing approach of cointegration yields evidence for the following: Canada, United Kingdom and United States have an inverted U-shaped GKC; Japan has an S-shaped GKC and France has an inverted-S shaped GKC; and finally that Italy and Germany have no long run GKC relationship in the respective periods of countries considered. We conclude that gender equality is not a direct result of development, and therefore policy makers having a gender equalization policy need to subsidize the employment of female workers in periods of fall.

**The Flesh of Liberal Law – Examining the Silencing of Marginalized Communities in the “Anti-Fgm” Debates**

Juliet Rogers. University of Melbourne, Australia

In the last 20 years the legislation against what is termed ‘female genital mutilation‘ has been enthusiastically embraced in European and English speaking countries. This legislation is implemented largely without consultation with the communities who experience or implement the practices. In the Australian context communities objected to the processes of consultation, stating that their modalities meant that ‘adequate community consultation could not take place’. Nevertheless, together with its recommendation for anti-fgm legislation, the Family Law Council in Australia stated that it is 'in no doubt that the Australian community's view as a whole on the issue of female genital mutilation is clear' The communities, thus excised from the whole nation, mirror the fantasies of the practices that suggest the flesh which is cut has no ceremonial or contractual worth to the whole body (of the subject or the nation), unlike that worth imagined circulating in the practices of male circumcision. This paper employs Lacanian psychoanalysis and the political theology of Eric Santner to consider the form and function of excising communities from the nation, as a whole and the mode in which circumcision logics can be thought to apply to the political terrains that embrace liberal law.
[Paper No 133]

In Support of Dangerous Research – The Role of Collegiality and Friendship in Forgiving Us for the Mistakes We Make Work We Do
Juliet Rogers, Nan Seuffert, Judith Grbich & Maria Drakopoulou. University of Melbourne, Australia

There are few critical legal scholars, whether focused on the defective origins of the nation or elsewhere, who, like Penny, do not at times find themselves on the margins of their schools. The work undertaken as critique is not popular. It often creates antagonisms and anxieties in our departments and amongst our colleagues. Critiquing law, human rights and even the “good works” of some social justice endeavours does little to endear us to funding bodies, and using critical theory – with all its “continental” proper names - can further alienate or colleagues. Further, critical academy itself can be less than forgiving if you haven’t referenced the “correct canon” or read…everything. What is required to hold us steady in our work is either a virulent dose of arrogance or our friends who forgive us and embrace us for our mistakes; our friends, whose compassion and affection contain our confusions and uncertainties. In this roundtable we consider the importance of friendship in enabling us to do the work we do - to look at the violent, the gruesome, the Good and sometimes the frivolous with the knowledge that our friends will offer their curiosity, their generosity and sometimes their forgiveness for the paths we take and the mistakes we make.

[Paper No 134]

Affect and Law
Anamika Dutt. Tata Institute of Social Sciences, India

The paper looks at the “protectionist” law, the ITPA (Indian Traffic Prevention Act (1956)) and illustrates how it affects sex workers. The research with the help of the Organizational Environment Process which looks into the “relations between the state and the society relations by conceptualizing the ways in which the activity of policy implementing agency (the state) is embedded in its societal context” (Gent, 1993) will attempt to outline the dominant discourses which influence such policies. The need to realize that sex workers is not a monolithic group. (Kotiswaran, 2012). The paper jots out structural issues like of illiteracy, gaining marketable skills, problems of housing where many at times whose absence leads to women not just opting for sex work but getting further marginalised within sex work itself. (Chuang, 2006). The paper brings out how there is a need for the state to realise that the transition of a sex worker into another form of
waged labour (in search of respectability and social acceptance and alternative livelihoods) cannot be appropriated, the transition will only be successful if the state realises the above mentioned structural flaws due to which many women get into sex work apart from the ones who are being trafficked.

The aim of the paper is to amass methods which are not just implementable but on how protectionist measures should be facilitated by the state. It then helps in disintegrating staunch ideological stands against sex workers but facilitates a policy which will be from within the community though their lived realities. This will “augment the political resources controlled by subaltern groups (in this case the sex workers) and increase their ability to make the policy responsive to their needs…which will also prepare these group(s) to play a more efficient role in periods where dramatic change becomes possible like the decriminalization of sex work within the Indian state.” (Gent, 1993)

**[Paper No 135]**

**The Female Gender and Customary Law In Nigeria; the Yoruba Perspective**

Oyemade Thompson. Ogunlowo. Olabisi Onabanjo University, Nigeria

It is a well-known fact that it is merely folly for any sailor to set out on a voyage without first charting his course and defining his destination neither is it a good idea to embark on a topic without first defining the purpose i.e. what the intended objective, what is the relevance of such research and what direction does it intend to take. To do otherwise, would be to drift aimlessly and most likely the intended objective would not be achieved.

Purpose: The purpose of this research is basically to examine the impact of Yoruba customary on gender relations within the Yoruba ethnic group. It is also the purpose of this paper to criticize gender roles assigned by Yoruba customary law; the paper would also examine the constitutionality of such gender restrictions.

It would also examine the legal rights of women under Yoruba customary law. Finally, it would make suggestions for law reforms in the appropriate places to reduce the negative impact of the assignment of gender roles and a comparison within the Yoruba and southern customary law.

Relevance: The relevance of this research topic lies in the fact that Yoruba customary law is prevailing customary law in Lagos state which state has been said to be the economic capital of Nigeria. The result of this therefore is that the contribution of women in this area to the nation would be determined by how much their customary law is prevailing law of the people and this is
seen in the fact that most cases are resolved according to the percepts of the customary law rather than brought to the court. This project would therefore suggest law reforms in appropriate places.

Directions: This project seeks to examine gender restrictions placed on women subject to Yoruba customary law by examining the gender roles that exist under Yoruba customary law and by examining the different aspects of Yoruba customary law and how it affects women.

Scope of the research topic: This topic would cover areas as gender, the different school of thought on gender, thereby creating a background for the research topic. It would also discuss customary law as a source of law before exploring the ambit of Yoruba customary law and how it affects the gender bias. The scope of the work would also cover the constitutionality of or otherwise of certain gender assumption.

This research topic would not cover the area of the economic implications of gender restrictions even though it is supposed to show how the productivity of women is limited by gender restrictions in Yoruba customary law. All this paper intends to do is to explain how these restrictions affect the productivity of women generally by examining gender issues with different aspects of Yoruba customary law.

[Paper No 136]

Can Secularism Spare Women from Honor Violence?
Amy Logan. Freelance, United States

One burning question compelled me through a decade of research: Where does “honor killing” come from? The origins of these murders – mostly of women and girls by their families for perceived promiscuity, disobedience, or for being raped – perplexed and galvanized me. No one seemed to know how they got started and the subject is taboo in the societies that practice it. As I researched for what became a novel on this topic, The Seven Perfumes of Sacrifice, I explored the intersections and divergences of religion, law, politics, gender, myth and culture: Why are Islam and honor violence often conflated in both the western and eastern mind? What type of legal system tends to mitigate honor violence? Does Sharia law increase or decrease their incidences? Does strengthening secular laws reduce honor killings? What religions condone this practice and how do the attendant laws of those regions respond? If “honor” as a value in these traditional societies is widely held to be above and beyond both religion and law, where do we turn to transform this problem? In this paper, I explore these questions through the narrative of my novel and discuss my theory of the origins of honor killing and its current status throughout the Honor Killing Zone with
implications for a solution for ending the practice and the larger issue of violence against women and girls.

[Paper No 137]

**Intersexuality and Violence**

Theresa Richarz & Franziska Brachthäuser. Humboldt University, Germany

While gender studies attempt to outline the violence gender categories retrieve, the biological category „sex“ as an instrument of power and force remains uncriticized. Violence between the sexes is acknowledged, however the violence used to „do“ sex remains invisible.

Nature offers a wide variation of sexual development and it depends on human definition to draw a line between “male” and “female”. The common denomination “Intersexuality” implies a bipolar understanding of sex, since Inter*People are solemnly filed as „in between the sexes“.

The former German Personal Statute Law (GPSL) indicated that a newborn child had to be registered as either “male” or “female”. The legal text gave no further information on how to define “male” and “female”, but an administrative regulation assigned determining the categories of sex to medical staff. In the medical discourse, Intersexuality was considered to be a pathological anomaly that could be healed through surgery. The interplay of legally defined bipolar sex exclusivity and medical feasibility of “doing gender” lead to innumerous violations of the right to physical integrity and the right to a free will of Inter*People, confirmed 2011 by the Committee Against Torture as “cruel and degrading treatments”.

As a first reaction, the GPSL was amended on 1rst November 2013 and it was primarily possible not to register a child’s sex if neither „male“ nor „female“ could be documented. This amendment is the first legal recognition of Intersexuality, but however does not acknowledge Intersexuality as a third sex category but continues to define Intersexuality by differentiating it from the “normal” sex categories. The Paper analyzes the effects, the amendment of the GPSL has for the status of Inter*People both legally and socially and describes its impact on the legal gender language in Germany in total. The recognition of another sex than “male” and “female” makes further changes of legal documents necessary. By showing the systematic of legal gender definition, the Paper outlines the power structure that lies beneath those categories and reveals the dissimilar relation between the need for legally defined gender and the powerful effects those definitions have.
It's Your Fault
Chakravarti Patil, India

“She weeps blood, the mother of women whose daughters are killed. She weeps for the sons who will never be. As there shall be no daughters to be mothers.”

This paper addresses, enquires into and finds socio-legal solutions to one of India’s hideous crimes against women - female infanticide and foeticide, a masked female genocide in fact.

In India women are symbolized as goddesses - the givers of health, wealth, prosperity and life. And yet, they are considered not worthy of living. India has many men like the King Drupad, who desperately prayed to gods to grant him a son, because only a son is competent to realise a father’s dreams and desires; Drupad who condemned his virtuous daughters - Shikhandini and Draupadi for bringing him sorrows and shame. For many, a girl child continues to be a liability, a burden, a sorrow.

Since 2001 to 2011, over 3 Million girl children were denied a life because their parents wanted a son. Statistics are bad overall. In fact, the country’s sex ratio a hundred years back was better than today. But why were so many girls killed?

1. We are a son-obsessed society. We need sons to inherit property, run the family name and perform the last rituals.
2. Dowry system, another evil in itself, entitles bridegrooms to demand money and property.
3. India’s population - the biggest hindrance to its socio-economic growth.

Eliminating unwanted girl child was the easiest solution to all three problems, each of which the author scrutinizes in detail, taking into consideration the underlying cultural norms, historical background, political pressures, failing laws, intervening judiciary, alarming statistics and empirical data. The author then examines the consequences of having lesser women in the society.

As far as law is concerned, states and central government are working towards enactment and implementation of stringent laws. Dowry is abolished and penalised. Abortions are legalized only in certain cases. Many girls are saved in recent years through the Prohibition of Sex Determination Act. Advocates, feminists, social activists and NGOs are spreading awareness on the issue. However, advanced technology and unethical doctors pose a challenge to the implementation of laws.
The problem is more social than legal. Even the strictest laws won’t help unless the society changes its mindset and accepts the girl child with open hearts. While attempts are made to better the sorry state, some woman somewhere still wonders to herself:

I? I am a could-have-been mother, of my three dead daughters! Forgiving even in death, they kiss me one by one. I search them in the darkness of my womb, where they dissolve yet again.

I? I am a mother to be, to my fourth child. I hope and pray, this time it be a son!

[Paper No 140]

Violation of Women’s Right To Life: Honour Crimes in Turkey
Ayse Kulahli. Brunel University, United Kingdom

According to the United Nations Population Fund (UNPF 2000), there are 5,000 women and girls who are murdered in the name of ‘honour’ by their family members each year throughout the world. Turkey is one of many countries that have failed to adequately prevent honour crimes despite taking some measures to address the phenomenon. Although Turkey has ratified the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) and other human rights agreements, the country has yet to amend the criminal code on crimes of honour, diligently implement new laws on honour killings, or evaluate the influence of new regulations in this regard. As such, the country has been unable to fully protect women’s right to life, since women are still under threat of honour killings. This paper will aim to identify and examine the factors that have contributed to this gap between Turkey’s intention to protect women from honour killings established in legal measures and the failure to implement this protection in practice. This paper will first examine honour crimes within the international human rights framework and the relevant commitments and legal measures established by Turkey. Then, Turkey’s current situation regarding honour killings will be analysed, with particular emphasis on the deficiencies of implementation. The paper will highlight the emergence of honour suicides as an alternative form of honour killings, which has further complicated efforts to address this crime, before presenting some brief conclusions.
An Examination of LGBT Inmates in Turkey under the Light of the X/Turkey Case by the European Court of Human Rights

Emir Ozeren, Dokuz Eylul Universitesi, Turkey

In this study, the question of LGBT inmates in Turkey was analyzed under the light of the European Court of Human Rights’ (ECHR) judgment on a gay prisoner’s application regarding the violations of the prohibition of torture and prohibition of discrimination. Due to being the first Turkish gay-themed case, it was considered to be necessary to examine in greater details. As it has been the first decision on Turkey made by the ECHR on sexual orientation issue, it was investigated in-depth as a case study. The current case has established a significant jurisprudence that pointed out the severity of the inadequate physical conditions of prisons from the viewpoint of homosexuals, the gap in Turkish law on criminal execution as well as on the penalty legislation regarding homosexual prisoners and the lack of agenda-setting at political level in Turkey.

Constructing Attachments with the ‘Deep Sovereigns ’: Gendered Subjectivities and ‘Law-Preserving Violence’ in South-eastern Turkey

Ozlem Biner, University of Cambridge, United Kingdom

Drawn on the analysis of the narratives of blood feuds in a Kurdish family, this paper analyses the ways in which the big families (buyuk aileler) exercise its power as a political, historical and emotional modality in a province of Southeastern Turkey. Going beyond the analysis of categorical oppositions between the patrimonial structure and 'rational' state, customary law and law of the state, traditional and modern, private and public, the paper examines the hegemonic realm of the family revealing the nature of its connections with other forms of power and at the same discusses its effects on the construction and transformation of gendered subjectivities.
List of Authors and Presenters

Amira Aftab. Macquarie University, Australia

Ayse Akalin. Istanbul Technical University, Turkey

Daniela Åkers. University of Helsinki, Finland

Heli Askola. Monash University, Australia

Helena Maria Alviar Garcia. University of Los Andes, Colombia

Zainab Alwani. Howard University School of Divinity, United States

Andrea Catalina Amaya. Universidade Federal Fluminense, Brazil

Marianthi Anastasiadou. Aristotle University, Greece

Verónica Anzil. Universidad Rovira i Virgili, Spain

Feray J. Baskin. Indiana University, United States

Hannah Baumeister. Aberystwyth University, United Kingdom

Ozlem Biner. University of Cambridge, United Kingdom

Franziska Brachthäuser. Humboldt University, Germany

Meghan Campbell. Oxford University, United Kingdom

Maria Casalini. University of Florence, Italy

Isabel Cristina. University of Los Andes, Colombia

Thomas Crofts. University of Sydney, Australia

Maria Drakopoulou. University of Melbourne, Australia

Anamika Dutt. Tata Institute of Social Sciences, India

Hengameh Ashraf Emami. Northumbria University, United Kingdom

Emine Evered. Michigan State University, United States

Gabriela Farinha. PhD Renato Treves, University of Milan, Portugal
Eda Hatice Farsakoglu. Lund University, Sweden
Malgorzata Fuszara. University of Warsaw, Poland
Jasmine George. Christ University, India
Zuzana Giertlova. Columbia University, United States
Jordi Roca Girona. Universidad Rovira i Virgili, Spain
Kate Gleeson. Macquarie University, Australia
Judith Grbich. University of Melbourne, Australia
Dilara Kilinc. Izmir University of Economics, Turkey
Shu-Chin Grace Kuo. National Cheng Kung University, Taiwan
Lerzan Gultekin. Atilim University, Turkey
Shanthi Hettiarachchi. Keele University, United Kingdom
Stacy Hickox. Michigan State University, United States
Stefan Hock. Georgetown University, United States
Erich Hou. Cardiff Law School, United Kingdom
Adrian Howe. Griffith University, Australia
George Jose. Christ University, India
Sezen Kama. Istanbul Medeniyet University, Turkey
Michelle Kaminski. Michigan State University, United States
Emrah Karakus. Istanbul Sehir Universitesi, Turkey
Lina Kassem. Qatar University, Qatar
Violetta Khabibulina. First Saint-Petersburg State Medical University named after acad. I.P.Pavlova, Russian Federation
Ayse Kulahli. Brunel University, United Kingdom
Jacek Kurczewski. University of Warsaw, Poland
Nisan Kuyucu. Ankara University, Turkey
Murray Lee. University of Sydney, Australia
Amy Logan. Free Lance, United States
Marilyn McMahon. Deakin University, Australia
Vijaya Nagarajan. Macquarie University, Australia
Khalida Nurmetova. Free University Berlin, Germany
Tazeen Qureshi. Qatar University, Qatar
Esra Onater. Izmir University of Economics, Turkey
Amira Osman. The Gender Centre for Research &amp; Training, United Kingdom
Emir Ozeren. Dokuz Eylul Universitesi, Turkey
Umut Ozkaleli. Zirve University, Turkey
Maree Pardy. University of Melbourne, Australia
Chakravarti Patil. India
Kimberly Rhoten. Centre for Health Law, Ethics & Technology, Jindal Global Law School, India
Theresa Richarz. Humboldt University, Germany
Lidia Rodak. University of Silesia Faculty of Law and Administration, Poland
Juliet Rogers. University of Melbourne, Australia
Sibel Safi. Queen Mary University, United Kingdom
Jasmine Samara. Harvard University, United States
Ezgi Saritas. Ankara University, Turkey
Ana Paula Sciammarella. Universidade Federal Fluminense, Brazil
Eda Aslı Seran. Galatasaray University, Turkey
Nan Seuffert, University of Melbourne, Australia
Cigdem Sever. Atilim University, Turkey
Ayesha Shahid. Brunel University, United Kingdom

Jaramillo Sierra. University of Los Andes, Colombia

Horacio Sivori. State University of Rio de Janeiro, Brazil

Karen Streckfuss. Monash University, Australia

Marianna Bacci Tamburlini. Institute of Social Sciences, University of Lisbon, Portugal

Derya Tekin. Queen's University Belfast, United Kingdom

Oyemade Thompson. Ogunlowo. Olabisi Onabanjo University, Nigeria

Maria Tonini. Lund University, Sweden

Merda Elvan Tunca. Pamukkale University, Turkey

Lütfi Ucal. Yasar University, Turkey

Marina Vrhovac. University of Ljubljana, Slovenia

Christina Wolff. University of Potsdam, Germany

Meltem Ince Yenilmez. Yasar University, Turkey

Hakan Yetkiner. Izmir University of Economics, Turkey

Anil Guven Yuksel. Yildirim Beyazit University, Turkey

Roxana Yzusqui. Universidad Rovira i Virgili, Spain

Aleardo Zanghellini. University of Reading, United Kingdom

Shirin Zubair. Baha-ud-Din Zakariya University, Pakistan