

WOMEN'S RIGHTS IN TRANSNATIONAL LAW

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Women's Rights in Transnational Law
Professor Rebecca J. Cook
Faculty of Law, University of Toronto
Fall Semester, 2013:
Mondays 4:10 pm – 6:00pm (6:15 for the last 8 classes)
3 Credits

Contact Information

Rebecca J. Cook: rebecca.cook@utoronto.ca (available by appointment)

Learning Objectives

- Demonstrate an understanding of how the *Convention on the Elimination of All Forms of Discrimination against Women* ("Women's Convention") has been applied, and how it might be more effectively applied, to improve women's status.
- Demonstrate an understanding of the ways in which the social sciences, particularly the social psychology literature, might be used to expose women's experiences of injustice, especially discriminatory gender stereotyping.
- Formulate how the principle of equality can be applied to modify social and cultural patterns of conduct of men and women, which are based on the idea of the inferiority or the superiority of either sex or on stereotyped gender roles.
- Formulate how the principle of equality might be more effectively applied to subgroups of women such as those marginalized in various ways, such as by race, age, identity.

Texts:

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

Structure:

Part 1: September 9, 16, 23, 30, October 7

Part 2: October 21, 28

Part 3: November 11, 18

Part 4: November 25

Evaluation:

80% Written Work: four short papers

20% Class Participation: regular attendance, reflective input into class discussion, on-call days

Written work:

80% written work in the form of four short papers (1,563-1,875 words each, which is about 6-7 pages) analyzing the reading materials assigned for class. One paper must be written for each of the four seminar parts. Short papers are due by 9 am Monday of the day of the class in which the materials are to be discussed under my office door, Falconer Room 210. Permission for electronic submission will be given only in exceptional circumstances.

Please see Writing Guide at the end of the syllabus for further information on evaluation of written work. The University of Toronto provides a number of writing resources: www.utoronto.ca/writing.

Class participation:

All students will be evaluated on 20% class participation. *Class participation will be measured by regular attendance with reflective input into class discussion.* If you have to be absent from class, you are still responsible for the readings and asking a classmate for notes, and integrating the readings and discussion into the reflective papers. On-call days will require students to discuss their short papers, will introduce one of the reading materials assigned for the class.

Email Policy:

Email will not be used as an alternative to meeting with the course instructors before or after class or by appointment. Email inquiries will be responded to only in exceptional circumstances. Please ensure you consult the syllabus and other course materials before submitting any email inquiry. All email messages must include in the subject line the course identifier and a concise and clear statement of purpose [e.g. Women's Rights Seminar: short paper]. Inquiries of interest to all students will be addressed in class.

Course Outline

Part I

1. Sept 9 The Women's Convention in Context of International Law
2. Sept 16 The Women's Convention, Prejudices and Stereotypes
3. Sept 23 Naming Gender Stereotypes
4. Sept 30 State Obligations to Eliminate Gender Stereotyping

Part II

5. Oct 7 Gender Stereotyping as a Form of Discrimination
(Oct 14 – no class – Thanksgiving)
6. Oct 21 Gender Stereotyping in the Employment Sector

Part III

7. Oct 28 Gender Stereotyping in the Health Sector
(Nov 4 – no class – reading week)
9. Nov 11 Gender Stereotyping and Gender-based Violence against Women

Part IV

10. Nov 18 Gender Stereotyping in Marriage and Family: Polygyny
11. Nov 25 Gender Stereotyping by Religious Practices

TABLE OF CONTENTS

1. THE WOMEN'S CONVENTION – SEPTEMBER 9

(a) The Structure of the Women's Convention and its Protocol

Consider:

- What is the Women's Convention, and what substantive rights does it protect?
- What is the Women's Committee?
- What does the Protocol add to the Women's Convention?

Convention on the Elimination of All Forms of Discrimination against Women (The Women's Convention) esp. arts. 1 – 6, 10 – 12, 15 – 18, 21, 24, and 28; and its Optional Protocol (in: *Gender Stereotyping*, 181-194; 195-200) GS181

Simone Cusack & Rebecca Cook, "Combating Discrimination Based on Sex and Gender" in *International Protection of Human Rights: A Textbook*, Krause, C and Scheinin, M. eds. (2ed.) (Turku: Institute for Human Rights, Abo Akademi University, 2012) 211 - 242 1

See also:

Marsha Freeman, Christine Chinkin and Beate Rudolph eds., *The United Nations Convention on the Elimination of All Forms of Discrimination against Women: A Commentary* (Oxford: OUP, 2012)

Arvonne Fraser, "Becoming Human: The Origins and Development of Women's Human Rights," (1999) 21 *Human Rights Quarterly* 853

(b) Interpreting the Women's Convention and its Protocol

Consider:

- What are the principles of treaty interpretation?
- How can these principles be applied to determine the object and purpose of the Women's Convention?
- What is meant by "the elimination of all forms of discrimination against women?"
- What is substantive equality under the Women's Convention and what sorts of transformation are required?

United Nations, Committee on the Elimination of Discrimination against Women, *General Recommendation No. 25 on Temporary Special Measures*, UN Doc.

CEDAW/C/2004/I/WP.1/Rev.1 (2004), at paras. 3-14 33

Committee on the Elimination of Discrimination against Women, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 47th sess., 16 December 2010, CEDAW/C/GC/28 41

Rebecca J. Cook, "Reservations to the Convention on the Elimination of All Forms of Discrimination against Women" (1990) 30 Virginia Journal of International Law 643, at 660-663. 51

(c) The Women's Convention in Context of the Evolution of International Law

Consider:

- What prototypes of women have emerged in international law?
- Does a focus on women's specificities within the framework of universality achieve women's equal rights?
- Does the strategy of women's rights are human rights sufficiently address the gendered hierarchies?

Dianne Otto, "Lost in Translation: Re-scripting the Sexed Subjects of International Human Rights Law," in Anne Orford, ed., *International Law and its Others* (Cambridge: Cambridge University Press, 2006), 318-356 55

2. THE WOMEN'S CONVENTION, PREJUDICES AND GENDER STEREOTYPES ARTICLE 5(a) – SEPTEMBER 16

Consider:

- What is a stereotype?
- Why do people stereotype?
- What are gender stereotypes?
- What are their forms, their contexts, and means of perpetuation and elimination?

(a) Overview

Re-read: Women's Convention, Preambular para 14, arts. 2(f), 5(a), 10(c) GS181

Gender Stereotyping, Chapter 1 (pp. 9-38)

(b) What is a Gender Stereotype?

María Eugenia Morales de Sierra v. Guatemala, Case 11.625, Report No. 4/00, OEA/Ser.L/V/II.111 Doc. 20 rev. at 929 (2000), at paras. 1 – 4; 20 – 27; 31 – 54 (Guatemala, Inter-American Commission on Human Rights) 75

Peter Glick and Susan T. Fiske, "Sex Discrimination: The Psychological Approach," in Faye J. Crosby, Margaret S. Stockdale, and S. Ann Ropp, eds. *Sex Discrimination in the Workplace - Multidisciplinary Perspectives* (Malden, Massachusetts: Blackwell Publishing, 2007) 155-87. 83

(c) Compounded Stereotypes: gender, race and class

Gender Dimensions of Racial Discrimination, United Nations Office of the High Commissioner for Human Rights, 2001, at 11-18, available at: <http://www.westafricareview.com/vol3.1/durban-gender.pdf> 100

Committee on the Elimination of Discrimination against Women, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 47th sess., 16 December 2010, CEDAW/C/GC/28, para 2 41

See also:

Anne Cossins, "Saints, Sluts and Sexual Assault: Rethinking the Relationship between Sex, Race and Gender", (2003) 12(1) *Social & Legal Studies* 77.

Zanita E. Fenton, "Domestic Violence in Black and White: Racialized Gender Stereotypes in Gender Violence," (1998-1999) 8 *Columbia Journal of Gender & Law* 2, at 10-26

3. NAMING GENDER STEREOTYPES – ARTICLE 5(a) – SEPTEMBER 23

Re-read: Women's Convention, arts. 2(f), 5(a), 10(c) GS181

Gender Stereotyping, Chapter 2 (pp. 39-70) GS 39

Consider:

- What is the significance of naming gender stereotyping?
- How does a law, policy or practice stereotype men or women?
- How does the application, enforcement or perpetuation of a gender stereotype in a law, policy or practice harm women or men?

(a) How Men and Women are Stereotyped

American Psychological Association, "In the Supreme Court of the United States: *Price Waterhouse v. Ann B. Hopkins*. Amicus Curiae Brief for the American Psychological Association," (1991) 46 *American Psychologist* 1061 108

Re-read: *María Eugenia Morales de Sierra v. Guatemala*, Case 11.625, Report No. 4/00, OEA/Ser.L/V/II.111 Doc. 20 rev. at 929 (2000), at paras. 1 – 4; 20 – 27; 31 – 54 (Guatemala, Inter-American Commission on Human Rights) 75

R. v. Ewanchuk, [1999] 1 S.C.R. 330, 169 D.L.R. (4th) per Justice L'Heureux-Dubé at paras. 77-102 (Canada, Supreme Court) 118

President of the Republic of South Africa v. Hugo, 1997 (4) SA 1 (CC), [1997] 6 B.C.L.R. 708: Goldstone J (majority) at paras. 36 – 43, 46 – 48, and 52-53; Kriegler J (dissenting) at paras. 79 – 88; Mokgoro J (concurring) at paras. 89, 92 – 94, and 105 – 106; O’Regan J (concurring) at paras. 107 – 115 (South Africa, Constitutional Court of South Africa) 126

See also:

Deborah A. Widiss, *et al.* “Exposing Sex Stereotypes in Recent Same-Sex Marriage Jurisprudence” (2007) 30 *Harvard Journal of Law & Gender* 461, at 487-498

Michelle O’Sullivan, “Stereotyping and Male Identification: ‘Keeping Women in their Place’” (1994) *Acta Juridica* 185, reprinted in Christina Murray, ed., *Gender and the New South African Legal Order* (Kenwyn: Juta, 1994), 185, at 186-196

(b) How Gender Stereotypes Harm Women and Men

Consider:

- Does the gender stereotype fail to take account of a woman’s actual situation in a way that affects her individual autonomy, agency, or dignity?
- Does the gender stereotype disadvantage a woman in a way that does not relate to her needs, abilities, or circumstances?
- Does the gender stereotype imply that women are inferior to men?
- Do gender stereotypes of men harm women?

Petrovic v. Austria (1998), 33 E.H.R.R. 307 (European Court of Human Rights) 140

**4. STATE OBLIGATIONS TO ELIMINATE GENDER STEREOTYPING
ARTICLES 1-5, 24 – October 7**

Re-read: Women’s Convention, preambular para 14, arts. 1, 2(f), 3, 4, 5(a), 24 & 28 GS181

Re-read: United Nations, Committee on the Elimination of Discrimination against Women, *General Recommendation No. 25 on Temporary Special Measures*, UN Doc. CEDAW/C/2004/I/WP.1/Rev.1 (2004), at paras. 7 – 8 33

Gender Stereotyping, Chapter 3 (pp. 71-103) GS 71

(a) State Obligations to Eliminate Gender Stereotyping

Consider:

- What is the nature and scope of States Parties’ obligations to eliminate gender stereotyping?
- What measures might States Parties take to eliminate gender stereotyping in the legislative, executive and judicial arenas? What measures might States Parties take to eliminate gender stereotyping by non-state actors?
- Can States Parties limit the scope of their obligations to eliminate gender stereotyping?
- What impact do reservations to art. 5(a) have on the goal of eliminating all forms of discrimination against women?

Re-read: United Nations, Committee on the Elimination of Discrimination against Women, *General Recommendation No. 25 on Temporary Special Measures*, UN Doc. CEDAW/C/2004/I/WP.1/Rev.1 (2004), at paras. 3-14 33

Reservations entered to article 5(a) by the Governments of India (9 July 1993) and Niger (8 October 1999); Objections filed against the reservation of Niger by France (14 November 2000) 150

Reservations entered to article 7(b) by the Government of Israel 151

See also:

For a current list of reservations to the Women's Convention, see online: United Nations Treaty Collection <<http://untreaty.un.org/>>

Andrews v. Law Society of British Columbia, [1989] 1 S.C.R. 143 (Canada, Supreme Court)

Law v. Canada (Minister of Employment and Immigration), [1999] 1 S.C.R. 497 (Canada, Supreme Court)

R v. Kapp, 2008 SCC 41, at paras. 23-25 (Canada, Supreme Court)

(b) State Obligations to Remedy Gender Stereotyping

Consider:

- What remedies, including temporary special measures, might States Parties adopt to provide individual relief for gender stereotyping?
- What remedies, including temporary special measures, might States Parties adopt to de-institutionalize gender stereotypes?
- What individual and structural means are appropriate to remedy the harm of gender stereotyping?

Re-read: Women's Convention, art. 4 GS181

United Nations, Committee on the Elimination of Discrimination against Women, *General Recommendation No. 25 on Temporary Special Measures*, UN Doc. CEDAW/C/2004/I/WP.1/Rev.1 (2004), at paras. 15-39 33

Re-read: *María Eugenia Morales de Sierra v. Guatemala*, Case 11.625, Report No. 4/00, OEA/Ser.L/V/II.111 Doc. 20 rev. at 929 (2000) (Guatemala, Inter-American Commission on Human Rights) 75

Joan C. Williams, "Deconstructing Gender" (1988-1989) 87 Michigan Law Review 797, at 836-843 152

5. GENDER STEREOTYPING AS A FORM OF DISCRIMINATION – OCTOBER 14

Consider:

- How do stereotypes that harm women discriminate against them?
- When do harms caused by stereotyping rise to the level of discrimination or any other form of violation of women's rights?
- Was a distinction, exclusion or restriction made on the basis of gender stereotyping?
- Did it have the effect or purpose of impairing or nullifying the equal recognition, enjoyment or exercise by women of human rights and fundamental freedoms?
- Was the application, enforcement, or perpetuation of a gender stereotype in a law, policy or practice justified?

Gender Stereotyping, Chapter 4 (pp. 104-130) GS 104

Re-read: *María Eugenia Morales de Sierra v. Guatemala*, Case 11.625, Report No. 4/00, OEA/Ser.L/V/II.111 Doc. 20 rev. at 929 (2000), at paras. 1 – 4; 20 – 27; 31 – 54 (Guatemala, Inter-American Commission on Human Rights) 75

Re-read: *President of the Republic of South Africa v. Hugo*, 1997 (4) SA 1 (CC), [1997] 6 B.C.L.R. 708: Goldstone J (majority) at paras. 36 – 43, 46 – 48, and 52-53; Kriegler J (dissenting) at paras. 79 – 88; Mokgoro J (concurring) at paras. 89, 92 – 94, and 105 – 106; O'Regan J (concurring) at paras. 107 – 115 (South Africa, Constitutional Court of South Africa) 126

S v. Jordan, 2002 (6) SA 642 (CC), [2002] (11) B.C.L.R. 1117; 2002 (6) SA 642: Ngcobo J (majority) at paras. 8 – 20; O'Regan and Sachs JJ (dissenting) at paras. 57 – 73, 95 – 98 (South Africa, Constitutional Court) 160

Sophia R. Moreau, "The Wrongs of Unequal Treatment" (2004) 54:3 *University of Toronto Law Journal* 291, at 297 – 302. 170

See also:

Sandra Fredman, "Beyond the Dichotomy of Formal and Substantive Equality: Towards a New Definition of Equal Rights" in I. Boerefijn *et. al.*, eds., *Temporary Special Measures: Accelerating de facto Equality of Women under Article 4(1) UN Convention on the Elimination of All Forms of Discrimination Against Women* (Antwerpen: Intersentia, 2003), pp. 111-118

Cary Franklin, "The Anti-Stereotyping Principle in Constitutional Sex Discrimination Law," (2010) 85:1 *New York University Law Review* 101 at 137-159.

FOR CLASSES 6-10, PLEASE CONSIDER THE FOLLOWING QUESTIONS:

- What are the operative gender stereotypes in a particular sector?
- What are the origins, contexts and means of perpetuation of the operative stereotype relevant to understanding, naming and eliminating it in a particular sector?
- How do these stereotypes harm women, and how do they deny women their rights?

- How do these stereotypes discriminate against women?
- What are the state obligations to eliminate gender stereotyping in a particular sector?
- What remedies, including temporary special measures, might be effective at the individual and institutional levels to eliminate gender stereotypes in a particular sector?

6. GENDER STEREOTYPING IN THE EMPLOYMENT SECTOR – ARTICLE 11 – OCTOBER 21

(Refer back to the general points to consider on pages viii-ix and think about how they would apply in the employment sector.)

| | |
|--|-------|
| Re-read: Women’s Convention, arts. 2(f), 5(a) and 11 | GS181 |
| <i>Price Waterhouse v. Hopkins</i> , 490 U.S. 228 (1989), at 231-238; 250/58 (United States, Supreme Court) | 176 |
| Re-read: American Psychological Association, “In the Supreme Court of the United States: <i>Price Waterhouse v. Ann B. Hopkins</i> . Amicus Curiae Brief for the American Psychological Association,” (1991) 46 <i>American Psychologist</i> 1061. | 108 |
| Deborah L. Rhode and Joan C. Williams, “Legal Perspectives on Employment Discrimination” in Faye J. Crosby, Margaret S. Stockdale, and S. Ann Ropp, eds. <i>Sex Discrimination in the Workplace - Multidisciplinary Perspectives</i> (Malden, Massachusetts: Blackwell Publishing, 2007), 235, at 245-249. | 187 |

7. GENDER STEREOTYPING IN THE HEALTH SECTOR – ARTICLE 12 – OCTOBER 28

(Refer back to the general points to consider on pages viii-ix and think about how they would apply in the context of the health sector.)

| | |
|---|-----|
| R.J. Cook and V. Undurraga, “Article 12” (health) in Freeman, Chinkin and Rudolf, eds. <i>The United Nations Convention on the Elimination of All Forms of Discrimination against Women: A Commentary</i> (Oxford: OUP, 2012) 311-333 | 190 |
| Cook, R.J., S. Cusack and B. Dickens, “Unethical Female Stereotyping in Reproductive Health” <i>International Journal of Gynecology and Obstetrics</i> , 2010; 109: 255-258 | 213 |
| <i>L.C. v. Peru</i> , Communication N° 22/2009 - Views adopted on October 17, 2011, Committee on the Elimination of Discrimination against Women | 217 |

See also

International Federation of Gynecology and Obstetrics, Harmful Stereotyping of Women in Health Care, 2011, www.figo.org

C. Smearman. "Drawing the Line: The Legal, Ethical and Public Policy Implications of Refusal Clauses for Pharmacists" (2006) 48 Arizona Law Review 469-540 (excerpt: pp. 492-507)

R. B. Siegel, "The New Politics of Abortion: An Equality Analysis of Woman-Protective Abortion Restrictions" (2007) 3 University of Illinois Law Review 991, at 994 – 997, 1009-1014, 1029-1050

8. GENDER STEREOTYPING AND GENDER-BASED VIOLENCE AGAINST WOMEN – GR 19 - NOVEMBER 11

Carmen K. Cheung
Director (Acting), International Human Rights Program
University of Toronto, Faculty of Law, T: 416.946.8730

(Refer back to the general points to consider on pages viii-ix and think about how they would apply to situations of gender-based violence against women.)

Re-read: Women's Convention, arts. 1, 2(f), 5(a) GS181

United Nations Committee on the Elimination of Discrimination against Women,
General Recommendation No. 19: Violence against Women, UN Doc. A/47/38 (1992) 236

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 10 December 1999, 2131 U.N.T.S. 83 (entered into force 22 December 2000) Art. 8 GS195

Zanita E. Fenton, "Domestic Violence in Black and White: Racialized Gender Stereotypes in Gender Violence," (1998-1999) 8 Columbia Journal of Gender & Law 2, at 10-26 242

(a) Mexico

Gender Stereotyping, pp 168-172 GS168

Gonzalez et al. ("Cotton Field") v. Mexico (2009) Inter-American Court of Human Rights, at paras. 2-3, 114-115, 128-129, 132-136, 151-154, 164, 196-208, 228-231, 298-307, 390-402, 468-473, 521-543, (O)12, (O)17-18, (O) 22. 259

See also:

International Reproductive and Sexual Health Law Programme, University of Toronto Faculty of Law and The Center for Justice and International Law, *Campo Algodonero: Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez* Cases Nos. 12.496, 12.497 and 12.498 against the United Mexican States, Amicus Curiae Brief, 29 November 2008, available at:
<http://www.law.utoronto.ca/documents/reprohealth/BriefMexicoCiudadJuarez2008English.pdf>

(b) Canada

Amnesty International's splash for the No More Stolen Sisters campaign,
<http://www.amnesty.ca/our-work/issues/indigenous-peoples/no-more-stolen-sisters> 275

Human Rights Watch, *Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous women and Girls in Northern British Columbia* (New York: Human Rights Watch, 2013) 66-87; the full report is available at: <http://www.hrw.org> 277

Committee against Torture, Concluding Observations on Canada, 25 June 2012, para 20,
<http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.CAN.CO.6.doc> 299

See also:

Amnesty International, *Stolen Sisters: Discrimination and Violence Against Indigenous Women in Canada* (London, UK: International Secretariat, 2004), available at:
<http://www.amnesty.org/en/library/info/AMR20/001/2004>

Amnesty International, *No More Stolen Sisters: The need for a comprehensive response to discrimination and violence against Indigenous women in Canada*, Index: AMR 20/012/2009 (London, UK: International Secretariat, 2009) pp. 5-6, available at:
<http://www.amnesty.org/en/library/info/AMR20/012/2009/en>

Missing Women Conference (2008), available at: <http://www.missingwomenregina.com/>

United Nation Convention on the Elimination of All Forms of Discrimination against Women, *Concluding Observations: Canada* UN Doc. CEDAW/C/CAN/CO/7 (7 November 2008) at paras. 31-32.
A30

Tameka L. Gillum, "Exploring the Link between Stereotypic Images and Intimate Partner Violence in the African American Community," (2002) 8 *Violence against Women* 64

Inaction and Non-Compliance: British Columbia's Approach to Women's Inequality, Submission of the BC CEDAW Group to the United Nations Committee on the Elimination of Discrimination Against Women (Poverty and Human Rights Centre: September 2008) at p.10-11, 26-29

Yasmin Jiwani and Mary Lynn Young, "Missing and Murdered Women: Reproducing Marginality in News Discourse" (2006) 31 *Canadian Journal of Communication* 895

9. GENDER STEREOTYPING IN MARRIAGE AND FAMILY: POLYGyny ARTICLE 16 – NOVEMBER 25

(Refer back to the general points to consider on pages viii-ix and think about how they would apply in the context of polygyny.)

(a) Family Law Context

- Lisa M. Kelly, "Bringing International Human Rights Law Home: An Evaluation of Canada's Family Law Treatment of Polygamy" (2007) 65 U.T.Fac.L.Rev. 1-25. 307
- Lorraine Weinrib, "Permissibility of polygamy put in new light" *Law Times*, 15 October 2007. 332
- State of Utah v. Green*, 2004 UT 76, paras. 1-5, 38-41, 62, 71-72. 334

See also:

Martha Bailey & Amy Kaufman. *Polygamy in the Monogamous World: Multicultural Challenges for Western Law and Policy* (Santa Barbara, CA: Praeger Publishers, 2010) (argues against the criminalization of polygamy)

Nicholas Bala, "Why Canada's Prohibition of Polygamy is Constitutionally Valid and Sound Public Policy" (2009) 25 Can. J. F.L. 165. (2009) (argues for criminalization of polygamy)

Hassam v. Jacobs No and Others (CCT83/08) [2009] ZACC 19 at paras. 1, 29-41, 52, available at: <http://www.saflii.org/za/cases/ZACC/2009/19.pdf>

(b) International Human Rights Context

- Rebecca J. Cook & Lisa M. Kelly, "Polygyny and Canada's Obligations under International Human Rights Law" (Ottawa: Department of Justice of Canada, 2006), at 27-28, available at: <http://www.justice.gc.ca/eng/rp-pr/other-autre/poly/poly.pdf> 339
- Re-read: Women's Convention, arts. 2(f), 5(a) and 16 GS181
- United Nations Committee on the Elimination of Discrimination against Women, *General Recommendation No. 21: Equality in Marriage and Family Relations*, UN Doc. A/49/38 (1994), para 14 341
- United Nations Human Rights Committee, *General Comment No. 28: Equality of rights between men and women (article 3)*, UN HRCOR, 68th Sess., U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000), para. 24 342

(c) Immigration context

- Rebecca J. Cook, "Structures of Discrimination," *Macalester International* 28, 33-60, 45-48 2011 (excerpt) 343
- R.B. v. U.K.*, European Commission on Human Rights, 1992 347
- Citizenship and Immigration Canada, *OP 2: Processing Members of the Family Class* (Citizenship and Immigration Canada, 2006), section 13.2, available at: www.cic.gc.ca/ENGLISH/RESOURCES/manuals/op/op02-eng.pdf 353

10. GENDER STEREOTYPING BY RELIGIOUS PRACTICES – ARTICLE 5(a) – NOVEMBER 25

(Refer back to the general points to consider on pages viii-ix and think about how they would apply to religious practices.)

Re-read: Women’s Convention, arts. 1, 2(e), 5(a) and 16(c) GS181

Human Rights Watch, *Discrimination in the Name of Neutrality: Headscarf Bans for Teachers and Civil Servants in Germany* (New York: Human Rights Watch, 2009), 6-16, 52-56.
(sections: Background; Germany’s Human Rights Obligations; Human Rights Violations) 355

R (on behalf of Begum) v. Head Teacher and Governors of Denbigh High School, [2006] UKHL 15, [2007] 1 AC 100, [2006] 2 All ER 487 (United Kingdom, House of Lords); read carefully Concurring Opinion of Baroness Hale, paras. 92-99 371

Bruker v. Marcovitz, [2007] 288 D.L.R. (4th) 257, at paras. 1-6; 10-38; 49-99 (Abella J) (Canada, Supreme Court) 376

Frances Raday, “Culture and Religion” in Hanna Beate Schöpp-Schilling & Cees Flinterman (eds), *Circle of Empowerment: Twenty-Five Years of the UN Committee on the Elimination of Discrimination against Women* (New York: Feminist Press, 2007), 68-95. 392

See also:

Multani v. Commission Scolaire Marguerite-Bourgeoys, [2006] SCC 6

Rahime Kayhan v. Turkey, CEDAW, Communication No. 8/2005, UN Doc. CEDAW/C/34/D/8/2005 (2006) (UN Women’s Committee)

Leyla Şahin v. Turkey (Şahin II), App. No. 44774/98 (Eur. Ct. H.R., Nov. 10, 2005) (European Court of Human Rights, Grand Chamber)

Lieve Gies, “What Not to Wear: Islamic Dress and School Uniforms” (2006) 14 *Feminist Legal Studies* 377.

Courtney W. Howland, “The Challenge of Religious Fundamentalism to the Liberty and Equality Rights of Women: An Analysis under the United Nations Charter” (1997) 35 *Columbia Journal of Transnational Law* 271

Courtney W. Howland, ed., *Religious Fundamentalisms and the Human Rights of Women* (New York: St. Martin’s Press, 1999)

Deborah L. Rhode, *The Beauty Bias: The Injustice of Appearance in Life and Law* (Oxford University Press, 2010)

WRITING GUIDE

Women's Rights in International Law

Requirements:

- Four Short Papers (1,563-1,875 words each, which is about 6-7 pages) analyzing the reading materials assigned for class. One paper must be written for each of the four parts of the course.
- Submission:
 - By 9am on Monday of the class in which the short paper is to be discussed.
 - Under office door of Falconer Rm 210.
 - Permission for electronic submission given only in exceptional circumstances.
- Short papers will be used in class to guide discussion of the materials. Students will be on-call and required to discuss their short papers.
- Graded short papers will be returned after class with comments.

Objective: Active Reflection and Critical Engagement with the Reasoning of a Decision

Short papers should actively reflect on the reasoning of an assigned decision of a court or human rights tribunal by critically engaging with the other materials (or any part of the material) assigned for that class. This may include a section from the *Gender Stereotyping* book, an article, or a report. Do not summarize or describe the reading. Analyze the reading. Additional research is not required.

Assume for purposes of your short comment that you are the judge and are rewriting a particular decision. Short papers may:

- Question and reflect on the meaning and uses of language or concepts of a decision;
- Examine how the reading reinforces or challenges hierarchies, constructions and relations in a decision;
- Explore how a decision might use the social psychology literature in making a decision;
- Investigate the assumptions, values and interests (related to, for example, gender, race and ethnicity, or sexual orientation) underlying a decision;
- Articulate conflicts, contradictions or uncertainties in a decision;
- Problematize the assumptions or analytic framework of a decision.

Assessment Criteria:

Short papers will be assessed on: analysis, structure, and style.

Analysis: Clearly state at the outset your thesis or argument. What is of utmost interest is not your conclusion, but your reasons for drawing your conclusion. You must back up all assertions with reasons.

While it may be helpful to introduce the reading in your paper, your paper must go beyond description. You **MUST** analyze the reading and draw conclusions from your analysis.

Be certain to canvas alternative positions and arguments in the course of your paper and to rebut these to the extent that they are inconsistent with your arguments.

Use examples to illustrate your arguments. These may be cases, events, or hypothetical examples, where appropriate.

Some degree of originality is important. You are expected to develop your own thoughts and analysis, and not describe the thoughts and analysis of others.

Structure: Structure is essential to a clear and well-argued paper. You should include an introduction and a conclusion. You should outline your structure in your introduction. Arguments should be clear and logical and ideas should be linked coherently. Subheadings are useful in delineating structure and moving from one idea or argument to the next. Each paragraph should have something relevant to say about your thesis or argument. If it does not, ask yourself or try to explain why you have included that paragraph.

Style: Clear expression, good presentation, accurate grammar and spelling, and appropriate use of vocabulary are essential.

Citations and Referencing:

For the accepted legal citation style at the University of Toronto Faculty of Law, see the *Canadian Guide to Uniform Legal Citation* (referred to as the “McGill Guide”) or the Bora Laskin Law Library website.

All use of others’ language **MUST** be indicated in quotation marks and referenced. Use of others’ ideas should be fully referenced. Failure duly to acknowledge the work of others constitutes plagiarism and is a serious academic offence.

Additional writing resources are available: www.utoronto.ca/writing.