

<b>Course title:</b> <i>Gender Competent Family Law</i>
<b>Teacher/Teachers:</b> Prof. Dr. Uroš Novaković, Assist. Ivana Barać
<b>Course status:</b> optional
<b>Number of ECTS:</b> 3 ECTS
<b>Requirements:</b> /
<p><b>Aim of the course:</b> To study the impact of gender perspective in the evolution of Family Law and family judicial procedures. The course begins with an overview of the normative evolution towards formal equality and continues with the reforms that aim at reaching substantive equality in Family Law. In particular, the course focuses on the evolution of the concept of family from a model traditionally grounded on the primacy of the husband or father, to a gender-equality-based model. Starting from that, the course focuses on the impact of gender on the regulation of different-sex and same-sex marriages, cohabitation, parental responsibility, filiation, divorce, separation, domestic violence, property issues (division of propriety, alimony, spousal maintenance), adoption and foster care.</p> <p>The course includes issues related to procedural law, taking into account that several Family Law reforms have affected civil procedure (marriage processes, filiation, capacity of persons, noncontentious proceedings). For this reason, a comprehensive study of Family Law is required, addressing both branches (the substantive and the procedural) from a gender perspective.</p>
<p><b>Course outcome:</b> The course will improve the knowledge of gender issues in Family Law, by offering to the students a broader and more detailed perspective on the related contemporary problems. On that note, the course would also give the students a chance to get involved in the „hot” topics of every day’s society.</p> <p>The tasks of the course will be accomplished by allowing students to acquire specific knowledge based on the comparative analysis of topics of the following: a) family from a gender perspective, b) marriage, divorce and their aspects from a gender perspective, c) establishment/contestation of maternity and paternity, parental responsibility from a gender perspective, adoption/foster care, child support proceedings, etc.</p>
<p><b>Course Content:</b></p> <ol style="list-style-type: none"> <li>1. The Family from a Gender Perspective: evolution and current situation with a review on the question of formal/material gender equality (how to improve gender equality provisions in order to achieve material gender equality)</li> <li>2. Gender and Marriage Perspectives (I): Personal Aspects (Equal rights and duties of the spouses) and (II) Patrimonial Aspects (Management of marital property) and (III) Same-Sex Marriage</li> <li>3. Gender Perspective and Divorce/Separation (Including Divorce Proceedings)</li> <li>4. Gender Perspective and Establishment/Contestation of Maternity and Paternity (filiation rights, presumptions of paternity, investigation of paternity, filiation proceedings, assisted reproductive agreements)</li> <li>5. Gender Perspective and Parental Responsibility and Adoption /Foster Care</li> <li>6. Gender Perspective and Alimony and Proprietary Rights of Ex-spouses/Unmarried couples</li> <li>7. Gender Perspective and Child Support</li> <li>8. Gender Perspective and Child Custody Proceedings</li> <li>9. Gender Perspective and Spousal Support Proceedings</li> <li>10. Gender Perspective and Domestic Violence</li> </ol>
<p><b>Literature:</b> <b>Required reading:</b></p>

1. C. Pateman, *The Sexual Contract*, Polity Press, 1988.
2. M. Afkhami, Y. Ertürk, A. Elizabeth Mayer eds. *Feminist Advocacy, Family Law and Violence against Women: International Perspectives*, Routledge, 2019.
3. M. D. C. Garzón and F. Fuentes Rodríguez, *Mujer, violencia y derecho*, Servicio de Publicaciones de la Universidad de Cádiz, Cádiz, 2006.
4. R. Hunter, S. Cowan eds. *Choice and Consent: Feminist Engagements with Law and Subjectivity*, Routledge, 2007.
5. J. Wallbank, S. Choudhry and J. Herring, *Rights, Gender and Family Law*, Routledge, 2010.
6. G. Lerner, *The Creation of Patriarchy*, Oxford University Press, 1986.
7. J. A. Baer, *Our Lives Before the Law, Construing a Feminist Jurisprudence*, Princeton University Press, 1999.
8. K. M. Baber and K. R. Allen, *Women & Families, Feminist Reconstruction*, The Guilford Press, 1992.
9. M. Barètt, M. McIntosh, *The Anti-social Family*, Thetford Press, 1982.
10. H. Barnet, *Introduction to Feminist Jurisprudence*, Cavendish Publishing Ltd, London, 1998.
11. F. E. Olsen ed., *Feminist Legal Theory*, New York University Press, New York, 1995.
12. A. Oakley, „Feminism, Motherhood and Medicine – Who Cares?“ in: J. Mitchell, A. Oakley eds., *What is feminism?*, Basil Blackwell, Oxford, 1987.
13. N. Rogers, „The impact of family support on the success of women business owners“ in: S.L. Fielden, M.J. Davidson eds., *International Handbook of Women and Small Business Entrepreneurship*, Edward Elgar Publishing Limited, Northampton, 2005.
14. M. E. Wiesner-Hanks, „Structures and Meanings in a Gendered Family History“ in: T. A. Meade, M.E. Wiesner-Hanks eds., *A Companion to Gender History*, Blackwell Publishing, 2004.
15. R. Gartner, B. McCarthy eds., *The Oxford Handbook of Gender, Sex, and Crime*, Oxford University Press, New York 2014.
16. M. Vandervondelen, „Childbirth in Iron Age Cyprus: A Case Study“ in: D. Bolger, N. Serwint eds., *Engendering Aphrodite, Women and Society in Ancient Cyprus*, American School of Oriental Research, Boston, 2002.
17. S. J. Correll, S. Benard, I. Palk, „Getting a job? Is There a Motherhood Penalty?“ in *American Journal of Sociology*, Volume 112, Number 5, The University of Chicago, 2007.
18. E. Zacharenko, „Reproductive rights as a social justice issue in the EU“ in: Estzer Kováts ed. *The Future of the European Union, Feminist Perspectives from East-Central Europe*, Friedrich-Ebert-Stiftung Budapest, 2017.
19. Maria Ágren ed., *Making a Living, Making a Difference, Gender and Work in Early Modern European Society*, Oxford University Press, 2017.
20. S. L. Kimble, M. Röwekamp eds., *New Perspectives on European Women's Legal History*, Routledge Research in Gender and History, 2016.

**Further Reading:**

1. S. Meder, Christoph-Eric Mecke eds., *Family Law in Early Women's Rights Debates: Western Europe and the United States in the Nineteenth and Early Twentieth Centuries*, Cologne: Böhlau, 2013.
2. Stephan Meder, Christoph-Eric Mecke eds., *Reformforderungen zum Familienrecht international*, Böhlau, 2015.
3. U. Gerhard, *Debating Women's Equality: Toward a Feminist Theory of Law: A European Perspective*, New Brunswick: Rutgers University Press, 2001.
4. G. Warnke, *After Identity, Rethinking Race, Sex, and Gender*, Cambridge University Press, New York 2007.

5. S. Song, *Justice, Gender and the Politics of Multiculturalism*, Cambridge University Press, New York 2007.
6. S. M. Okin, „Philosopher Queens and Private Wives: Plato on Women and the Family” in: M. L. Shanley, C. Pateman eds., *Feminist Interpretations and Political Theory*, The Pennsylvania State University Press, 1991.
7. K. Brooks, A. Gunnarson, L. Philipps, M. Wersig eds., *Challenging Gender Inequality in Tax Policy Making, Comparative Perspectives*, Hart Publishing, Oregon 2011.
8. M. Verloo ed., *Multiple Meanings of Gender Equality, A Critical Frame Analysis of Gender Policies in Europe*, Central European University Press, Hungary 2007.
9. A. Dworkin, *Right-wing Women, The Politics of Domesticated Females*, The Women’s Press, London 1983.
10. H. Scott, *Sweden’s „Right to be Human”, Sex-Role Equality: The Goal and the Reality*, Allison & Busby Ltd, London 1982.
11. V. Randall, *Women and Politics, An International Perspective*, Second Edition, Macmillan Education, 1987.
12. L. Abrams, „Crime against marriage? Wife-beating, the law and divorce in nineteenth-century Hamburg” in: M. L. Arnot, C. Osborne eds., *Gender and Crime in Modern Europe*, UCL Press, 1999.
13. R. D. Bhatnagar, R. Dube, R. Dube, *Female Infanticide in India, A Feminist Cultural History*, State University of New York Press, 2005.
14. R. L. Fregoso, C. Bejarano eds., *Terrorizing Women, Femicide in the Americas*, Duke University Press, Durham and London, 2010.
15. D. E. Chunn, S. B. Boyd, H. Lessard eds., *Reaction and Resistance, Feminism, Law, and Social Change*, Law and Society Series, 2007.
16. C. L. Bacchi, *Women, Policy and Politics, The Construction of Policy Problems*, SAGE Publications, London 1999.
17. M. A. Failinger, E. R. Schiltz, S.J. Stabile eds., *Feminism, Law, and Religion*, Ashgate Publishing Ltd, 2013.
18. J. A. Brundage, *Law, Sex, and Christian Society in Medieval Europe*, The University of Chicago Press Ltd., London, 1987.
19. H. J. Marsman, *Women in Ugarit & Israel, Their Social & Religious Position in the Context of the Ancient Near East*, Koninklijke Brill, Leiden 2003.
20. J. G. Sperling, S.K. Wray eds., *Across the Religious Divide, Women, Property and Law in the Wider Mediterranean (ca. 1300 - 1800)*, Routledge, New York 2010.
21. M. Murray, *The Law of the Father? Patriarchy in the transition from feudalism to capitalism*, Routledge, London 2005.
22. C. Leduc, „Marriage in Ancient Greece” in: P. Schmitt Pantel ed., *A History of Women in the West, From Ancient Goddesses to Christian Saints*, The Belknap Press of Harvard University Press, London 1992.
23. S. B. Pomeroy, „Women’s identity and the family in the classical polis” in: R. Hawley, B. Levick eds., *Women in Antiquity, new assessments*, Taylor & Francis e-Library, 2004.
24. S. F. Wemple, *Women in Frankish Society, Marriage and the Cloister, 500 to 900*, University of Pennsylvania Press, Philadelphia 1981.
25. J. E. Tucker, *Women, Family and Gender in Islamic Law*, Cambridge University Press, New York 2008.
26. M. Lansky, J. Ghosh, D. Meda, U. Rani eds., *Women, Gender and Work, Volume 2, Social Choices and Inequalities*, International Labour Office – Geneva 2017.
27. M. Stewart, *Tax, Social Policy and Gender, Rethinking Equality and Efficiency*, Australian National University Press, 2017.
28. G. Pascall, *Social Policy, A New Feminist Analysis*, Routledge, 1997.

29. J. Grimshaw, *Feminist Philosophers, Women's Perspectives on Philosophical Traditions*, Wheatsheaf Books, 1986.
30. M.A.Fineman ed., *Transcending the Boundaries of Law, Generations of Feminism and Legal Theory*, Routledge, New York 2011.
31. M. Davies, V.E.Munro eds., *The Ashgate Research Companion to Feminist Legal Theory*, Ashgate Publishing Company 2013.

**Instruction methods:**

Primary interest is in active involving students in their own knowledge acquisition and in stimulating their critical thinking for better understanding the implementation of gender perspective in every legal branch, including this one. Learning approach will be insofar based on collaborative, inquiry-based, student-centred approach to teaching.

Theoretical classes and practical classes will secure interactivity and active participation of students – discussion after each lecture, case law analysis, debates.

<b>Number of classes of active lectures:</b>	<b>Theoretical classes: 30</b>	<b>Practical classes: 15</b>
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**Evaluation of knowledge (maximum number of points: 100)**

<b>Pre-exam obligations</b>	Points	<b>Final exam</b>	Points
Activities during lectures and practical work	40	Oral or written exam	40
Seminar paper	20		