

Ulrike Schultz

Gender Curriculum Law

Teaching/course objectives:

Students should

- Be familiarised with and discuss basic questions of national and European gender policy
- Learn to identify gender constructions in legislation and individual laws
- Analyse deficits and undesirable developments in legislation with regard to the need for gender justice and inclusiveness
- Discuss gender-stereotyped perceptions, preconceptions and prejudices in the finding, application and administration of justice
- Learn about the important legislation for typical life situations and the coexistence of men and women
- Learn about the possibilities and limitations of the "equality machinery", state and international institutions for creating gender justice.

Teaching content/subject-specific gender studies content:

Law in Germany has traditionally meant men's law, reflecting the realities of a society structured along patriarchal lines. Up to the 1970s, women played a subordinate role if any in law. Jurisprudence is still firmly in male hands and gender aspects are negated or ignored in standard teaching. Over the past decade, partly due to a shortening of legal training, training in legal dogmatics has become more important and there has been a clear tendency for positivism (orientation of teaching to current law and its application).

These suggestions for teaching legal gender competence adhere to ideas on critical jurisprudence.

The description is based on standard curricula. According to feminist critique of the discipline, a fundamental revision of the curricula would be necessary to bring about a different structure and weighting of degree content. Abstract theoretical interpretation of laws would play a more minor role, leaving greater scope for practice-oriented knowledge and applications. This would also remove the division between substantive law and formal procedural law. To achieve this, teaching of law would have to be revitalised and traditional ideas on the objectives of studying law and teaching methods revisited and ultimately revised.

Basic content

The following basic information on the history of women's rights and law should be taught in the basic courses (History of Law, Sociology of Law, Philosophy of Law, Economy of Law, etc.).

How has women's legal situation developed over the centuries? Which societal ideas and political conditions formed the basis of the legislation? Which societal movements and events enabled change? This should be placed in the general context of the conditions of change in society and legislation. Important keywords for evaluating societal processes are: division of tasks, economic conditions, justice (of distribution), lawful/unlawful, violence, power, exclusion, discrimination, adjustment, dependency, subordination, social control, and control over the body.

Teaching should present and reflect the changing value systems including changes in religious attitudes in the light of the current discourse on ethical and moral equality and justice. The background is formed by the legal parameters, which outline the current scope of legal policy: international law conventions, EC contract/EU constitution, the German basic constitution,

and national and regional equality laws.

With regard to legal policy, the changes in the objectives of gender justice and equality that have taken place over the past three decades indicate a paradigm shift from equal rights via equal opportunities to equality and gender mainstreaming.

Broadening the dichotomous male/female perspective, the focus should be on the individual and his or her identity, as part of the discourse on diversity and comprehensive anti-discrimination concepts.

Basic feminist theories should be presented in this context.

The basic courses and later the individual areas of law should shed light on the role of institutions and stakeholders for example the German Constitutional Court, the European court, the European Court of Human Rights, the legislator (EC Commission, Bundestag, Landtage) on one hand, and lawyers, judges, politicians and scholars on the other.

The history of women's rights and law is also the history of women lawyers. We have decades of dedicated hard work by a small number of critical woman lawyers to thank for the gradual adjustment of legislation to the requirements of a modern, equality-oriented society. These women's struggle for rights should be presented in the context of the first and second women's movements, along with the institutionalisation of the women's movement (women's legal advice centres, associations of female lawyers, feminist lawyer organisations).

In other areas, female lawyers' historical and present professional situation displays examples of mechanisms of disadvantaging women at work, which can be explained on the basis of professional and organisational sociology.

Basic content also includes reflecting and learning gender-inclusive legal language.

Gender aspects in the individual areas of law

Courses on constitutional law should and usually already do go into detail on the principle of equal rights and the anti-discrimination regulations (Art. 3.2 and 3.3 of the German Basic Law). They should provide students with the ability to measure individual regulations and regulation systems on this basis. Students should gain basic competence in this area.

Correspondingly, courses on European law should deal with the European values of gender hierarchy in conjunction with national industrial and social law.

Courses on the individual areas of law should cover gender aspects in the historical development of the respective legal norms in detail, and put their suitability for contemporary society to question, identifying ideological backgrounds. Students must learn to ask questions that help uncover or clarify regulations' gender relevance and disparities.

These questions are, for example:

- Are women and men taken into account in the same way?
- Does the regulation benefit women and men in the same way?
- Are women and men affected in the same way?
- If not, are there rational and/or gender-related reasons for this (e. g. in criminal law)?

This approach can and should be used in all forms of legal training, i.e. also in degrees in Economic Law, which usually concentrate on industrial law, commercial law, company law, competition law, negotiable instruments law, banking law, etc. Combining feminist and economic analysis is of particular significance in this area.

Teaching staff should ensure that the examples and sample cases used are not discriminatory or construct unquestioned gender images, as is still often the case.

Both basic and specialised courses should use the analysis of appropriate judgements to illustrate how gender-related preconceptions and prejudices can influence the outcomes of legal proceedings.

Excerpts from textbooks, essays and other legal publications can be used to illustrate gender stereotypes in legal discourse and the unilateral construction and evaluation of gender in the

literature.

Structural knowledge and practical relevance

As basic legal training in Germany focuses on the application of law, it divides up the individual areas of law and usually deals with written law rather than areas of law particularly relevant in practice. This means that important issues are neglected.

In order to deal with problems of gender justice in law, it is important to also teach basic knowledge on those areas of law that are generally only offered as optional courses, and knowledge of legal regulations that are generally marginalised, neglected or simply "not included", but which are important for evaluating gender relations on a legal basis. This means primarily family law, social law and tax law. It is also important to create structural connections. For example, only a full overview of the regulations on financial transfer payments (pension law, health insurance, unemployment benefit, social benefits) and taxation of spouses enables students to systematically and constructively deal with women's dependency or weak financial standing in marriages and partnerships.

This example can be used to show how the law constructs or reinforces gender roles.

Departments should discuss where and how to best integrate a gender module. In the introductory phase, students lack the necessary knowledge and skills to deal with the content adequately. It would be most suitable for a general unit on critical evaluation of law for advanced students (for information on the integration of gender-related content into the curriculum, see below).

Gender issues should also be included in seminars and lectures teaching key skills. Teaching should point out, for example, gender aspects in the application of law (perceptions of femininity and masculinity among those involved in proceedings, gender roles, expected behaviour, communicative behaviour) and gender-related expectations of justice, the role of the justice institutions in legal disputes and extrajudicial settlements.

Forms of integration of gender studies content into the curriculum:

Gender is an issue across the entire discipline. It should be one focus of the degree in the basic courses (Introduction to Law, History of Law, Sociology of Law, Philosophy of Law and Methodology). In other areas, the gender perspective should be an integral element of all seminars and lectures with regard to questions of justice and critique. In our experience, specific seminars on the subject of women/gender and law are not well accepted. Such a seminar also harbours the risk that the gender factor might be neglected in all other courses. Provided gender aspects are sufficiently covered in basic training, there is no need for such a seminar.

However, the question is how to make staff willing and competent to teach the relevant issues and subjects. In addition to the taught content, staff could also make use of written or online elements.

For Bachelor's and Master's degrees, a specialised gender module should be included with an appropriate direction, particularly for students specialising in constitutional law, European law, human rights, criminology, family law, social law, industrial law or equality issues, as gender aspects are particularly relevant in these areas. In general, specialised degrees allow more scope for analysis and assessment in accordance with overriding categories, and thus a greater weighting of gender aspects.

Degree stage:

The above content is relevant at every degree stage. In the introductory phase, students should gain general gender-sensitivity as described in the teaching objectives. At later stages, gender aspects should be covered in the respective specialised courses.

When specifying content for the new Bachelor's and Master's degrees in law, gender aspects should generally be taken into account in all courses. Gender issues should also be integrated into the established law training programmes in every subject, and taken into account in the practical stages.