



The GenDJus Final Conference

**(DE)CONSTRUCTING GENDER IN
INTERNATIONAL JUDICIAL DISCOURSE:
ACTORS, NORMS AND PRACTICES**

16 –17 October 2025

SSLMIT/IUSLIT, University of Trieste



Book of Abstracts



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GenDJus



UNIVERSITÀ
DEGLI STUDI
DI TRIESTE

Dipartimento di
Scienze Giuridiche, del Linguaggio,
dell'Interpretazione e della Traduzione - IUSLIT

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ALMA MATER STUDIORUM
UNIVERSITÀ DI BOLOGNA



Forlì Human Rights
Interdisciplinary Centre



UNIVERSITÀ
DEGLI STUDI
DI TRIESTE



Comitato Unico di Garanzia
per le pari opportunità, la valorizzazione
del benessere di chi lavora e contro le discriminazioni

Preface

The Department of Legal, Language, Translation and Interpreting Studies (IUSLIT) of the University of Trieste hosts a two-day international conference to explore gendered discursive practices in international judicial language and their consequences on the scope of human rights protections. The conference is the final event of the interdisciplinary research project “Rights and Prejudice: Linguistic and Legal Implications of Gendered Discourses in Judicial Spaces (GenDJus),” financed by the Italian Ministry of Education and the European Union (Next Generation EU funding scheme) [www.gendjus.it].

In the era of polarisation of debates, anti-gender movements, and populist anti-rights rhetoric, the power of language is clearer than ever. Sex, gender, gender identity, sexual orientation, and sex characteristics are among the most salient themes in those contexts, especially where these substantiate claims for individual protection. To this end, international human rights law constitutes one of the possible devices that societies deploy to ensure egalitarian values. But what does it mean to deal with gender through the language of human rights? How do international legal norms understand gender, and its connected categories? To what extent can international and EU legal actors, including judges, speak the language of human rights despite their possible personal prejudices, stereotypes and biases? How can gendered judicial discourse impact on the enjoyment of human rights? More broadly, what can make gender an analytical category to understand discursive constructions in international and EU judicial decisions? The conference will explore these and other questions about the premises and effects of gendered language in the practices of international and EU judicial actors. It will gather scholars working on gender in legal discourse across areas as diverse as linguistics, translation, law and, more generally, social sciences.

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Abstracts

KEYNOTE SPEECH I

How Do Biases Make Gender Discrimination Systemic?

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Abstract

This presentation will explore how understandings of what makes gender discrimination wrongful has evolved through gaining insights into how various forms of biases, including prejudices, stereotypes and stigma, are harmful. While this presentation will sketch the trajectory of direct, indirect and systemic forms of gender discrimination, its focus is on how prejudices, stereotypes and stigma make gender discrimination systemic. How biases make gender discrimination systemic through various reinforcement mechanisms will be detailed. The jurisprudential outputs of various regional and international human rights committees and courts, including the UN Committee on the Elimination of Discrimination against Women, will be used by way of example to think about possible answers to the question of 'how do biases make gender discrimination systemic.'

Biosketch

Rebecca Cook (A.B., M.A., M.P.A., J.D., LL.M., J.S.D.) is a Professor Emerita in the Faculty of Law, the Faculty of Medicine and the Joint Centre for Bioethics at the University of Toronto, and Co-Director, International Reproductive and Sexual Health Law Program, University of Toronto. She is Legal and Ethical Issues co-editor of the *International Journal of Gynecology and Obstetrics* and serves on the editorial advisory board of *Human Rights Quarterly*. Her published books include *Frontiers of Gender Equality: Transnational Legal Perspectives* (2023), *Abortion Law in Transnational Perspective: Cases and Controversies* (2014); *Human Rights of Women: National and International Perspectives* (1994); and *Gender Stereotyping: Transnational Legal Perspectives* (2010). She is a Member of the Order of Canada, a Fellow of the Royal Society of Canada, and the recipient of the Certificate of Recognition for Outstanding Contribution to Women's Health by the International Federation of Gynecology and Obstetrics (FIGO).

KEYNOTE SPEECH II

Language Ideologies and Discursive Constructions of Consent in Sexual Violence Cases

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Abstract

This paper will explore discursive constructions of consent in legal cases involving sexual violence and, more specifically, how interpretations of consent can be influenced by language ideologies tacitly activated in trials. A case in point comes from a recent Australian sexual assault case in which the complainant's expressions of non-consent were at issue. During the trial, the complainant, a Hong Kong national working in Australia as a nanny, testified that she had repeatedly said to the accused 'I don't want' in response to his many sexual acts of aggression. The jury, however, had a question about the meaning of 'I don't want' – during its deliberations, it sent a note to the judge, asking, 'Does "I don't want" equal no by law?' While the judge did not answer the jury's question, the question reveals that jury members had some doubt about whether 'I don't want' constituted lack of consent. But, why such a query about a seemingly unequivocal expression of non-consent? This paper will attempt to answer this question by showing the various ways that language ideologies – referentialist theories of language (Ainsworth 2008; Mertz 2007), monolingual ideologies (Angermeyer 2008) and raciolinguistic ideologies (Rosa and Flores 2017) – were discursively activated in the trial and how they worked to construct the complainant's language as an impediment to her communication with the accused. In turn, it suggests that the generating of such ideologies had an impact on how the jury understood a crucial aspect of this sexual assault/rape case: whether or not the complainant freely and voluntarily consented to the sexual acts under investigation.

Biosketch

Susan Ehrlich is a Professor of Linguistics in the Department of Languages, Literatures, and Linguistics at York University, Toronto, Canada. She has been involved in many ESL teacher training programmes and has taught ESL at George Brown College and the University of Toronto. Her areas of interest include second language acquisition and discourse analysis. Her recent work investigates the intersections between language, gender and the law, namely a single-authored monograph, titled *Text Trajectories and Social Inequalities in the Legal System*, which investigates intertextual practices in the legal system. She aimed to show how such an investigation can shed light on larger patterns of social inequalities - both gendered and racial inequalities. As of January 2020, she became co-editor of *Language in Society* (Cambridge University Press) with Tommaso Milani.

Invisible Hands, Silent Biases: Gendered Judicial Authority and Discursive Framing at the CJEU

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Keywords

Judge-Rapporteur, CJEU, gender and adjudication, judicial discourse, procedural authority

Abstract

This paper examines how institutional design and role distribution within the Court of Justice of the European Union (CJEU)—specifically the figure of the Judge-Rapporteur—shape the discursive construction of gender in judicial reasoning. Drawing on empirical data and doctrinal analysis from my doctoral research, I argue that the ostensibly neutral procedural structures of the Court may entrench normative assumptions, including gendered biases, through asymmetries in discursive authority and agenda-setting power.

The analysis focuses on selected judgments and Advocate General opinions in cases involving questions of identity, sexuality, reproduction, and family relations—such as *P v S* (C-13/94), *MB* (C-451/16), and *Coman* (C-673/16)—and is supplemented, where available, by parties' submissions and Member State observations. Through close readings, the paper traces how gendered dimensions and framing choices articulated in opinions or submissions are often reframed, filtered, or omitted in the Court's final reasoning. This contrast foregrounds how the Court's commitment to formal neutrality can obscure embedded normative assumptions.

By interrogating who gets to write, frame, and filter judicial discourse, the paper connects the technical opacity of judicial procedure to broader issues of representation and exclusion. The analysis challenges formalist assumptions about judicial neutrality, revealing how procedural actors can act as vectors of gendered norms even in seemingly depersonalized institutional processes. This work contributes to ongoing conversations between legal institutionalism, discourse analysis, and feminist legal theory, and argues for greater critical attention to the procedural architectures that underpin international adjudication.

Biosketch

Alexandra is a PhD candidate in law at the EUI in Florence, Italy, where she is working on the role of institutional structures and judicial actors in shaping legal reasoning at the Court of Justice of the European Union. Her dissertation combines legal theory, institutional analysis, and critical approaches to adjudication, with a particular focus on the figure of the Judge-Rapporteur. Her broader interests include feminist legal theory, discourse analysis, and the relationship between law and narrative form. She has taught EU law, constitutional law, and empirical methods, and is committed to interdisciplinary approaches to legal scholarship.

Confusion or Exclusion: Mapping the Sex/Gender Distinction in the Jurisprudence of the Court of Justice of the European Union

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Keywords

Court of Justice of the European Union, EU fundamental rights discourse, sex/gender distinction, biases in translation, gender identity

Abstract

Observing the distinction between sex and gender in the Court of Justice of the European Union's (CJEU) jurisprudence uncovers biases and stereotypes. For instance, in *MB v Secretary of State for Work and Pensions*, concerning a gender reassignment surgery, the Court uses sex and gender interchangeably. Besides, it seems to interpret both as binary categories (consisting of men and women), failing to account for the variety of gender identities. Similar issues appear in other case law concerning transgender individuals, such as *K. B. v National Health Service Pensions Agency and Secretary of State for Health* and *Sarah Margaret Richards v Secretary of State for Work and Pensions*. Nevertheless, the Court's use of the terms has never been comprehensively analysed and thus presents a significant research gap.

Thus, this paper will study the language used in the CJEU's judgments through a systematic case-law analysis to uncover how the Court uses the sex/gender distinction in its fundamental rights jurisprudence. It will look into whether and how it differentiates between the two terms and what the possible exclusionary effects of its practice are. The paper will first examine the incidence of the use of sex and gender in CJEU jurisprudence over time, followed by a qualitative analysis to determine the meaning ascribed to those terms by the Court. The paper will also study the differences between the two dominant language versions of the judgments – English and French, to observe how the translation of judgments influences the sex/gender distinction at the CJEU.

Biosketch

Ina Opartyova is a graduate student at the University of Groningen and a research assistant at the RE-WIRING research project at Utrecht University. Within the research project, which connects the Department of International and European Law and the Department of Gender Studies, she specialises in gender-transformative law-making practices, decent work in the context of crises and gender in EU external relations. Her research interests also encompass the narratives used by the Court of Justice of the European Union and feminist, queer and postcolonial approaches to law. Aside from this, she also works as the Publishing Director of the Groningen Journal of International Law.

Matej Sedlar is a PhD researcher at the Department of General Law Studies at the University of Groningen. His research interests include EU human rights law, methodology of international courts, interdisciplinary case law analysis and legal theory. In his PhD, Matej focuses on the impact of international human rights law, courts and institutions on homeless people, particularly following the ECtHR's recent decision in *Dian v. Denmark*, and their stigmatising potential. He has previously engaged in scholarship on philosophy of language, the use of vulnerability in the case law of the ECtHR, as well as minority rights.

Excluded Masculinities: A Critical Legal Analysis of the Racialised Construction of Migrant Men in European Case Law through an Intersectional Lens

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Keywords

Masculinity, intersectionality, vulnerability, migration, racialisation

Abstract

The EU's continued emphasis on the external dimension of migration control underscores the urgency to examine the implications of the gender essentialist and racialised construction of masculinity in case law concerning the interface between migrant men of colour and externalisation policies. In migration discourses on policy level, dominant gender stereotypes and racial biases intersect to construct certain masculinities—particularly those of single migrant men of colour—as threatening rather than vulnerable, limiting their access to asylum and human rights protection.

This contribution critically investigates how European case law legitimises and reproduces these exclusionary constructs. It focuses on the legal construction of racialised masculinity in judgments from the ECtHR and CJEU, asking how interpretations of vulnerability in these decisions operate to exclude certain men from international protection.

A critical legal analysis of selected case law will be conducted through an intersectional masculinity lens. This analytical tool is developed through an interdisciplinary literature review in sociology, anthropology, and masculinity studies, with a specific emphasis on migration. It allows for close textual and contextual analysis of case law, paying particular attention to evolving legal understandings of vulnerability and their implications for the legal status of single migrant men of colour.

It will be argued that legal reasoning in key judgments contributes to the construction of a racialised masculinity that is deemed incompatible with vulnerability and undeserving of protection. This contribution sheds light on systemic exclusion and lays the foundation for a new approach towards intersectionality in legal research.

Biosketch

Sophie Bols (she/her) is a doctoral researcher at the Law & Diversity Research Group and the Migration Law Research Group at Ghent University (Belgium), with support of the Flemish Research Fund (FWO). She is also a member of the Human Rights Centre and the Centre for the Social Study of Migration and Refugees (CESSMIR). Her research examines how EU externalisation migration policies construct masculinity. Combining critical legal analysis and empirical methodologies, her work employs an intersectional masculinity lens to uncover the dynamics of gender, race, and vulnerability within migration law.

“A Woman is Not a Womb; She Has a Womb”: Gynaecological and Obstetric Violence in the Jurisprudence of the European Court of Human Rights and the Inter-American Court of Human Rights

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Keywords

Sexual and reproductive rights; gynaecological and obstetric violence; gender stereotypes; gender-based violence, feminist approaches

Abstract

According to a 2024 study by the European Parliament on gynaecological and obstetric violence (GOV), women in all the Member States of the European Union are affected by the phenomenon, yet it is not legally recognised in any of them (with the very recent exception of law no. 33/2025 in Portugal). The term obstetric violence though, as well as its first legal recognition, comes from Latin American countries, and particularly from Venezuela – the first to adopt a law criminalizing it. This attests to the widespread reality of the practice: GOV is a multi-layered and complex global phenomenon which affects women disproportionately worldwide. Despite a lacking definition and a comprehensive recognition in legal instruments at the international level, cases of gynaecological and obstetric violence (GOV) have been dealt with by human rights Courts, such as the European Court of Human Rights (ECtHR) and the Interamerican Court of Human Rights (IACtHR), with significant and noteworthy differences in the approach. The purpose of this paper is, using the feminist method of legal analysis, to deconstruct how cases of GOV have been dealt with by the ECtHR and the IACtHR, and focus particularly on whether the two Courts have identified the phenomenon as gender based. The gender-based nature of GOV has surfaced in legal literature yet the ECtHR seem to be first, unable to define it and secondly, to frame it as gender-based violence, as opposed to a more gender sensitive approach by the IACtHR. The contribution will analyse cases of GOV decided by the ECtHR (V.C. v. Slovakia, N.B. v. Slovakia) and the IACtHR (Britez Arce v. Argentina, I.V. v. Bolivia, Manuela et al. v. El Salvador) and focus on the different approaches by the Courts, with due attention on the human rights violations GOV can amount to as per the decisions of the Courts, and secondly, on their assessment (or lack thereof) of GOV as a form of gender-based violence. Lastly, the contribution will argue on the need for the ECtHR to refer to the Istanbul Convention to address cases of GOV, building on and highlighting differences with the IACtHR's use of the Belém Do Pará Convention as an interpretative tool.

Biosketch

Sara Dal Monico is a Postdoctoral research fellow in International Law and Contract Professor at Ca' Foscari University of Venice and at Venice International University. She holds a PhD in "Law, Market and Person", awarded by the Double PhD Program at Ca' Foscari University of Venice and Astrakhan State University, where she developed interdisciplinary research on international institutional law, with a focus on the European Union and Eurasian Economic Union. Her academic interests span from human rights law, with a particular focus on women's rights (particularly sexual and reproductive rights and the right to health) to international environmental law, with a focus on ecocentrism, sustainability and rights of animals.

Naming the Unseen: Obstetric Violence in the Discourse of Regional Human Rights Courts

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Keywords

obstetric violence, legal linguistics, medicalization of birthing bodies

Abstract

Often dismissed as “nebulous” or “overgeneralised” (Pickles 2024: 617), obstetric violence remains a severely under-recognised human rights violation, reflecting broader neglect of female reproductive health (e.g. Riboni and Zottola 2025 on vulvodynia). While it has been explored in public discourse, particularly on social media (Nisco 2020), it remains under-researched in legal linguistics, especially in relation to human rights. Legal and terminological ambiguity contributes to this gap. Obstetric violence typically encompasses coercion, unconsented procedures, and physical, sexual, or verbal abuse during pregnancy, childbirth, and postpartum, yet no consensus exists on terminology. Some scholars (e.g. Lappeman & Swartz 2021) favour the term “mistreatment,” while others (e.g. Chadwick 2023; Pickles 2024) argue that “violence” better captures the severity and empowers victims.

This article examines how obstetric violence is discursively constructed as a gender-based human rights violation in the case-law of the Inter-American Court of Human Rights (IACtHR) and the European Court of Human Rights (ECtHR). Adopting Feminist Critical Discourse Analysis (Lazar 2017) and (Corpus-Assisted) Legal Linguistics (Goźdz-Roszkowski 2023), it analyses referential strategies (e.g. categorisation, euphemism) and semantic prosody (Partington 2004), supported by collocational analysis. It also draws on Legal Translation Studies (Prieto Ramos 2014) to explore translation-driven terminological shifts in English. Preliminary findings point to a medicalisation of birthing bodies, where individuals are labelled as “patients” and framed within a clinical logic. Autonomy and emotion are marginalised, except when medicalised. Notably, the European context emphasises “choice”, reframing empowerment discursively – raising critical questions about the language of human rights.

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Biosketch

Jekaterina Nikitina is an Associate Professor of English language, translation and linguistics at the University of Milan, where she lectures in linguistic mediation and discursive practices in legal and international settings. She works on LSP theories and applications, knowledge dissemination and popularization dynamics, legal discourse and terminology, especially in multilingual institutional settings, and institutional legal translation. In her research, Jekaterina combines (Critical) Discourse Analysis with Corpus Linguistics approaches. She is a member of the Corpus and Language Variation in English Research Group (CLAVIER) and of the Italian Association of Translators and Interpreters (AITI). Her latest publication is "Human Rights Discourse: Linguistics, Genre and Translation at the European Court of Human Rights" (Routledge).

Letizia Paglialunga is a third-year PhD candidate at the University of Milan, specializing in Multimodal Critical Discourse Analysis and Gender Studies. Her thesis, "Gender Discourse Beyond the Binary: identity construction and community building on social media", focuses on the intersection of language, social media, and the representation of non-conforming gender identities. She has broadened her academic experience through international collaborations, including a four-month visiting period at Lancaster University, and a visiting period at the University of Edinburgh. Her work aims to contribute to the understanding of gender in contemporary media and communication practices.

Pregnant Woman or Mother? The Discursive Construction of Women's Gender Identity in ECHR Judgments on Abortion

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Keywords

gender identity, abortion, European Court of Human Rights, corpus linguistics, critical discourse analysis

Abstract

As gender scholarship shows, the predominant vision of womanhood is one of the main factors influencing abortion debates. Therefore, it is interesting to see what the conceptualisations of women's gender identity assumed in the legal discourse on abortion are and how they influence the positions expressed. This paper will examine how women's gender identity is discursively constructed in European Court of Human Rights judgments on abortion, using both qualitative and quantitative methods of critical discourse analysis.

The corpus analysis showed that the subject of the contested right to abortion is defined in two main ways — either as a "pregnant woman" or as a "mother". Both categories evoke different associations that are linked to one's position in the abortion debate. Unsurprisingly, words related to typical pro-choice argumentation, such as "autonomy", "freedom", and "access", are strongly associated with the category of woman. One may also expect that language focusing on a woman's body would also be associated rather with the category of a "pregnant woman" than the one of the "mother". Surprisingly, it is the opposite, and words like "body" and "womb" appear in the analysed judgments next to "mother". However, the qualitative analysis shows that such cases are about the situation in which "foetus is capable of surviving outside the mother's body". The apparent focus on the woman's body serves to protect the rights of the fetus.

The paper analyses these and other examples of the discursive construction of women's identity, focusing on their relation to the claims being made.

Biosketch

Tomasz Detlaf is a research assistant in the ERC Abortion Figurations and the Competition in the Scientific Field projects at the University of Warsaw. His research combines discourse analysis with computational methods. He is a Master's student in Digital Sociology and received bachelor's degrees in Sociology and Philosophy.

L'aborto nella narrazione degli organi internazionali di controllo sui diritti umani, tra autodeterminazione, bilanciamento tra interessi contrapposti e riproduzione di norme di genere

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Keywords

Aborto, diritto fondamentale, autodeterminazione della donna, margine di apprezzamento statale, salute riproduttiva

Abstract

Un esempio paradigmatico di narrazione giudiziaria che riproduce norme di genere, con la conseguenza ultima di comprimere l'esercizio del diritto fondamentale all'identità e all'autodeterminazione della donna, è quella della Corte europea dei diritti umani con riguardo all'aborto. Quest'ultima, infatti, tende ad esaminare le doglianze delle ricorrenti solamente sotto il profilo della violazione dell'art. 8 CEDU, attuando il bilanciamento tra *interessi concorrenti* previsto da detta disposizione, nello specifico tra il diritto della donna incinta al rispetto della propria vita privata e quello del feto (*M.L. c. Polonia*, 14.12.2023). Tra l'altro, solo in casi eccezionali e di estrema gravità (collegati all'età, all'anomalia del feto o al fatto che la gravidanza sia stata il risultato di uno stupro) i giudici di Strasburgo hanno esaminato la doglianza sotto il profilo della violazione dell'art. 3 CEDU, escludendo di norma che il divieto di accesso all'IVG possa interpretarsi come trattamento inumano e degradante. Non riconoscendolo in termini assoluti come *diritto*, la Corte si è spinta finanche a suggerire alle donne di recarsi all'estero nel caso in cui nel paese di residenza non sia garantita l'IVG. Tale interpretazione restrittiva del diritto di autodeterminazione della donna in gravidanza allontana la Corte europea dagli orientamenti più avanzati di altri organi di controllo internazionali, tra cui il Comitato per i diritti umani, che invece costituisce un esempio di narrazione giudiziaria più sensibilmente *gender rights based*. Ci si propone, dunque, di mettere a confronto le narrazioni che emergono dai diversi sistemi di protezione dei diritti umani a cui abbiamo fatto sopra riferimento.

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Biosketch

Adele Del Guercio è Professoressa associata di Diritto internazionale presso il Dipartimento di Scienze umane e sociali dell'Università di Napoli L'Orientale, dove insegna Diritto dell'Unione europea (laurea triennale) e Diritto internazionale dell'ambiente (laurea magistrale) e dove è responsabile del laboratorio "Clinica legale e antropologica sulle migrazioni". È PI dell'unità locale del PRIN "MOBS - Mobilities, solidarities and imaginaries across the borders: the mountain, the sea, the urban and the rural as spaces of

transit and encounters” (capofila: Università di Genova). Ha fatto parte del gruppo di lavoro del PRA “Antropocene/Capitalocene e migrazioni internazionali: una lettura critica”. Attualmente, è vicepresidente del Centro di elaborazione culturale “Mobilità, Migrazioni internazionali” (MOMI). È delegata di Ateneo al “Diritto allo studio per persone provenienti da Aree di crisi e rapporti con l’ADISURC” e referente per il progetto UNICORE. È autrice della monografia *La protezione dei richiedenti asilo nel diritto internazionale ed europeo* (Editoriale scientifica, 2016) e di numerosi articoli sui diritti umani, il diritto di asilo, la tutela dei minori, i diritti delle persone LGBTIQ. È socia ASGI e dal 2020, è stata nominata, su indicazione dell’UNHCR, “Esperta indipendente in materia di diritto dei rifugiati e diritti umani” presso la Commissione territoriale per il riconoscimento della protezione internazionale di Salerno – sezione di Napoli.

La visione patologizzante delle identità transgender nella giurisprudenza della Corte Europea dei Diritti dell'Uomo: riflessioni a partire da *W.W. c. Polonia*

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Keywords

Identità di genere, patologizzazione, cedu, binarismo di genere, terapie ormonali.

Abstract

Nel sistema Cedu l'accesso alle terapie ormonali è prevalentemente garantito alle persone transgender dall'art. 8.

Nonostante l'identità di genere venga considerata un interesse autonomamente meritevole di tutela in quanto *"one of the most basic essentials of self-determination"*, spesso le decisioni in materia vengono affiancate da argomenti *patologizzanti*, adottati dalla Corte per giustificare la propria decisione o per subordinare il godimento di un diritto ad alcune condizioni che riconducono la persona trans entro uno schema binario di genere. Segnatamente, si fa riferimento alle ipotesi in cui per riconoscere il diritto alla terapia ormonale se ne richiamano i benefici sulla salute delle richiedenti. Paradigmatico risulta, a tal proposito, il caso *W.W. c. Polonia*, in cui la Corte ha più volte richiamato il malessere psichico della ricorrente, successivamente sfociato in atti di autolesionismo, per escludere la pretestuosità della richiesta di intraprendere nuovamente la terapia.

L'approccio patologizzante rischia di essere escludente in quanto, ponendo l'accento sulla sofferenza psico-fisica, reitera una narrazione risultante in una minaccia all'effettività dei diritti delle persone trans. Infatti, il richiamo alla sofferenza come elemento necessario sia per l'accesso alle terapie mediche che per il riconoscimento legale del genere pare indicativo del pregiudizio, fatto proprio dalla Corte, secondo cui le istanze avanzate dalla persona trans siano false o pretestuose se non rese intelleggibili da un malessere.

Ciò premesso, l'analisi si pone l'obiettivo di fare emergere, attraverso lo studio della giurisprudenza più rilevante, come l'approccio patologizzante possa tradursi in ostacoli all'effettività delle posizioni giuridiche soggettive riconducibili al diritto all'identità di genere.

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Biosketch

Edoardo Licata è nato nel 1996, ha conseguito la laurea magistrale in Giurisprudenza nel 2019 presso l'Università commerciale Luigi Bocconi. Ha svolto il tirocinio formativo ex art. 73, D.L. n. 69/2013 presso il Tribunale di Trapani, Sezione Penale. Da settembre 2022 si è abilitato all'esercizio della professione forense. Ha svolto periodi di ricerca presso il Max Planck Institute for Comparative Public Law and International Law di Heidelberg (Tutor: Prof. Dr. Armin von Bogdandy).

Alice Stillone è nata nel 1998, ha conseguito la laurea magistrale in Relazioni Internazionali nel 2022 presso l'Università degli Studi di Padova con una tesi in diritto internazionale. Ha successivamente conseguito un master di II livello in Diritto Internazionale Umanitario e Dei Conflitti Armati presso il CASD (Centro Alti Studi per la Difesa) di Roma. Iscritta al primo anno del dottorato in Studi di Genere dell'Università di Palermo, conduce la sua ricerca in diritto internazionale concentrandosi sul binarismo di genere sottinteso nella giurisprudenza della Cedu.

Discursos sobre mujeres trans en opiniones disidentes de la Corte Interamericana de Derechos Humanos: un análisis desde el Análisis Estratégico del Discurso

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Keywords

Mujeres trans, representación discursiva, estrategia, opinión disidente

Abstract

Esta ponencia analiza los discursos acerca de las mujeres trans en las opiniones disidentes emitidas en la causa *Vicky Hernández vs Honduras* (2021) y en la Opinión Consultiva 29/22 (2022), ambas de la Corte Interamericana de Derechos Humanos. Nos proponemos: 1) identificar las representaciones discursivas de las mujeres trans en dichas opiniones disidentes y su rol en la legitimación de argumentos que promueven la restricción de los derechos de las personas trans en general, y de las mujeres trans en particular; y 2) contribuir al estudio discursivo de las opiniones disidentes, un objeto de análisis aun escasamente explorado por la teoría (Goźdz-Roszkowski, 2020).

El trabajo se inscribe en el Análisis Estratégico del Discurso (Menéndez, 2009, 2010, 2012, 2017, 2019, 2021), una propuesta teórico-metodológica que permite describir, explicar e interpretar el fenómeno discursivo a partir de la combinación de recursos léxico-gramaticales y pragmático-discursivos realizados en el texto. Adoptamos un enfoque cualitativo basado en el estudio de casos (Sautu, 2005).

Como conclusiones preliminares presentamos, por un lado, el valor de las opiniones disidentes como centros de resistencia que pueden ser tanto positivos — al problematizar mayorías jurídicas y abrir espacios de discusión (Kirby, 2007; Mistry, 2015, 2023; Combs, 2021) — como negativos, al institucionalizar discursos que pueden debilitar el alcance o la protección de derechos a nivel interno (Burgorgue-Larsen, 2014). Por otro lado, observamos, la persistencia de una tensión entre enfoques interpretativos expansivos y conservadores, que encuentra una arena de disputa activa en los casos que involucran derechos de personas LGBTTIQ+.

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Biosketch

Salvio Martín Menéndez es profesor, licenciado en Letras por la Universidad de Buenos Aires y doctor por la misma Universidad. Es Profesor Titular de Lingüística I y Lingüística II de la carrera de Letras de la Facultad de Humanidades de la Universidad Nacional de Mar del Plata. Profesor asociado a cargo de la titularidad de Lingüística General y Gramática Textual de la carrera de Letras de la Facultad de Filosofía y Letras de la Universidad de Buenos Aires. Es investigador independiente del CONICET. Actualmente es Director del Instituto de Lingüística de la Facultad de Filosofía y Letras de la Universidad de Buenos Aires. Sus áreas de especialización son lingüística sistémico-funcional, pragmática y análisis del discurso.

Leonel Fernando Vázquez Neira es abogado egresado con Diploma de Honor de la Universidad de Buenos Aires y Licenciado en Letras por la misma Universidad. Master Universitario en Criminología y Ciencias Forenses por la Universidad Pablo de Olavide, Sevilla. Doctorando en lingüística de la Universidad de Buenos Aires. Sus áreas de investigación son lingüística sistémico-funcional, análisis del discurso jurídico, lingüística jurídica y lingüística forense. Se desempeña en el ámbito de la Defensa Pública en la Provincia de Buenos Aires.

A Queer Feeling. Emotional Framing of the Trans Legal Subject

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Keywords

Law and emotions; European Court of Human Rights; trans rights; legal gender recognition.

Abstract

Drawing on theories of recognition and the law and emotions framework, this communication questions the role of emotions in the framing of legal identities. Focusing on decisions of the European Court of Human Rights on trans people's legal gender recognition, the study highlights that the Court's consideration of emotions has been instrumental in assessing the consequences of states' practices on trans identities. However, decisions have, so far, abided by the 'gender dysphoria' requirements and predominantly relied on negative emotions—such as distress and fear—, thereby framing LGBTI claims through a grammar of harm and suffering, and casting trans persons as vulnerable subjects rather than as empowered agents.

Highlighting the power of language in framing LGBTI identities, this paper advocates for a richer affective register in the construction of trans legal subjectivity. A comparison with other fields, such as the ethnic and national identity case law, shows that the Court can indeed address affirmative identity claims. Besides, as recent decisions have witnessed a decline in the reliance on emotions, as well as a halt in the progression towards trans equality, a reorientation of the judicial reasoning towards positive emotions as a basis for legal recognition could help overcome the current legal impasse. Moreover, such a paradigm shift would align legal narratives more closely with the lived experiences of LGBTI individuals, and ground more demanding positive obligations on the part of the state.

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Biosketch

Sam Chollet (they/them) is a PhD Candidate in Human Rights Law at the Université Paris-Saclay (UVSQ, France). Their research focuses on LGBTI people's rights in the case law of the European Court of Human Rights. Using gender as an analytical category, their thesis relies on empirical methods and comparative law to provide a genealogical account of the decision, characterise the Court's singularity in the European and international landscape, and identify possible ways forward.

Where Is the Dignity in Ostracisation?

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Keywords

Sex, language, trans, human rights, dignity, removal, judiciary, Supreme Court, equality

Abstract

Oscar Davies, the UK's first non-binary barrister, considers the significance of the recent controversial UK Supreme Court (UKSC) ruling *For Women Scotland v the Scottish Ministers* which stated that 'sex' in the Equality Act meant 'biological sex'. The UKSC has ghettoised trans people to effectively no longer be able to inhabit public spaces with dignity. Intersex and non-binary people are not recognised at all. The ruling's seeming lack of compliance with the ECtHR case law, including *Goodwin*, has meant that trans people can no longer live with dignity, and intolerance is being legitimised by the UKSC's absurd findings. Further, the importance of infringing on 'dignity' of an Article 9 or 10 claim bringing it into Article 17 territory, and what 'intolerance' means, will be explored (and conflicting ECtHR case law), looking at how trans claimant cases could use this to their advantage. Oscar draws on their analysis of language as a cage and a tool, from their GenJUS article 'Language as a Cage and a Tool: Drafting Non-Binary into UK Legislation' to explain the power of judicial language but also the power of language in activism. It seems that the UKSC has, inadvertently or not, put trans people in a cage that is devoid of rights. If the Equality Act 2010 is meant to be a floor of human rights, the UKSC has just blown a trans sized hole through it, with other minorities due to follow suit.

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Biosketch

Oscar Davies (they/them) is an award-winning barrister at Garden Court Chambers, specialising in discrimination law, human rights, and public law. Recognised as the UK's first publicly non-binary barrister, Oscar advocates for legal recognition and rights for non-binary individuals. They have been honoured with the LGBTQ+ Champion of the Year award at the 2024 Legal 500 UK ESG Awards and were featured in *Attitude Magazine's* 2025 Financial & Legal List as one of ten influential figures transforming the sector. Oscar is currently writing a book on the need for non-binary legal recognition.

The Construction of Access to Justice for Trans and Non-Binary People

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Keywords

Access to justice, trans, non-binary, dispute resolution

Abstract

This presentation, by drawing on empirical data, examines critically how access to justice for trans and non-binary people is constructed and re-shaped in the context of the judgment of the UK Supreme Court For Women Scotland Ltd v The Scottish Ministers [2025] UKSC 16. In the endeavour to offer a comprehensive analysis of access to justice that extends beyond access to courts, the presentation will also analyse the impact of the (in)visibility of trans and non-binary people from dispute resolution theory and practice. The main argument is that through the lived experience of trans and non-binary people, our understanding of access to justice is re-imagined by further consideration of affection, access to information, (in)visibility, and representation. To develop this argument, the presentation is framed within queer theories and dispute resolution discourse, and draws upon empirical data collected through visual ethnography of mediation practice websites in European countries, together with a linguistic and discourse analysis of the Supreme Court judgment. Attention will be given to the impact that the combined reading of the judgment of the supreme Court and the Cass Review has on the access to justice of children and adolescents.

Biosketch

Maria Federica Moscati (Marica) is Reader in Law & Society at University of Sussex; a trained mediator and former dancer. Her main research interests lie in issues relating to Dispute Resolution, Comparative Legal Studies (focus on kinship, family relations, dispute resolution), Children's rights, Queer people and the law, and their intersection. New areas of research that Marica is exploring concern Dance and the Law; and Hormones and the Law. She incorporates ethnographic expertise, arts (in particular dance) and interdisciplinarity into my legal research work. She is co-director of the Centre for Cultures of Reproduction, Technologies and Health at University of Sussex; co-editor for EUP of the book series Comparative Legal Studies, Society and Justice; co-editor of the journal *Amicus Curiae*; Associate Research Fellow at IALS; member of the Editorial Board of *The Journal of Comparative Law*; Fellow of the Higher Education Academy.

Parenting, Judicial Stereotyping and Reproductive Racism: a Spanish Case Study

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Keywords

Reproductive justice, reproductive racism, intersectionality, judicial stereotyping

Abstract

In RMS vs Spain (Application no. 28775/12), the ECtHR had to decide whether the state violated the applicant's right to family and private life by the way the pre-adoptive placement of her daughter was carried out. My analysis highlights the stereotypes implicit in the administrative and judicial decisions that led to the mother's loss of parental authority, and regrets that the ECtHR did not analyze the case from the perspective of Article 14.

The right to parenting is one of the core rights included under the umbrella of reproductive justice (Ross 2017), that suggests analyzing reproductive rights under the light of social justice. Hence, Siddiqui proposes (2023) analyzing the patriarchal, cisheteronormative and racist logics that articulate policies on sexuality, reproduction and birth in contemporary Europe: reproductive racism instrumentalizes 'native women's bodies' as a 'national resource' while stopping the reproduction of racialized, LGBTIQ, impoverished and/or people with disabilities. Van Eerdewijk's (2011) suggests that issues related to reproduction should be addressed as problems of entitlement, rather than of rights, and encourages to paying attention to the relative power that different social groups have regarding sexuality, procreation and parenting, exploring the processes of resource allocation (rights), as well as the power relations, "moral" conceptions and stereotypes that support the 'allocation guidelines' that are applied in a specific social context. The paper discusses judicial stereotyping in this context of reproductive racism and allocation of parenting rights to racialized poor women.

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Biosketch

Ruth M. Mestre i Mestre, associate professor of philosophy of law and member of the Gender studies Institute at the University of Valencia, is an expert in Feminist Legal Theory. She published with De Vido (2024) Lesbianising the Istanbul Convention (CoE+ EL*C <https://lesbiangeni.org/wp-content/uploads/Lesbianising-the-Istanbul-Convention-report.pdf>); and with Sosa (2022), Ensuring the non-discriminatory implementation of measures against violence against women and domestic violence: article 4.3 of the Istanbul Convention, Council of Europe (<https://rm.coe.int/paper-on-article-4-paragraph-3-of-the-istanbul-convention/1680a5d92e>). Together with Jonhsdotter (2016), she coordinated FGM in Europe: An analysis of Court Cases, European Commission-Directorate General-Justice

(<https://op.europa.eu/es/publication-detail/-/publication/7fff7a7b-fc84-11e5-b713-01aa75ed71a1>). Other publications include: (2020), 'Exploring Intersectionality: FGM/C at the Istanbul Convention', Niemi, Peroni & Stoyanova (eds): International Law and Violence against Women. Europe and the Istanbul Convention, pp. 157-172. Routledge, Taylor & Francis Group; (2020), 'Spain: #justiciamachista, #cuéntalo and Stop Eating Strawberries!' Noel & Oppenheimer (eds): The Global #MeToo Movement, Berkeley Center on Comparative Antidiscrimination Law, pp. 177-184, Full Court Press, Fastcase, USA.

Bringing Reproductive Justice to the Judgments of ECtHR through Polymorphous Queer Biokinships

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Keywords

Reproductive justice, queer biokinship, assisted reproductive technologies (ART), ECtHR, heteronormative jurisprudence

Abstract

This paper critically examines the European Court of Human Rights' (ECtHR) approach to family formation in the context of Assisted Reproductive Technologies (ART) used by queer parents, arguing that the Court's rulings remain rooted in heteronormative family structures. While the ECtHR has taken steps toward recognizing non-traditional families, it continues to prioritize genetic kinship and biological ties over diverse kinship forms, particularly in queer contexts. The paper engages with Stu Marvel's concept of polymorphous reproductivity of queer biokinships, which highlights the multiple ways queer individuals use ART to form families that defy traditional biological or sexual norms. These alternative kinship structures challenge the Court's interpretation of family life and call for a more inclusive legal framework.

Through analysis of rulings such as *Gas and Dubois v. France* and *S.H. and Others v. Austria*, the paper shows the Court's reluctance to fully embrace queer biokinships. Despite acknowledging evolving societal views, the ECtHR's use of the margin of appreciation and deference to state sovereignty results in inconsistencies and limited protection against discrimination for ART-based queer families. The Court's discourse also reproduces binary gender norms, reinforcing conventional roles of motherhood and fatherhood, thereby excluding queer parental identities. Moreover, judicial language often frames queer families as exceptions rather than legitimate variations, perpetuating normative assumptions about gender and family. To address these gaps, the paper proposes integrating a reproductive justice framework, emphasizing equal access to ART in a non-discriminatory environment. It calls for a transformative shift recognizing queer biokinships in line with contemporary reproductive justice principles.

Biosketch

Selin Altay (she/they) is a Ph.D. Candidate and Research Associate at the Institute for International Law of Peace and Armed Conflict (IFHV), Ruhr-University Bochum. She holds a bachelor's degree in law from Bilkent University and a master's in Gender and Women's Studies from the Middle East Technical University. Prior to her doctoral studies, Altay worked with several organizations, including the Kaos Gay Lesbian Cultural Research and Solidarity Association (Kaos GL), the United Nations Population Fund (UNFPA) Turkey, TED University Centre for Gender Studies, and the ÜniKuir Association. Her work focused on issues related to LGBTI+, women's, children's, and refugee rights, with a specific emphasis on sexual and gender-based violence, access to support services for LGBTI+ university students, and the integration of Syrian children into the Turkish education system.

Who Gets to Be a Family? Surrogacy and Stereotypes at the European Court of Human Rights

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Keywords

Surrogacy, parenthood, ECHR, family, gender stereotypes

Abstract

Surrogacy is a valued method of family formation for many. The debate surrounding surrogacy, however, is highly polarised. Opponents often invoke gender stereotypes to object to surrogacy practices. In the previous GenDJus conference, I discussed gender stereotypes regarding surrogates, e.g., that women inherently desire motherhood, or surrogates being vulnerable and unable to freely decisions. In this paper, I will consider gender stereotypes regarding intended mothers, with the most prevalent being that they are selfish and morally suspect. These stereotypes are also evident in case law, such as judgments of the European Court of Human Rights (ECtHR) on surrogacy. The Court, however, plays a critical role in determining the legal recognition of parenthood, particularly in cross-border cases from European states where surrogacy is prohibited. It is argued, therefore, that judgments in this area, often shaped by implicit biases and entrenched gender stereotypes, can undermine the rights of those involved in surrogacy arrangements.

This paper first explores relevant literature on gender stereotyping and the pressures of motherhood on women. This is then contrasted with how intended mothers are often cast as desperate or even unethical. These dichotomies reflect broader societal discomfort with surrogacy and non-normative kinship, which can translate into judicial reluctance to fully recognise the rights of intended parents, particularly intended mothers, and children born through surrogacy. By critically analysing the ECtHR's case law on surrogacy, the paper identifies how these stereotypes/biases appear in surrogacy rulings, often more explicit in Concurring Opinions that expose underlying reasoning.

Biosketch

Dr Marianna Iliadou is an Assistant Professor in Law at the University of Sussex, having previously been a Teaching Fellow in Medical Law and Ethics at Durham University. Marianna conducts research at the intersection of healthcare law, family law and human rights, with her research including, among other topics, medically assisted reproduction and legal parenthood, human rights and reproductive justice frameworks, and domestic and international surrogacy practices within and beyond Europe.

Marianna holds a Law degree from the Aristotle University of Thessaloniki (Greece), a Master's degree from the Pompeu Fabra University in Barcelona (Spain) and a PhD in Law from Durham University (UK). Her PhD explored surrogacy and its possible protection under the umbrella of the European Convention of Human Rights. Marianna's doctoral research was funded by the Modern Law Review journal, and she was also recipient of the Helen Reece Award.

Deconstructing Gender in the Inter-American Court of Human Rights' Reproductive Rights Case Law

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Keywords

Inter-American Court of Human Rights, gender, reproductive rights

Abstract

The Inter-American Court of Human Rights, the supranational court responsible for overseeing the American Convention on Human Rights, has long been celebrated for its progressive gender equality jurisprudence. While some have spoken of a “system at the vanguard,”¹ others have placed the Court “at the front of its peers.”² The Court’s ruling in a landmark gender-based-violence case known as *Cotton Field* in 2009³ probably epitomizes the beginning of a “jurisprudential trend” that exposes the structural causes of gender inequality and tackles these causes through transformative reparations.⁴

This paper proposes to deconstruct the concept of gender in the Inter-American Court of Human Rights’ reproductive rights case law while locating the deconstructing efforts within the larger context of gender equality developments in this regional supranational jurisdiction. The paper offers to unpack the Court’s understanding of gender in groundbreaking cases concerning abortion, obstetric violence, IVF and forced sterilization and to link this understanding to the Court’s approach in gender-based violence and gender identity cases more broadly. The paper argues that, in adopting a largely constructivist approach to gender, the Inter-American Court has construed gender in relational, anti-hierarchical and non-binary terms. It explores how the Court situates its understanding in cultural and historical contexts and, in so doing, emphasises the structural and shifting dimensions of gender.

Biosketck

Lourdes Peroni is a human rights law scholar whose areas of research include equality and non-discrimination, gender-based violence, reproductive justice and vulnerability, particularly within the contexts of the United Nations, Organization of American States and Council of Europe. I have published on these themes in several journals such as *Human Rights Law Review*, *Debate Feminista* (UNAM) and *International Journal of Constitutional Law*. Before joining the University of Warsaw, I worked at several other universities, including Yale (US), Ghent (Belgium) and Sheffield Hallam (UK). I was a fellow at the Inter-American Commission on Human Rights and was involved in various submissions and third-party interventions before the CEDAW Committee and the European Court of Human Rights.

¹ Smyth, Rebecca (2022) “A System at the Vanguard: The Evolution of Women’s Human Rights in the Inter-American Human Rights System 1948-present” 22 *Revista do Instituto Brasileiro de Direitos Humanos* 269-284.

² Palacios Zuloaga, Patricia (2021) “Pushing Past the Tipping Point: Can the Inter-American System Accommodate Abortion Rights?” 21 *Human Rights Law Review* at 930.

³ Inter-American Court of Human Rights, *González et al. (“Cotton Field”) v. Mexico*, Judgment of 16 November 2009.

⁴ Palacios Zuloaga *supra* note 2.

Carolina Mosquera Vera is a Colombian researcher with a background in Sociology and Public Policy from the National University of Colombia. She holds a Master's degree in Women's and Gender Studies (GEMMA – Erasmus Mundus) and is currently pursuing a PhD in Sociology with a focus on gender studies in Spain and Poland. She works as a research assistant for the ERC-funded project Abortion Figurations.

Gender-Based Stereotypes through Rhetorical Figures in the Discourses of Judges: Insights from the JUSTEQUAL Research Project

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Keywords

Feminist critical discourse analysis, gender-based stereotypes, judicial discourse, JUSTEqual research project, rhetorical figures

Abstract

The law, often perceived as neutral and impartial, often perpetuates existing prejudices and misconceptions (Fredman, 1998). Among these, gender stereotypes constitute a profound obstacle to advancing gender equality and safeguarding human rights (Frańczak, 2022). In recent years, various national and international bodies have highlighted and condemned the presence of gender stereotypes and discriminatory language in the Italian legal context. Such practices not only hinder effective protection for victims of gender-based violence but also threaten recognised human rights and fundamental freedoms. Indeed, domestic violence against women and girls continues to be widespread in Italy, where deep-rooted sexist stereotypes, systemic gender inequalities, prejudices against women who report abuse, and a persistent denial of women's credibility remain embedded in the cultural fabric (D.i.R.e 2020). Against this backdrop, our analysis draws on data collected within the JUSTEqual research project - which seeks to actively combat gender stereotypes and discriminatory language within the Italian judicial system - to examine the language employed by judges in family law and criminal proceedings. Preliminary results of our study suggest that rhetorical figures such as metaphors, oxymora and climax, are instrumental in perpetuating gender-based stereotypes. These results stem from a qualitative study situated within the framework of Feminist Critical Discourse Analysis (Lazar, 2007), which seeks to reveal "the complex workings of power and ideology in discourse that sustain hierarchically gendered social orders" (Lazar, 2008:1), thereby illustrating how judicial language has the potential to either reinforce or challenge systemic gender inequalities.

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Biosketch

Ilaria Giordano is Research Fellow at the Department of Law of the University of Turin. As a member of the JUSTEQUAL research project (Eradicating Judicial Stereotypes and Gender Discriminatory Language: Equal

Access to Justice for Women in Cases of Gender-Based Violence), her work currently focuses on the critical discourse analysis of civil and criminal rulings involving male violence against women. She earned her PhD in English Linguistics at the University of Parma in June 2024, with a thesis focused on the study of the linguistic and discursive strategies used for communicating scientific content through blogs, YouTube educational videos and comics. Her research interests include corpus linguistics and its applications in critical discourse analysis, the study of linguistic mechanisms that perpetuate stereotypes and discrimination, the rhetoric of science and the rhetorical strategies used to communicate scientific concepts to the general public.

Angela Zottola is a tenure track researcher in English Language and Linguistics at the University of Turin (Italy). Her research interests include (Critical) Discourse Analysis, Corpus Linguistics, Ecolinguistics and Queer Linguistics applied to the investigation of the traditional and new media, as well as legal discourse. She is a member of the Italian Association of English Studies (AIA), the Inter-University Research Center on Metaphors (CIRM) and the Inter-University Research Center on Identity, Language and Diversity (I-LanD). She currently sits on the board of the International Gender and Language Association (IGALA) and is a member of the Advisory Board of the CADAAD Journal.

Gendered Justice and Parliamentary Immunity: The Case of *Márcia Barbosa de Souza v. Brazil* before the Inter-American Court of Human Rights

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Keywords

Inter-American Court of Human Rights; Brazil's judicial practice with gender and race perspective; critical discourse analysis; judicial gender-based violence; judicial race-based violence

Abstract

This paper analyzes the landmark judgment of the Inter-American Court of Human Rights in the case of *Márcia Barbosa de Souza and others v. Brazil* (2021), focusing on how gender stereotypes and the misuse of parliamentary immunity obstructed justice in a case of femicide. *Márcia Barbosa*, a 20-year-old Black woman from a low-income background, was murdered in 1998 by a state deputy who leveraged his parliamentary immunity to delay prosecution. The legislative assembly's refusal to lift his immunity resulted in a nearly decade-long impunity, culminating in his death before sentence.

This case set an important precedent by scrutinizing the compatibility of parliamentary immunity with human rights obligations, particularly regarding gender-based violence. The objective of this research is to analyze how institutional frameworks and discursive practices either reinforce or challenge structural violence in cases involving race and gender. In response to such systemic failures, the Brazilian judiciary, through the National Council of Justice (CNJ), has developed and published "Judging with a Gender Perspective" (2021) and "Judging with a Racial Perspective" (2023), thereby demonstrating the imperative of intersectional analysis in analogous judicial contexts. These protocols underscore the necessity of intersectional analysis in judicial contexts, guiding actors to identify and challenge gendered and racial biases.

To highlight these elements, the paper employs critical discourse analysis to identify pragmatic, lexicosemantic, and enunciative elements in both judgments. The Court found that Brazil violated several provisions of the American Convention on Human Rights, emphasizing that the investigation and trial were marked by gender-based discrimination and harmful stereotypes that shifted blame onto the victim.

By examining the interplay between legal discourse, judicial tools, and international standards, this study contributes to the field by offering a critical lens to evaluate how intersectionality can inform more equitable and transformative judicial responses to gender- and race-based violence. This paper contributes to the broader discussion on deconstructing gender within international and domestic judicial discourses.

Biosketch

Priscila Coelho, PhD, Getulio Vargas Foundation São Paulo Law School. Member of the Research Centre on Gender and Law at FGV Direito SP. Specialist in Proportional Punishment at "Doing Justice Program", a partnership between the National Council of Justice in Brazil and the United Nations Development Programme. Author of the book "One prisoner per vacancy: strategies and disputes surrounding prison overcrowding".

Gabriela Rabello is a PhD candidate in communication at the Université du Québec à Montréal (UQAM). Her research interests focus on political communication, migration, gender violence and racism. She is Associate

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Intersectionality and Racialized Narratives in Brazilian Domestic Violence Rulings

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Keywords

Intersectionality, judicial discourse, racial violence, gendered narratives, human rights

Abstract

This study seeks, through the lens of intersectionality (Collins, 2022), to map how the category of race is mobilized in first-instance judicial decisions on domestic and family violence issued by the São Paulo Court of Justice. We analyze how gender and race are articulated in judicial discourses, particularly in rulings that address racial violence within domestic contexts, and how such cases are adjudicated. The analysis focuses on four dimensions: (i) legal framing; (ii) characterization of racial violence; (iii) the defendant's account; and (iv) judicial reasoning and outcomes.

Findings reveal that cases involving racial violence in domestic and family contexts are inherently intersectional, involving multiple systems of oppression and emerging from situations where racial and non-racial forms of violence co-occur. In 81.25% of the cases, racial violence was accompanied by other offenses and, in all of them, legally classified as *injúria racial* (racial insult).

Regarding outcomes, 68.75% of the decisions resulted in convictions. Key elements of judicial reasoning included the discursive value attributed to evidence, the credibility granted to the victim's testimony, and the silencing of psychological and moral violence. These decisions illustrate how Brazilian courts reproduce gendered and racialized narratives that limit full engagement with human rights protections. We argue that the legal framing of racial violence in domestic contexts reflects broader challenges in integrating intersectional and decolonial perspectives into judicial discourse, reinforcing structural bias in the language of justice.

Biosketch

Patrícia Oliveira de Carvalho. Master's degree holder and Ph.D. candidate in Human Rights at the University of São Paulo Law School. Coordination and advocacy assistant at Criola. Holds a Master's degree in Law from the University of São Paulo, where she was a CAPES researcher and conducted research in the fields of human rights, law and racial relations, and law and gender. Graduated in Law from the University of Salvador, where she was a FAPESB scholarship researcher and conducted research in the areas of legal sociology, critical criminology, and labor law. Researcher at the Women's Human Rights Clinic at USP. Member of the Law and Racial Relations Program (PDRR -UFBA).

Gislene Aparecida dos Santos. Associate Professor. Faculty member at the School of Arts, Sciences, and Humanities and the Graduate Program in Law/Human Rights at the University of São Paulo (USP). Completed postdoctoral research at King's College London and York University. Ranked among the World Top 100 Law/Law and Legal Studies Scientists in Brazil by the AD Scientific Index 2024. Member of the Curatorial Board of the Jabuti Acadêmico Award, 2024. Leader of GEPPIS – Study and Research Group on Public Policies for Social Inclusion. Researcher at Diversitas – FFLCH-USP. Founder and coordinator of nPeriferias – Research Groups on Peripheries at the Institute of Advanced Studies (IEA) of USP.

“Las víctimas no tienen relato”. Coconstruir narrativas de violencia de género

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Keywords

Narrativas de reconstrucción, violencia de género, procedimientos penales, habitualidad, coconstrucción

Abstract

La violencia de género es un fenómeno de tal alcance y de consecuencias tan graves que resulta ineludible estudiarlo para intentar afrontarlo eficazmente y, en última instancia, erradicarlo. Con esta comunicación se pretende profundizar en la comprensión de la violencia de género partiendo de la descripción del modo en que las mujeres narran sus experiencias de violencia en la pareja ante las instituciones encargadas de protegerlas y del modo en que tales instituciones recogen esas narrativas. A partir de dicha caracterización, se busca orientar un tratamiento discursivo que favorezca una atención óptima a las mujeres que padecen violencia de género. Se analiza, primero, mediante categorías del análisis del discurso y de las teorías de las narrativas, un corpus de narrativas de procedimientos penales por violencia de género. Se verifica que, a lo largo de dichos procedimientos, se dejan fuera de la valoración judicial los episodios alejados en el tiempo del momento de la denuncia, y también aquellos que permiten reconstruir la dimensión habitual de la violencia y dar cuenta de la violencia de género como un proceso que acaba constituyendo una situación de violencia. Los resultados del análisis se contrastan con un segundo corpus compuesto a partir de entrevistas con profesionales expertos en la interacción con mujeres que han sufrido violencia de género. Finalmente, se desarrollan recomendaciones lingüístico-discursivas que pueden orientar a los profesionales que coconstruyen narrativas de violencia de género junto con las mujeres que la padecen.

Bioskeeth

Profesora del Departamento de Educación Lingüística, Científica y Matemática de la Universidad de Barcelona, imparte docencia en la Facultad de Educación y en la de Derecho de dicha universidad. Es asimismo docente en la Escuela Judicial de España. Es miembro del grupo de investigación EDAP (Estudios del Discurso Académico y Profesional) de la Universidad de Barcelona, liderado por la Dra. Estrella Montolío. Es autora de la Guía para el uso de un lenguaje más inclusivo e igualitario del Ministerio de Justicia de España.

La donna che uccide il marito che la maltratta: a proposito di narrazioni e (in)comprensioni giudiziali

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Keywords

Credenze discriminatorie; violenza di genere; donna criminale; legittima difesa; interpretazione giuridica

Abstract

La letteratura sulla stereotipizzazione giudiziaria ha evidenziato come la motivazione della sentenza rappresenti uno strumento utile per verificare la presenza di argomenti che riproducono stereotipi relativi al genere, alla disabilità, alla razza e ad altri fattori discriminatori. In questa sede si intende analizzare una specifica tipologia di narrazioni giudiziali che riguardano la donna che uccide il marito che la maltratta. Si tratta di un profilo peculiare di donna criminale che è presente nel processo come soggetto attivo, imputata per il reato di omicidio volontario, ma al contempo anche soggetto passivo del reato di maltrattamento in famiglia. Nell'intervento che si propone si intende, in primo luogo, richiamare alcune criticità legate alla mancanza di un'adeguata comprensione del fenomeno della violenza di genere che si traduce in ambito giuridico nella riproduzione di certe narrative discriminatorie. In secondo luogo, si propone di problematizzare i requisiti richiesti dalla scriminante della legittima difesa, a partire dalla sentenza del 4 luglio 2022 della Corte d'Assise Alessandria, connessa a una questione di legittimità sollevata davanti alla Corte Costituzionale (Sentenza num.197/2023, del 10 ottobre). Nel corso dell'intervento l'obiettivo sarà quello di far emergere la pluralità di narrazioni che concorrono a una comprensione parziale della donna che uccide il marito maltrattante: dai miti relativi all'amore romantico, alle aspettative su come dovrebbe comportarsi una donna vittima di violenza di genere, fino al ricorso a sindromi che giustificano l'atto omicida e all'interpretazione restrittiva dei requisiti della legittima difesa.

Biosketch

Anna De Giuli è assegnista di ricerca presso il Dipartimento di Scienze Giuridiche "Cesare Beccaria" dell'Università degli Studi di Milano. Nell'ottobre 2024 ha conseguito il titolo di doctor europeus presso il Dip. di Scienze Giuridiche "Cesare Beccaria" dell'Università degli Studi di Milano e quello di Doctora Internacional presso la Facultad de Derecho de la Universidad de Granada, sotto la supervisione delle Prof.sse Francesca Poggi (Università degli Studi di Milano) e Juana María Gil Ruiz (Universidad de Granada). Nel marzo 2019 ha conseguito con lode la laurea in Giurisprudenza presso l'Università degli Studi di Ferrara e il Grado en Derecho presso la Universidad de Granada, discutendo una tesi dal titolo "La polisemia de la noción de vulnerabilidad reflejada en las sentencias del Tribunal de Justicia de la Unión Europea" (relatrice: Prof.ssa Orsetta Giolo; correlatori: Prof. Augusto Aguilar Calahorra; Prof.ssa Cristiana Fioravanti). Ha ottenuto il riconoscimento della Ferrara School of Law e dal luglio 2021 è cultrice di Filosofia del diritto e Sociologia del diritto presso l'Università degli Studi di Ferrara. A febbraio 2021 ha discusso una tesi dal titolo "Juzgar con perspectiva de género: su aplicación por el Tribunal Supremo" (relatore Magistrado José Fernando Lousada Arochena), concludendo il Máster Universitario en Abogacía presso la Universidade da Coruña con una votazione di 9,42/10 ed il riconoscimento del Premio extraordinario de Máster Universitario. Nel giugno 2021, ha conseguito l'abilitazione all'esercizio della professione di "Abogada" (Ministerio de Justicia de España).

Violenza simbolica e giustizia di genere: costruzioni discorsive nelle sentenze di femminicidio in Italia

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Keywords

Linguistica forense; sentenze; femminicidio; violenza simbolica; linguistica dei corpora; analisi critica del discorso

Abstract

La violenza contro le donne in Italia resta un fenomeno strutturale: tra il 2020 e il 2022 ne sono state uccise 361, di cui 314 vittime di femminicidio (ISTAT, 2024). Alla violenza fisica spesso si accompagna la violenza simbolica (Bourdieu, 1992), veicolata anche dal linguaggio istituzionale. La Corte Europea dei Diritti Umani ha più volte condannato le autorità giudiziarie italiane per l'adozione di narrazioni colpevolizzanti nei confronti delle vittime in casi di violenza di genere (Benedetti & Queralt, 2023).

Sebbene la rappresentazione mediatica della violenza contro le donne sia stata indagata (ad es. Melluzzi et al., 2021), il linguaggio giuridico delle sentenze resta un ambito relativamente trascurato. Eppure, tale discorso contribuisce in modo determinante alla costruzione del "modello del rapporto di un uomo e di una donna" (Di Nicola, 2021, p. 21).

Questo contributo analizza tre sentenze di primo grado per femminicidio emesse in Italia tra il 2021 e il 2023, focalizzandosi sulla rappresentazione discorsiva dei due protagonisti. L'indagine adotta un approccio integrato, combinando linguistica dei corpora (Wright, 2025) e analisi critica del discorso (Bogoch, 2007).

I risultati evidenziano asimmetrie nella narrazione: le vittime sono spesso definite attraverso etichette stigmatizzanti, e i colpevoli rappresentati con modalità attenuanti oppure, la violenza semplicemente "accade". Tali dinamiche discorsive spostano il focus, contribuendo al rafforzamento di stereotipi di genere. L'analisi mette in luce il ruolo attivo del linguaggio giuridico nella produzione della giustizia e invita a una riflessione critica sul potere performativo delle parole nei contesti forensi (Benedetti, 2025).

Biosketch

Novella Benedetti. Laureata nel 2005 presso la SSLMIT dell'Università degli Studi di Trieste, lavora come consulente linguistica. Dal 2020 si occupa di linguistica forense con particolare attenzione ai casi di violenza di genere; ha conseguito il dottorato di ricerca presso l'Universitat de Vic – Universitat Central de Catalunya (Spagna) nel 2025, svolgendo periodi di ricerca presso l'Università di Innsbruck (Austria) e l'Università di Roma Tor Vergata (Italia).

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