

Contents

Acknowledgements

ix

Gender in Constitutional Law: Research Overview Catharine A. MacKinnon

xiii

PART I THEORY AND DESIGN

1. Helen Irving (2011), 'Drafting, Design and Gender', in Tom Ginsburg and Rosalind Dixon (eds), *Comparative Constitutional Law*, Part I, Chapter 2, Cheltenham, UK and Northampton, MA, USA: Edward Elgar Publishing, 19–37 3
2. Catharine A. MacKinnon (2012), 'Gender in Constitutions', in Michel Rosenfeld and András Sajó (eds), *The Oxford Handbook of Comparative Constitutional Law*, Part II, Chapter 19, Oxford, UK: Oxford University Press, 397–416 22
3. Kimberlé Crenshaw (1989), 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics', *University of Chicago Legal Forum*, *Feminism in the Law: Theory, Practice and Criticism*, 1989 (1), 139–67 42
4. Kathleen M. Sullivan (2002), 'Constitutionalizing Women's Equality', *California Law Review*, 90 (3), May, 735–64 71
5. Paula A. Monopoli (2006), 'Gender and Constitutional Design', *Yale Law Journal*, 115 (9), September, 2643–51 101
6. Emanuela Lombardo (2005), 'Integrating or Setting the Agenda? Gender Mainstreaming in the European Constitution-Making Process', *Social Politics: International Studies in Gender, State and Society*, *Special Issue on Gender Mainstreaming*, 12 (3), Fall, 412–32 110
7. Kathryn Abrams (1997), 'The Constitution of Women', *Alabama Law Review*, 48 (3), 861–84 131
8. Fionnuala Ní Aoláin, Dina Francesca Haynes and Naomi Cahn (2011), 'Law Reform, Constitutional Design, and Gender', in *On the Frontlines: Gender, War, and the Post-Conflict Process*, Part II, Chapter 9, New York, NY, USA: Oxford University Press, 197–225, notes 155

PART III QUANTITATIVE COMPARISONS

20. Priscilla A. Lambert and Druscilla L. Scribner (2009), 'A Politics of Difference versus a Politics of Equality: Do Constitutions Matter?', *Comparative Politics*, 41 (3), April, 337–57 573
21. Mila Versteeg (2014), 'Unpopular Constitutionalism', *Indiana Law Journal*, 89 (3), 1133–90 594
22. Adèle Cassola, Amy Raub, Danielle Foley and Jody Heymann (2014), 'Where do Women Stand? New Evidence on the Presence and Absence of Gender Equality in the World's Constitutions', *Politics and Gender*, 10 (2), June, 200–35, Erratum 652
23. Tina-Marie Assi, Alison Earle, Isabel Latz, Amy Raub, Jessica Looze, Aleta Sprague and Jody Heymann (2017), 'Meeting Global Commitments to Gender Equality: National Laws, Policies and Constitutions in the 186 Nations that have Ratified CEDAW', *UCLA World Policy Analysis Center Report*, 1–41 692
24. Dawood I. Ahmed and Moamen Gouda (2015), 'Measuring Constitutional Islamization: The Islamic Constitutions Index', *Hastings International and Comparative Law Review*, 38 (1), Winter, 1–74 733
25. Siobhan Austen and Astghik Mavisakalyan (2016), 'Constitutions and the Political Agency of Women: A Cross-Country Study', *Feminist Economics: A Special Issue on Voice and Agency*, 22 (1), 183–210 807



Gender in Constitutional Law

Volume II: Policy Analysis

Catharine A. Mackinnon

Edited by



Elgar

Constitutional Law 3

Contents

Acknowledgements

vii

An introduction to all three volumes by the editor appears in Volume I

PART I SYSTEMS AND STRUCTURES

1. Isabel Latz, Amy Raub, Adele Cassola, Nicolas de Guzman Chorny, Megan Arthur and Jody Heymann (2014), 'Equal Rights for Women and Girls in the World's Constitutions', *WORLD Policy Analysis Center Report*, i–iii, 1–36 3
2. Drude Dahlerup and Lenita Freidenvall (2009), 'Gender Quotas in Politics – A Constitutional Challenge', in Susan H. Williams (ed.), *Constituting Equality: Gender Equality and Comparative Constitutional Law*, Chapter 1, New York, NY, USA: Cambridge University Press, 29–52 42
3. Sarah Sunn Bush (2011), 'International Politics and the Spread of Quotas for Women in Legislatures', *International Organization*, 65 (1), Winter, 103–37 66
4. Jo Shaw (2002), 'The European Union and Gender Mainstreaming: Constitutionally Embedded or Comprehensively Marginalised?', *Feminist Legal Studies*, 10 (3–4), October, 213–26 101
5. Christopher D. Totten (2003), 'Constitutional Precommitments to Gender Affirmative Action in the European Union, Germany, Canada and the United States: A Comparative Approach', *Berkeley Journal of International Law*, 21 (1), 27–61 115
6. Jill Vickers (2010), 'A Two-Way Street: Federalism and Women's Politics in Canada and the United States', *Publius: The Journal of Federalism*, 40 (3), Summer, 412–35 150

PART II FAMILY, REPRODUCTION, AND WORK

7. Siobhán Mullally (2005), 'Debating Reproductive Rights in Ireland', *Human Rights Quarterly*, 27 (1), February, 78–104 177
8. Fareda Banda (2006), 'Women, Law and Human Rights in Southern Africa', *Journal of Southern African Studies: Women and the Politics of Gender in Southern Africa*, 32 (1), March, 13–27 204
9. Karin Carmit Yefet (2009), 'Unchaining the *Agunot*: Enlisting the Israeli Constitution in the Service of Women's Marital Freedom', *Yale Journal of Law and Feminism*, 20 (2), 441–503 219

10. Annette Marfording (1996), 'Gender Equality under the Japanese Constitution', *Verfassung und Recht in Übersee – Law and Politics in Africa, Asia and Latin America*, 29 (3), 3. Quartal – 3rd Quarter, 324–46 282
11. Sadie Xinxin Yang and Ao Li (2009), 'Legal Protection against Gender Discrimination in the Workplace in China', *Gender and Development*, 17 (2), July, 295–308 305
12. Martha C. Nussbaum (2005), 'India, Sex Equality, and Constitutional Law', in Beverley Baines and Ruth Rubio-Marín (eds), *The Gender of Constitutional Jurisprudence*, Chapter 7, Cambridge, UK: Cambridge University Press, 174–204 319
13. Ruth Rubio-Marín (2015), 'The (Dis)establishment of Gender: Care and Gender Roles in the Family as a Constitutional Matter', *International Journal of Constitutional Law*, 13 (4), October, 787–818 350

PART III GENDER-BASED VIOLENCE

14. Kimberlé Crenshaw (1991), 'Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color', *Stanford Law Review*, 43 (6), July, 1241–99 385
15. Kate O'Regan (2013), 'The Right to Equality in the South African Constitution', *Columbia Journal of Gender and Law: Symposium Honoring Justice Ruth Bader Ginsburg*, 25 (1), 110–15 444
16. Valorie K. Vojdik (2008), 'Conceptualizing Intimate Violence and Gender Equality: A Comparative Approach', *Fordham International Law Journal*, 31 (2), 487–527 450
17. John Borrows (2013), 'Aboriginal and Treaty Rights and Violence Against Women', *Osgoode Hall Law Journal*, 50 (3), Spring, 699–736 491

PART IV GAY, LESBIAN, AND TRANSGENDER ISSUES

18. Catharine A. MacKinnon (2004), 'The Road Not Taken: Sex Equality in *Lawrence v. Texas*', *Ohio State Law Journal*, 65 (5), 1081–95 531
19. William N. Eskridge, Jr. (2010), 'Sexual and Gender Variation in American Public Law: From Malignant to Benign to Productive', *UCLA Law Review*, 57 (5), June, 1333–73 546
20. Bret Boyce (2015), 'Sexuality and Gender Identity Under the Constitution of India', *Journal of Gender, Race and Justice*, 18 (1), Winter, 1–64 587

Edited by

Catharine A. MacKinnon



Gender in Constitutional Law

Volume III: Processes of Change

Constitutional Law 3

Contents

Acknowledgements

vii

An introduction to all three volumes by the editor appears in Volume I

PART I PROCESSES OF CHANGE

1. Christine Chinkin (2001), 'Gender Mainstreaming in Legal and Constitutional Affairs: A Reference Manual for Governments and Other Stakeholders', *Commonwealth Secretariat*, June, 1–102 3
2. Georgina Waylen (2006), 'Constitutional Engineering: What Opportunities for the Enhancement of Gender Rights?', *Third World Quarterly, The Politics of Rights: Dilemmas for Feminist Praxis*, 27 (7), 1209–21 105
3. Angela M. Banks (2007), 'Challenging Political Boundaries in Post-Conflict States', *University of Pennsylvania Journal of International Law*, 29 (1), 105–68 118
4. Cathi Albertyn and Beth Goldblatt (2008), 'Towards a Substantive Right to Equality', in Stu Woolman and Michael Bishop (eds), *Constitutional Conversations*, Chapter 14, Pretoria, South Africa: Pretoria University Law Press, 231–54 182
5. Aili Mari Tripp (2009), 'Conflicting Agendas? Women's Rights and Customary Law in African Constitutional Reform', in Susan H. Williams (ed.), *Constituting Equality: Gender Equality and Comparative Constitutional Law*, Chapter 8, New York, NY, USA: Cambridge University Press, 173–94 206
6. Susan Bazilli and Marilou McPhedran (2009), 'Women's Constitutional Activism in Canada and South Africa', *International Review of Constitutionalism*, 9 (2), 389–418 228
7. Claudia Flores and Patricia A. Made (2013), 'The Politics of Engagement: Women's Participation and Influence in Constitution-making Processes', *UN Women: United Nations Entity for Gender Equality and the Empowerment of Women Report*, i, iii–v, vii, 1–48 258
8. Kathleen S. Fine-Dare (2014), 'The Claims of Gender: Indigeneity, *Sumak Kawsay*, and Horizontal Women's Power in Urban Ecuador under the 2008 Political Constitution', *Social Development Issues: Alternative Approaches to Global Human Needs*, 36 (3), November, 18–33 311

9. Pilar Domingo, Aoife McCullough, Florence Simbiri and Bernadette Wanjala (2016), 'Women and Power: Shaping the Development of Kenya's 2010 Constitution', *Overseas Development Institute Report*, March, 1, 3–44 327
10. Mounira Maya Charrad (2016), 'Progressive Law: How it Came About in Tunisia', *Journal of Gender, Race and Justice*, 18 (2), Spring, 351–9 370
11. Hallie Ludsin (2011), 'Women and the Draft Constitution of Palestine', *Women's Centre for Legal Aid and Counselling Report*, 1, 3–262 379