

Editorial: Gender Equality Law in Indonesia and England & Wales: comparative law learning through student engagement and co-production

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Introduction

One way to think about the practicalities of comparative law, outlined by David Nelken 25 years ago, is to be ‘virtually there’, ‘researching there’, or ‘living there’.² A comparative lawyer can be ‘virtually there’, accessing legal texts online and perhaps even interviewing people via Zoom or MS Teams. A comparative lawyer can be ‘researching there’ by going to another jurisdiction to use law libraries, meet people in person, and observe courts or other legal processes. Or a comparative lawyer can be ‘living there’: can relocate to another jurisdiction to become immersed in the law and the contexts that surround it. The contributions to this special issue of *The City Law Review* combine all three practical methods of comparative law. In this way, they mitigate the criticism of comparative law as a method that has been called ‘radical scepticism of comparative law’.³ That ‘radical sceptical’ position holds that an individual can never effectively research and understand law in another jurisdiction, because of the deeply embedded nature of law and legal systems in the culture to which they belong.⁴

How do these articles overcome the barriers of researcher positionality⁵ inherent in the ways in which a legal researcher is so embedded in their own culture and formation that their

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² David Nelken (ed), *Contrasting criminal justice: getting from here to there* Advances in criminology, (Ashgate/Dartmouth 2000).

³ Mathias Siems and Po Jen Yap (eds), *Cambridge Handbook of Comparative Law* (CUP 2024) 4-7.

⁴ See, for example, Geoffrey Samuel, *Introduction to Comparative Law Theory and Method* (Hart 2014) 119: ‘the law emerges out of the cultural domain just like a piece of architecture or a song’; Sheraly Munshi, ‘Comparative Law and Decolonising Critique’ (2017) 65 *American Journal of Comparative Law* 207, citing Pierre Legrand ‘Jameses at Play: A Tractation on the Comparison of Laws’ (2017) 65 (Suppl 1) *American Journal of Comparative Law* 1, 47: ‘The fabric of any legal text consists of historical configurations enmeshed with traces of political rationalities intertwined with traces of social logics interwoven with traces of philosophical postulates plaited with traces of linguistic orders darned with traces of economic prescriptions interlaced with traces of epistemic assumptions.’

⁵ On researcher positionality, that is, the idea that our understanding of ourselves, of who we are and the experiences we have had, affects our knowledge and understanding of the (legal) world, see, for example, Linda Martín Alcoff ‘Cultural Feminism v. Post-Structuralism: The Identity Crisis in Feminist Theory’ (1988) 13 *Signs* 405; David Takacs, ‘How Does Your Positionality Bias Your Epistemology?’

understanding cannot be replicated by someone embedded in another jurisdiction? They do so by collaboration. Collaboration is an enormously powerful – and we believe under-exploited – method for legal learning and research.⁶ Each contribution in this special issue has been written not by just one legal researcher, but by a small team of law students from The City Law School in London and Udayana University Law Faculty in Bali, Indonesia. In addition to their different educational backgrounds, the group as a whole includes individuals with connections not only to the UK and Indonesia, but also to Canada, China, Iran, Malaysia, Pakistan, and Poland. Furthermore, the students have been supported in their learning, research and writing by academic staff from both institutions (the authors of this Editorial, with links to Afghanistan, Indonesia and Hungary), and an Advisory Board from several countries (with links to Egypt, Malaysia, the United Kingdom and the USA, under the auspices of a British Council-funded project on *Gender Equality and Law*). The project's aims include transnational legal learning on gender equality and law, and its outputs include the selection of articles that make up this special issue of *The City Law Review*.

We elaborate the design of the transnational legal education⁷ project further elsewhere.⁸ In brief, students worked together first to determine the broad areas, and then specific topics, of the articles contained in this special issue. To do this, students drew on their own experiences, as well as their knowledge of national and international law. But they also compared their experiences with one another, to draw out what was similar and what was different in the ways in which they understand gender (in)equality and the ways in which law can counter the injustices inherent in disadvantaging women in comparison to men. The initial broad areas for possible investigation ranged across a broad spectrum of legal areas: criminal justice; international law; economic life; the family and private life; and constitutional/administrative law. A processes of narrowing the research focus to make the research and writing tasks manageable led to the specific topics chosen for the articles. These are: non-punishment of female trafficking victims (Adinda, Leung and Mair); online gender-based violence (Arista, Lawler and Qureshi); wage protection for migrant care workers (Ospeck, Soebroto, Vijaya); freedom of fashion (Fanyeteng, Nazemi, Rehman, Sasmita); and legal recognition of non-binary people (Betta, Giuchi, Mahesvari, Putrini).

(2003) 19 Thought & Action 27. In the construction of identities in this context, we mean that certain aspects of identity are markers of relational positions rather than essential qualities.

⁶ Carole Silver, 'Opportunities for Collaboration among East Asian and US Law Schools' (2016) 3 Asian Journal of Law and Society 261; Steve O Michael and Leela Balraj, 'Higher Education Institutional Collaborations: An Analysis of Models of Joint Degree Programs' (2003) 25 (2) Journal of Higher Education Policy and Management 131; Terry Carrilio and Sally Mathiesen, 'Developing a Cross Border, Multidisciplinary Educational Collaboration' (2006) 25 (6) Social Work Education 633.

⁷ Philip C Jessup, *Transnational Law* (Yale University Press 1956); César Arjona, 'Transnational Law as an Excuse: How Teaching Law Without the State Makes Legal Education Better' (2012) Teaching Transnational Law 1; Craig Scott, 'A Core Curriculum for the Transnational Legal Education of JD and LLB Students: Surveying the Approach of the International, Comparative and Transnational Law Program at Osgoode Hall Law School' (2004) 23 Penn State International Law Review 757.

⁸ Eraj Haidari and Tamara Hervej, 'The Art of the Possible: Designing a Small-Scale Transnational Learning Experience for Law Students in Denpasar, Indonesia, and London, UK' (2025) 6(1) European Journal of Legal Education 59–77 (special issue on Global Legal Education, edited by Soledad Atienza Becerril and Verónica Ruiz Abou-Nigm).

The academic staff involved in the project supported the students to work collaboratively to research their chosen topics; to compare legal approaches across the two jurisdictions, and, in some cases, other jurisdictions too; to consider international law obligations; and, where appropriate, to make concrete law reform proposals. In practice, writing took place mainly asynchronously, through shared documents, given the six or seven hour time difference between the jurisdictions.⁹ The whole process took place from March-August 2025.

Why gender equality law?

Discrimination between men and women is a breach of fundamental human rights and the principle of equality, protected in international law¹⁰ and in constitutions across the world. Discrimination is an assault to human dignity. Gender equality is one of the UN's Sustainable Development Goals.¹¹ Gender inequality is also the source of profound economic inefficiencies.¹² It has been estimated that eliminating the gender gap in the workplace would 'essentially double the current global growth rate'.¹³

Yet, gender equality is not a reality anywhere in the world – women are worse off than men in almost every respect, across very diverse areas of social and economic life: the workplace, business and finance, the family, education, healthcare, politics, the arts, and so on. To pick just a few examples,¹⁴ nearly one third of women globally have been subjected to domestic

⁹ Gordana Ignjatović, 'Digital Learning in Legal Education: Educational Policies, Practices, and Potentials of Pedagogy-Driven Digital Integration' (2024) 22 (1) *Facta Universitatis: Law and Politics* 25; Dyane L O'Leary, "'Smart' Lawyering: Integrating Technology Competence into the Legal Practice Curriculum' (2020) 19 *University of New Hampshire Law Review* 197; Jehad Alameri and others, 'Students' Perceptions of E-Learning Platforms (Moodle, Microsoft Teams and Zoom Platforms) in the University of Jordan's Education and Its Relation to Self-Study and Academic Achievement During the COVID-19 Pandemic' (2020) 10(6) *Journal of Educational and Social Research* 2692.

¹⁰ For example, in the Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 art 2; International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 art 2.

¹¹ United Nations, 'Sustainable Development Goal 5: Achieve Gender Equality and Empower All Women and Girls' <<https://sdgs.un.org/goals/goals5>> accessed 16 October 2025.

¹² See, for example Martina Bisello and others (eds), 'Inefficient Inequality: The Economic Costs of Gender Inequality in Europe' (special issue) (2017) 52(1) *Intereconomics*.

¹³ World Bank, *Women, Business and the Law Report* (World Bank, 2024) x.

¹⁴ Rashida Manjoo and Christina Beninger, 'Closing the Protection Gap Through a Legally Binding CEDAW Optional Protocol on Violence against Women and Girls' (2024) 13 *International Human Rights Law Review* 313.

violence;¹⁵ women in public life are subjected to more hate speech than men;¹⁶ globally nearly 4 in 10 women do not complete secondary school;¹⁷ no country provides equal opportunity for women in the workplace;¹⁸ only two thirds of women are engaged in paid work, compared to over 90% of men; and a global gender pay gap of 20% persists.¹⁹ Gender inequality is even present in ‘women’s domains’ or feminised areas of life, such as fashion, or care work in the home, as the articles in this special issue on those topics show.

Indeed, it seems that gender inequality is getting worse.²⁰ Democratic backsliding, and the rise of populist political parties,²¹ seen in many countries across the globe, includes a backlash against women’s rights.²² Countries are reversing their commitments to gender equality in

¹⁵ World Health Organization, *Violence against Women Prevalence Estimates, 2018: Global, Regional and National Prevalence Estimates for Intimate Partner Violence against Women and Global and Regional Prevalence Estimates for Non-partner Sexual Violence against Women: Executive Summary* (World Health Organization 2021) <<https://www.who.int/publications/i/item/9789240022256>> accessed 16 October 2025.

¹⁶ See, for example, Inter-Parliamentary Union, *Sexism, Harassment and Violence against Women in Parliaments in the Asia-Pacific Region* (2025) <<https://www.ipu.org/resources/publications/issue-briefs/2025-03/sexism-harassment-and-violence-against-women-in-parliaments-in-asia-pacific-region>> accessed 16 October 2025.

¹⁷ UN Women and United Nations Department of Economic and Social Affairs, *Statistics Division, Progress on the Sustainable Development Goals: the gender snapshot* (United Nations 2024) <<https://www.unwomen.org/en/digital-library/publications/2024/09/progress-on-the-sustainable-development-goals-the-gender-snapshot-2024>> accessed 16 October 2025.

¹⁸ World Bank, *‘Women, Business and the Law Report* (World Bank 2024).

¹⁹ UN Women and United Nations Department of Economic and Social Affairs, *Statistics Division, Progress on the Sustainable Development Goals: the gender snapshot* (United Nations 2024) <<https://www.unwomen.org/en/digital-library/publications/2024/09/progress-on-the-sustainable-development-goals-the-gender-snapshot-2024>> accessed 16 October 2025.

²⁰ See, for example, UN Women and United Nations Department of Economic and Social Affairs, *Statistics Division, Progress on the Sustainable Development Goals: The Gender Snapshot* (United Nations 2023) <<https://www.unwomen.org/en/digital-library/publications/2023/09/progress-on-the-sustainable-development-goals-the-gender-snapshot-2023>> accessed 16 October 2025.

²¹ See, for example, Cas Mudde and Cristóbal Rovira Kaltwasser, *Populism: a very short introduction* (OUP, 2017); Sheri Berman, ‘The Causes of Populism in the West: Review Article’ (2021) 24 *American Political Science Review* 71–88 <<https://doi.org/10.1146/annurev-polisci-041719-102503>>

²² See, for example, C Roggeband and A Kiszsan, ‘Democratic Backsliding and the Backlash against Women’s Rights: Understanding the Current Challenges for Feminist Politics’ (UN Women 2020). <<https://www.unwomen.org/en/digital-library/publications/2020/06/discussion-paper-democratic-backsliding-and-the-backlash-against-womens-rights>> accessed 16 October 2025.

principle, and practical progress towards gender equality seems to be ever more remote.²³ Not a single indicator of UN SDG 5: Gender Equality has yet been achieved.²⁴

In short, gender inequality is a global problem. Law is one – but of course not the only – vector for improving equality and removing gender discrimination. It is not enough simply to have ‘law in the books’: effective enforcement mechanisms are also necessary. The enforcement gap between ‘law in the books’ and ‘law in practice’²⁵ on gender is significant.²⁶ But the ‘law in the books’ is a good start: not only can law provide enforceable rights, it also plays an important role in setting political and cultural expectations, and normalising behaviours.²⁷ This is true not only for domestic law, but also for international (human rights) law.²⁸

In this special issue, the relevant law is both international (human rights) law (especially the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1979) and national law. International law is central in the article by Adinda et al on women victims of human trafficking; and in the article by Arista et al on revenge pornography. The principle of non-punishment – that victims of human trafficking should not suffer penal consequences for their experiences – is a general principle of international law. Adinda et al also draw on Article 6 CEDAW, requiring states parties to ‘take all appropriate measures ... to suppress all forms of traffic in women’; the UN’s Palermo Protocol on human trafficking; the Council of Europe’s Convention on Action against Trafficking in Human Beings; and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children. Arista et al focus on Article 5a CEDAW, on elimination of ‘prejudices and customary and all other practices’ based on the idea of inferiority of women, or stereotyped roles for women; and on Article 2a CEDAW, which is CEDAW’s general non-discrimination provision. This latter provision also features in Fanyeteng et al’s article on restrictions on women’s clothing in the province of Aceh Darussalam, Indonesia. A different UN Convention – the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families – forms the basis in international law for the implementing Indonesian national law discussed by Ospeck et al in their investigation of wage protection for migrant women care

²³ UN Secretary General Antonio Guterres stated in 2023 that ‘gender equality is growing more distant. On the current track, UN Women puts it 300 years away’, see United Nations, ‘Secretary-General’s remarks to the Commission on the Status of Women’ (6 March 2023) < <https://www.un.org/sg/en/content/sg/speeches/2023-03-06/secretary-generals-remarks-the-commission-the-status-of-women> > accessed 16 October 2025.

²⁴ UN, *Progress on the Sustainable Development Goals: the gender snapshot* (UN 2024) < <https://www.unwomen.org/en/digital-library/publications/2024/09/progress-on-the-sustainable-development-goals-the-gender-snapshot-2024> > accessed 16 October 2025.

²⁵ See canonically, Roscoe Pound, ‘Law in Books and Law in Action’ (1910) 44 *American Law Review* 12.

²⁶ World Bank, *Women, Business and the Law* (n 18).

²⁷ Joxerramon Bengoetxea, ‘Legal Theory and Sociology of Law’ in Jiri Příbání (ed), *Research Handbook on the Sociology of Law* (Edward Elgar 2020); and ‘Social Norms, Social Meaning, and the Economic Analysis of Law’ (special issue) (1998) 27 *The Journal of Legal Studies*.

²⁸ See, for example, Robert Howse and Ruti Teitel, ‘Beyond Compliance: Rethinking Why International Law Really Matters’ (2010) 1 *Global Policy* 127; Douglass Cassel, ‘Does International Human Rights Law Make a Difference?’ (2001) 2 *Chicago Journal of International Law* 121.

workers. The Yogyakarta Principles, a set of non-binding standards on the application of international human rights law to sexual orientation and gender identity, support the analysis in Betta et al's article on legal recognition of non-binary people. The role of the European Convention on Human Rights is also covered there.

All the contributions consider the national law that implements – and often is at least arguably inconsistent with – these international obligations. Adinda et al show that neither England nor Indonesia effectively implements the non-punishment principle in its domestic criminal law on victims of human trafficking. Arista et al show how the different cultural and legal frameworks in England & Wales and Indonesia have resulted in differing approaches to pursuing the aims of Article 5a of CEDAW to eliminate online gender-based violence, both of which at least seem to be attentive to the need for law to respond to, and even seek to pre-empt, technological developments such as 'deep fakes'. However, as the authors further demonstrate, neither jurisdiction fully addresses online gender-based violence in practice, and relevant Indonesian law may breach the non-punishment principle to the extent that it criminalises the behaviour of victims of revenge pornography. Relevant national implementing laws are very different in Ospeck et al's paper: Indonesian law (as the law of a 'sending state') offers wage protection for migrant workers abroad; whereas the law in England & Wales (a 'receiving state') is a complex intersection of overlapping provisions including national minimum wage law applicable to all workers, equality law, and modern slavery law; and is insufficiently effective in a context where in practice immigration law can be a barrier to receiving a just wage. In Fanyeeteng et al's article, the relevant national law is regional legislation, specific to one province (Aceh Darussalam) and is an implementation of Islamic Sharia. On its face non-discriminatory, the relevant laws have a practical effect of disadvantaging women, because of the cultural and religious contexts in which they are interpreted and applied. The relevant laws are in tension with Indonesia's constitution and international obligations, particularly those in CEDAW. Looking to other Islamic states, such as Tunisia or Morocco, Fanyeeteng et al show that options of law reform and interpretation are available to Aceh which do not involve abandoning a commitment to Sharia. Despite different cultural contexts, when it comes to gender recognition of non-binary people, Betta et al show that neither England & Wales nor Indonesia has adopted effective laws implementing international human rights and equality obligations. A more progressive approach in Scotland has been halted by strategic litigation. The rich cultural and religious experiences of Indonesia have in effect been 'over-written' by colonial Christianity and conservative Islam, leading to a missed opportunity to show global leadership in this aspect of equality law.

Yet all the articles offer hope. They outline positive and concrete steps towards law reform which would achieve greater equality.

Reform agendas

This collection of articles suggests reform proposals ranging from reinterpretation of existing legal texts (Fanyeeteng et al); changing approaches to criminalisation and prosecution (Adinda et al; Ospeck et al); rewriting the detail of the law (new defences (Adinda et al); new constitutional and administrative law (Betta et al)); altering how existing law is administered (Betta et al); and changes to enforcement approaches (Adinda et al, Ospeck et al). The authors of these articles call for law reform to bring national law into line with the international human rights obligations to which the relevant countries have agreed. Some articles also call for changes to international law itself (Arista et al; Betta et al), to bring it in line with changes in attitudes and new technological developments.

It is a common trope of human rights lawyers and others who seek to use law for progressive ends to thus conclude their publications with concrete proposals for reform.²⁹ This project is no exception, as the brief summary of reform proposals in the previous paragraph suggests. We note also that it is usual for young people to be more optimistic than older people about the possibility for progressive change³⁰ – including gender equality through law.³¹ This positive outlook is one reason why it is important for publications like *The City Law Review* to continue to showcase the work of the next generation of lawyers.

Conclusion

Law is not the only way to achieve human-rights and equality-affirming change. Another vector for improving equality and removing gender discrimination is education. In a modest way, the British Council-funded project that supported the production of the articles in this special issue of *The City Law Review* is playing a role. We brought together a team of almost entirely women, to encounter an educational experience across the globe, and to learn by doing something (legal research) together. It is not common or easy for lawyers at any career stage from England and Indonesia to work together on comparative work. It is even less common at this early career stage. Their learning represents a (small) step towards global equality.

What is more, the learning from the project feeds to broader education approaches to gender equality. The project offered, if not a unique, at least a very unusual possibility for student voices from the Global South to be heard alongside those of their companion students in the Global North. We, the project leads, engaged not only as ‘teachers’. We also learned. It is not an exaggeration to say that we feel privileged to have shared in the processes of education that took place within the project. We are also delighted, as Editors of this special issue, to provide a vector for the learning within the project to reach a wider audience. In short, we think everyone should listen to what students from Global South and North have to say about gender equality and law.

²⁹ The examples are too many to cite here. For a reflection on this mode of human rights scholarship, see David González-Salzburg and Loveday Hodson, *Research Methods for International Human Rights Law* (Routledge 2019).

³⁰ For an example concerning climate activism see Jasper Cattel, “Change is Coming”: Imagined Futures, Optimism and Pessimism among Youth Climate Protesters’ (2021) 13(1) *Canadian Journal of Family and Youth* 1.

³¹ See, for example, a small-scale survey of young people in 35 countries, Plan International, *Our Voices for Our Tomorrow* (UNICEF 2024) <<https://plan-international.org/news/2024/05/07/most-young-people-believe-gender-equality-will-be-achieved-in-their-lifetime/>> accessed 17 October 2025; and see the qualitative reflections in UN Women, *Gen Z-ero tolerance for inequality: How youth are driving change for women’s rights in 2025* (UN Women 11 March 2025) <<https://www.unwomen.org/en/news-stories/feature-story/2025/03/gen-z-ero-tolerance-for-inequality-how-youth-are-driving-change-for-womens-rights-in-2025>> accessed 17 October 2025. Although research in 2024 in Kings College London shows an emerging division between young women and young men on the subject, see Kings College London, *Masculinity and women’s equality: study finds emerging gender divide in young people’s attitudes* (Kings College London 01 February 2024) <<https://www.kcl.ac.uk/news/masculinity-and-womens-equality-study-finds-emerging-gender-divide-in-young-peoples-attitudes>> accessed 17 October 2025.

Our collective learning happened in the context of a project based on mutual respect, and on ‘flattening’ the hierarchies of higher education as much as possible.³² We, the authors of this Editorial, learned as much through the project as the student authors of the articles in this special issue. The skills and knowledge gained through this process will, we confidently expect, increase the ability of our authors (and ourselves) to work cross-culturally, and to pursue gender equality in whatever contexts they (and we) find themselves in the future.

In particular, we hope that (as we did) our audience will learn from the inversion of a commonly-held assumption in international equality and human rights domains. This is the assumption that the ‘Global South’ lags behind the ‘Global North’, and therefore that learning should always flow on neocolonial lines, from the ‘North’ to the ‘South’. We observed that students, from both jurisdictions, but especially from Indonesia, may have come to the project with the assumption that English law would offer ‘solutions’ to what they perceived to be the problems of Indonesian law. This may be the case in some instances. But it is far from always the case.

Adinda et al show that the protection offered in English law is a more effective implementation of the non-punishment principle than Indonesian law in one sense, but not in another. The emphasis in avoiding prosecutions of victims of human trafficking in English law is effective, and could improve the position in Indonesia. But the Indonesian approach to defences offered to victims of trafficking at trial is broader than that of England, and so could be seen as more consistent with the non-punishment principle. Ospeck et al show that Indonesia’s non-criminalisation approach to women migrant workers is more gender-equality-affirming than the approach in England & Wales. Betta et al offer a pre-colonial Indonesian cultural inspiration for approaches to non-binary identities. Fanyeteng et al show that countries, including Indonesia, can learn from countries like Tunisia and Morocco, to find approaches to women’s freedom to dress as they wish that respect both gender equality and cultural and religious values. It is not necessary to adopt a secular ‘Global North’ approach to achieve equality.

We could not put it better ourselves than Ospeck et al: ‘Could London learn from Jakarta? Emphatically yes’.

³² Teresa Swist and others, ‘Socio-technically Just Pedagogies: A Framework for Curriculum-Making in Higher Education’ (2024) 49(3) *Learning, Media and Technology* 492; Bianca Masuku, Glenda Cox and Michelle Willmers, ‘Elevating Student Voice and Levelling Traditional Power Hierarchies Through Open Textbook Co-Creation: What Do Students Say?’ (2024) 14(1) *Social Sciences* 6; Wambui David Adeline, ‘The Impact of Technology on Teacher-Student Relationships’ (2024) 3(3) *Research Output Journal of Education* 57.