Preface

This casebook is intended for students of issues concerning women, gender equality, human rights, and international law. It provides an overview of the main international and regional legal standards related to the human rights of women, and explores their development and practical application in light of contemporary times, challenges, and advances. This book navigates the nuances of the ongoing problems of discrimination and gender-based violence, and discusses them in the context of modern challenges, such as the COVID-19 pandemic, the MeToo movement, the growth of non-state actors, environment and climate change, sexual orientation and gender identity, and the digital world, among others.

The human rights of women today find expression in many legal instruments. They are reflected at the national level in many countries in constitutions, legislation, and national policies. They are addressed in case judgments by supreme, constitutional, and lower courts. There is also an international law framework designed to govern the human rights of women with direct and comprehensive obligations for states. The efforts of this universal system are greatly complemented by active regional human rights protection systems in Europe, the Americas, and Africa, and emerging regional approaches in Asia and the Middle East. There are also many bodies created at the international and national levels with the objective of advancing the protection of the rights of women.

Despite these advances, however, women still experience daily violations of their civil, political, economic, social, and cultural rights. The Beijing Declaration and Platform of Action adopted in 1995 reaffirmed women’s equality as a basic human right and the paramount nature of their rights to live free from discrimination and gender-based violence. Twenty-five years later, women still face formidable challenges to see their human rights fully respected, protected, and fulfilled. One hundred years have passed since the adoption of the Nineteenth Amendment of the United States Constitution, granting women the right to vote, but the struggle continues to see their full citizenship rights respected, and for women to fully and effectively participate in public and political life.

Women and girls still constitute the vast majority of gender-based violence victims, suffering widespread domestic violence, sexual violence, psychological, and economic harm. They also experience forms of discrimination, inequality, and exclusion. Women still carry most of the burden of unpaid work at home, caring for children, the elderly, and the sick. Women are also affected by poverty, and constitute a large component of workers in the informal economy, lacking many social and employment protections. Women are still largely absent from decision-making positions in the political, civil, social, and economic affairs of their countries. Women and girls moreover face significant restrictions to accessing the information necessary to make autonomous decisions concerning their sexual and reproductive lives, and daunting barriers to accessing health services they only need due to their biological differences. Female human rights defenders still lose their lives and suffer forms of harassment.
and violence for voicing concerns and defying social expectations. We live in societies where equality for women and a full protection of their human rights is still a distant dream. A full and multidisciplinary gender perspective is still lacking from most decision-making.

The study of the rights of women is made more intricate in the present by the fact that many new social developments greatly impact the way women exercise their human rights. These include the digital age, the COVID-19 pandemic and its aftermath, environmental degradation and climate change, unregulated business practices, and gender ideology. Women in different circumstances still face structural discrimination, racially motivated bias and violence, hate speech, xenophobia, and violence in the internet and technology realms. The study of women’s rights today involves contemplating the modern scenarios in which these rights are limited, but also exercised.

This casebook combines and reconciles the history of the human rights of women with its modern scenarios and manifestations, encouraging readers to adapt the current legal framework to the contemporary challenges that women face to see their human rights fully protected. This book discusses the history of the rights of women, including an overview of the main universal and regional instruments and institutions, and national progress. It analyzes this history and connects it with modern issues faced by women in 13 chapters. Chapter 1 analyzes the development of the prohibition of discrimination against women as a foundational international human rights law principle through the adoption of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Chapter 2 reviews the widespread nature of the problem of gender-based violence as a form of discrimination and international human rights problem, and the regional treaties specialized on this issue. Chapter 3 analyzes the intricacies of the problems of intersectionality and multiple forms of discrimination, discussing the concrete case of indigenous women. Chapter 4 looks closely at the development of an international legal framework of protection for persons discriminated against on the basis of their sexual orientation and gender identity, and problems such as violence, discrimination, prejudice, and stigma.

Chapter 5 analyzes the rights of women in times of emergency, analyzing as an example the impact of the 2020–2021 coronavirus pandemic – better known as COVID-19 – on the exercise of the rights of women. The pandemic represents a major and unforeseeable event which produced a global crisis of magnitude with dire consequences for women. In the author’s view, it represents a pivotal moment in which all of the human rights of women were put to the test and challenged in some way. The COVID-19 pandemic may also constitute a major turning point for the exercise of and full respect for the rights of women.

Chapter 6 addresses the due diligence obligation of states to prevent and respond to the problem of gender-based violence. As examples, the chapter explores the impact of the MeToo movement, the evolving role of non-state actors in women’s rights issues, and social protest campaigns demanding change and accountability. Chapter 7 delves into the many forms of discrimination that women still face, and the conceptualization of vulnerabilities, stereotypes, strict scrutiny, and temporary special measures, and their connection with an intersectional discrimination lens. Chapter 7 also discusses the problems of hate speech and gender ideology as forms of backlash to progress in the protection of the human rights of women. Chapter 8 looks at the various barriers that women still face to fully exercise their sexual and reproductive rights in the areas of availability and quality of services and information, maternal health, the regulation of abortion, and assisted reproductive technologies. Chapter 9 explores different
areas related to the economic, social, and cultural rights of women, including their economic autonomy and dignified life; decent and quality employment; and food and water resources.

Chapter 10 examines environmental law issues with a gender and human rights lens, discussing the right to a safe and healthy environment, natural disasters and their impact on women, and the effects of climate change. Chapter 11 navigates the world of regional human rights protection systems in the Americas, Europe, Africa, Asia, and the Middle East, and their statements advancing the human rights of women.

Chapter 12 discusses the complex nature and potential conflicts between culture, religion, and the rights of women. Chapter 13 examines developments concerning the human rights of women in the digital world, including the problems of online violence, barriers to access and use technology, and the right to privacy.

In each chapter, students are encouraged to reflect and answer questions alluding to the intricacies, challenges, and advances in the protection and exercise of women’s rights in modern times. Some of the chapters also include practical exercises designed to delve in more detail into important issues concerning the rights of women. Many primary sources in the form of universal and regional human rights treaties and instruments are discussed throughout this book. The chapters also include many case judgments, decisions, views, and general recommendations adopted by international and regional bodies and courts advancing the development of women’s human rights issues. This analysis is complemented by key scholarship, reports, and statements produced in the area of the human rights of women and its different features. This volume also reviews emblematic decisions from national courts and their cross-cutting nature with existing international legal standards concerning women.

This book is not intended to provide a comprehensive survey of each subject, but navigates and provides snapshots of priority issues and themes in the field of the human rights of women. An important learning goal of this book is to provide students with knowledge and understanding of the main universal and regional standards related to the human rights of women, their development, and application to contemporary issues and in diverse contexts. This book also aims to provide students with exposure to a range of crucial issues affecting the protection, practice, and exercise of the rights of women today.

Many of the issues discussed in this book will be reviewed in light of the text, language, and obligations contained in the Convention on the Elimination of all Forms of Discrimination against Women (hereinafter “CEDAW”), adopted in 1979, which is still the leading treaty in the world on women. CEDAW prohibits all direct and indirect discrimination against women, and enumerates a comprehensive set of state obligations to advance their human rights. It is the second most ratified of the universal human rights treaties, including 189 state parties. It has also been complemented by 38 General Recommendations adopted by the CEDAW Committee, providing salient interpretive content to treaty dispositions. This book explores the promise of CEDAW, and how its provisions are still relevant today based on ongoing developments concerning the rights of women and the challenges that women and girls still face in their daily lives.

The author also refers to the web of universal human rights treaties outlining a vast range of human rights applicable and pertinent to the situation of women. In this sense, the author discusses extensively the work of the regional human rights protection systems – particularly those of Europe and the Americas – as these have extensive jurisprudence and statements setting important legal standards for women’s rights. A noticeable body of regional human
rights treaties has been adopted, shedding light on important state obligations concerning the protection of and respect for the civil, political, economic, social, and cultural rights of women.

This book offers the term “women” a broad definition including those of all ages – including girls under 18 years old and women over 60 – and those with diverse and non-conforming sexual orientations and gender identities. The chapters will allude in several parts to issues which specifically affect girls under 18 years old, and women who self-identify or are perceived to be lesbian, bisexual, transgender, and intersex.

I hope this book offers students a framework understanding of the international human rights law governing the rights of women and its contemporary application. I also want to encourage students to appreciate the complexities and intricacies of issues affecting women. My foremost hope is that this book inspires students to work to advance the protection, respect, and fulfillment of the rights of women, in any careers they pursue in the future.

Lastly, it is also my wish that this book awakens a passion in its readers to advance human dignity, and to contribute to societies guided by equality, inclusion, diversity, and justice.