

FACULTY OF LAW, UNIVERSITY OF DELHI

(LL.M./M.C.L.- II TERM: JUNE, 2023)

**SUBJECT- YLM-201: 'LAW AND JUSTICE IN GLOBAL WORLD'
(Compulsory Subject)**

NOTE: Each student has to write and present a 'Term/Research Paper' on a topic assigned/approved by the course teacher. No student will be permitted to appear the examination unless a certificate is issued by the course teacher upon the satisfaction of presentation. The topics and suggested readings given below are not exhaustive and the students are also expected to read other related materials on the topics.

Course Contents

1. Understanding Law and Justice

Introduction to the Concept of Law and Concept of Justice
'Justice' as Function and Purpose of Law
Theories of Law and Theories of Justice
Concept of Justice as 'Fairness'
Capabilities Approach to Justice
Commutative and Distributive Justice
Cognitive and Restorative Justice
Rule of Law and Natural Justice

Suggested Readings:

1. John Rawls, **A Theory of Justice** (Harvard University Press, 1971)
2. Amartya Sen, **The Idea of Justice**, (Penguin Press, 2009)
3. M.K. Gandhi, **Hind Swaraj or Indian Home Rule**, (Navjivan Trust, 1938)
4. Neera Chandhoke, **Quest for Justice: The Gandhian Perspective**, *Economic and Political Weekly*, (May, 2008), Vol. 43, No.18, pp. 37-46
5. Martha Nussbaum, **Frontiers of Justice: Disability, Nationality, Species Membership**; Chapter 2 (Harvard University Press, 2006)
6. Upendra Baxi, **Chhatrapati Singh and the Idea of a Legal Theory**, *Journal of Indian Law Institute*, (2014) Vol. 56, 5-24
7. Vageshwari Deswal, "**Restorative Justice**" (Times of India, Oct 2, 2019) available at (<<https://timesofindia.indiatimes.com/blogs/legallyspeaking.html>>)
8. Shiv Visvanathan, **The Search for Cognitive Justice**, 597, *Seminar* (2009)

2. Law and Justice in Global World

Meaning of 'Globalization' or 'Global World'
Political Economy of Global World
Role of State, International Market and the Law
New Concept of 'De-globalized World' and 'Global Justice'
Impact of Globalization on India's Social, Political and Economic Development
Impact of Globalization on Indian Judicial Process and Administration of Justice

Suggested Readings:

1. Jagdish Bhagwati, **In Defense of Globalization** (Oxford University Press, 2007)
2. Upendra Baxi, **Dual Standards of Justice since Globalization**, available at <http://www.bhopal.net/dual-standards-of-justice-since-globalisation.html> (2006)
3. Parmanand Singh, **State, Market and Economic Reforms**, *Delhi Law Review* (1996), pp. 100-110
4. Surya Deva, **Human Rights Realization in an Era of Globalization: The Indian Experience**, *Buffalo Human Rights Law Review*, (2006) Vol. 12, pp.93-138
5. B.S. Chimni, **International Institutions Today: An Imperial Global State in the Making**, *European Journal of International Law*, vol. 15 (1) (2004) pp. 1-37
6. Laura Valentini, **Justice in a Globalizing World: A Normative Framework** (OUP, 2011)
7. Sujain Guo (et.al), **Conceptualizing and Measuring Global Justice: Theories, Concepts, Principles and Indicators**, *Fudon Journal of the Humanities and Social Science*, (2019), Vol. 12, pp. 511-546.
8. Eric C., **Globalization and Future of the Law of the Sovereign State**, *I.CON*, (2010), Vol. 8(3), pp. 636-655
9. Samantha Besson, **Sovereignty, International Law and Democracy**, *The European Journal of International Law*, (2011), Vol.22 (2), pp. 373-387
10. A.P. Singh, **Globalization and its Impact on National Policies With Reference to India: An Overview of Different Dimension**, *Journal of Constitutional and Parliamentary Studies*, (2008) Vol. 42, pp. 62-78
11. Manoj Mate, **Globalization, Rights and Judicial Review in the Supreme Court of India**, *Washington International Law Journal*, (2016) Vol. 25(3), pp. 643-671
12. Judge Hisashi Owada, **Some Reflections on Justice in a Globalizing World**, 97, *American Society of International Law – Proceedings of the 101st Annual Meeting* (April 2-5, 2003)

3. Reception of Law

Meaning of ‘Reception of Law’ or ‘Legal Transplant’

Notions and Reasons for Reception of Law

Global Law Making, National Demands and Local Politics

Conflict of Laws and Demand for Justice in Global World

Global Law and Indigenous Law: Problem in Reception

Suggested Readings:

1. David Nelken, **Legal Transplants and Beyond: Of Disciplines and Metaphors**, in Andrew Harding and Esin Orucu (ed.), *Comparative Law in 21st Century* (Kluwar Law International, 2002)
2. Warner Menski, **Comparative Law in Global Context: The Legal Systems of Asia and Africa** (Cambridge University Press, 2006)
3. Law Commission of India, **14th Report, Vol. I (1958)**, pp. 24-34; and **77th Report (1978)**, pp. 7-10
4. Marc Galanter, **The Aborted Restoration of Indigenous Law in India**, *Comparative*

Studies in Society and History (1972), Vol 14, pp. 53-67

5. Marc Galanter, **The Displacement of Traditional Law in Modern India**, in *Law and Society in Modern India*, (OUP, 1997), pp. 13-36
6. Jochen von Bernstorff, **International Law and Global Justice: On Recent Inquiries into the Dark Side of Economic Globalization**, *European Journal of International Law*, 26(1), 2015, pp. 279-293
7. Alan Watson, **Aspects of Reception of Law**, Research Paper, University of Georgia School of Law, (1996) available at: https://digitalcommons.law.uga.edu/fac_artchop/666.pdf
8. Loukas L. Mistelis, **Regulatory Aspects: Globalization, Harmonization, Legal Transplant and Legal Reform-Some Fundamental Observations**, *International Lawyer*, (2000) Vol. 34(3), pp. 1055-1069
9. Jean Louis-Halperin, **Western Legal Transplant and India**, *Jindal Global Law Review*, (2010) Vol. 2(1), pp. 13-40
10. Aparna Chandra, **India and International Law: Formal Dualism, Functional Monism**, *Indian Journal of International Law*, (2017), vol.1, pp.1-21

4. Liberty and Society

Liberty as a Concept in Legal Discourse

Liberty in a Democratic Society: Operation and Enforcement

Constitutional Freedom and Reasonable Restriction

Civil Rights and Liberties

Civil Disobedience

Debates on Euthanasia

Abolition of Death Penalty

Suggested Readings:

1. Christopher Caudwell, **The Concept of Freedom** (Lawrence Pub., 1977), pp. 51-75
2. Bruno Leoni, **Freedom and the Law**, (Nash Publication, Los Angeles, 1961), pp. 59
3. Amartya Sen, **Development as Freedom**, (OUP, Oxford, 2007) pp. 1-70
4. K.K. Mathew, **Democracy, Equality and Freedom** (EBC, 1978) pp. 127-145
5. Bhikhu Parikh, **Gandhi: A Short Introduction** (OUP, Oxford, 2001), Chapter 4 :Satyagraha (Disobedience) pp. 64-77
6. Subhash Chandra Singh, **“Euthanasia and Assisted Suicide: Revisiting the Sanctity of Life Principle”**, 54 *Journal of the Indian Law Institute* (2012)196-231
7. Law Commission of India, **“Capital Punishment”**, 35th Report (1962), 187th Report (2003) & 262th Report (2015)
8. Vageshwari Deswal, **“Does Death Penalty Deter Crime”** (Times of India, Feb 11th 2020) available at (<<https://timesofindia.indiatimes.com/blogs/legally-speaking/does-death-penalty-deter-crime.html>>)
9. Hazel Biggs, **Euthanasia, Death with Dignity and the Law** (Hart Publication, Oxford, 2001)
10. Sanjeev P. Sahani and Mohita Junnarkar, **The Death Penalty: Perspectives from India and Beyond**, (Springer, Singapore, 2020)

5. Human Rights, Human Needs and Sustainable Development

Concept of 'Human Rights' and 'Human Needs'

Basic Human Needs: Food, Shelter, Clothing, Health and Sanitation, etc.

Human Population, Poverty and Sustainable Development

Human Rights, Human Environment and Global Commons

Concept of Humanitarian Intervention and Responsibility to Protect (R2P)

Suggested Readings:

1. D. Conrad, **The Human Right to Basic Necessities of Life**, X&XI, *Delhi Law Review* (1981-82) pp. 51-75
2. B.B. Pandey, **The Constitutionality of Basic Human Needs: An Ignored Area of Human Discourse**, 4 *Supreme Court Cases* (1988) pp. 1-16
3. Upendra Baxi, **From Human Rights to the Right to be Human: Some Heresies**, (1987), pp. 185-200
4. J.J. Paust, **R2P and Protective Intervention**, 31 *Temple International & Comparative Law Journal* (2017) pp 109.
5. Yogesh Tyagi, **"The Concept of Humanitarian Intervention Revisited"**, 16(3) *Michigan Journal of International Law* (1995) pp. 883-910
6. Cristina Gabriela Badescu, **Humanitarian Intervention and The Responsibility to Protect: Security and Human rights** (Routledge, New York, 2011) pp.1-20
7. B.C. Nirmal, **"Responsibility to Protect: A Political Doctrine or An Emerging Norm"** 57 *Journal of Indian Law Institute* (2015) pp. 333-375
8. Anupam Jha, **Environmental Protection and Renewable Energy: Does It Promote Human Rights Too?** *Journal of National Human Rights Commission* (2016) pp. 3-21
9. Alok Ranjan Chaurasia, **Population and Sustainable Development in India**, (Springer Nature, Singapore, 2020) pp. 243-253
10. Amit Kumar Sinha, **Human Rights in the Era of Globalization**, 245(6), *Madras Law Journal*, (2010), pp. 124-136.

6. Equality: Children, Women and Gender Justice

Concept of Equality in Legal Discourse

Concept of Patriarchy and Indian Legal System

Feminist Legal Theory and its Application in Law

Desexualizing Laws against Sexual Offences

LGBT Rights and Struggle in India

Child Protection and Child Rights

Suggested Readings:

1. Michael Freedman (ed.), **Feminist Jurisprudence**, Lloyd's Introduction to Jurisprudence (8th ed. 2008)
2. Bowman C. and Schneider E., **Feminist Legal Theory, Feminist Lawmaking and the Legal Profession**, 67, *Fordham Law Review*, 2, (1998) pp. 2-39; available at SSRN: <https://ssrn.com/abstract=2122566.pdf>
3. H. Charlesworth, C. Chinkin and S. Wright, **Feminist Approaches to International Law**, *American Journal of International Law*, (1991) Vol. 85(4), pp. 616-690

4. Ved Kumari, **Gender Analyses of Indian Penal Code** in Amita Dhanda and Archana Parashar (ed.), *Engendering Law Essays in honour of Lotika Sarkar*, 139-160(1999)
5. Upendra Baxi, **From Human Rights to the Right to be a Woman**, *Engendering Law, Essays in honors of Lotika Sarkar* (EBC, 1999) pp. 117-138.
6. Kalpana Kannabiran, **Judicial Meandering in Patriarchal Thickets: Litigating Sex Decrimination in India**, *Economic and Political Weekly*, 44(44),2009, pp. 88-98.
7. Usha Tandon and Amrendra Kumar, **Disaster Management and Sustainable Development in Asia and Pacific: Engendering the Strategies of SDGs** in V. K. Malhotra & oths (ed.) *Disaster Management for the 2030 Agenda for SDG*, (Palgrave Macmillan, 2019) Pp. 11-32
8. NHRC, **Women’s Right in India: An Analytical Study**, (2021), pp. 8-18
9. Akshat Aggrwal (et. al), **Queering the Law: Making Indian Law LGBTQ Inclusive:A Report**, Vidhi Centre for Law and Policy, New Delhi (2019), pp.5-20
10. Savita Bhakary, **Children in India and Their Rights**, (NHRC,Delhi, 2006) pp. 43-53

7. Affirmative Action for Disadvantaged Sections of Society

Law, Justice and Social Transformation

Social Action Litigation for Social Change

Social Action in favor of Under-trials Prisoners and Differently-abled Persons

Social Action in favor of Indigenous/Tribal People

Affirmative Action for SCs/SEBCs/EWS

Local Government, Social Media and Affirmative Action

Suggested Readings:

1. Upendra Baxi, **Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India**, U. Baxi (ed.) *Law and Poverty* (N. M. Tripathi Pub., 1988) pp. 387-415.
2. Upendra Baxi, **Untouchability: Constitution, Law and Plan**, U. Baxi (ed.) *Law and Poverty* (N. M. Tripathi Pub, 1988) pp. 165-75
3. Upendra Baxi, **The Protection of Civil Rights Act, Pitfalls in Implementation**, U. Baxi (ed.) *Law and Poverty* (N. M. Tripathi Pub, 1988) pp. 175-185.
4. Upendra Baxi, **Law, Struggle and Social Changes: An Agendum for Social Activities**, 35, *Social Action*, 118-25 (1985).
5. Parmanand Singh, “Public Interest Litigation”, **Access to Justice: Public Interest Litigation and Indian Supreme Court**, X-XI, *Delhi Law Review* 156-73 (1981-82)
6. Parmanand Singh, **Judicial Socialism and Promises of Liberation**, 28, *Journal of the Indian Law Institute*, pp. 336-47 (1986).
7. Parmanand Singh, **Tension between Equality and Affirmative Action: An Overview**, *Jindal Global Law Review*, 1:97, pp. 97-113 (2009)
8. Anuradha Mohit (et. al.), **Rights of Disabled** (NHRC, New Delhi, 2006) pp. 17-28
9. Aparna Chandra (et.al.), **Rights of Prisoners-I**, (HRLN, Delhi, 2017) pp. 307-384
10. Ratnagar Bhengara (et. al.), **The Adivasis of India**, (MRGI Report, 1998) pp. 4-13
