School of Law, Governance and Citizenship
Ambedkar University Delhi

Course Outline: FEMINIST JURISPRUDENCE & GENDER JUSTICE

Time Slot-_____________

Course Code: SLGC2LP212

Title: FEMINIST JURISPRUDENCE & GENDER JUSTICE

Cohort for which it is compulsory: None

Cohort for which it is elective: MA in Law, Politics and Society

No of Credits: 4

Semester and Year Offered: 3rd Semester for 2nd year students of MA in Law, Politics and Society (Monsoon Semester 2018)

Course Coordinator and Team: Saumya Uma

Email of course coordinator: saumya@aud.ac.in

Pre-requisites: None

Aim:

Laws related to violence against, harassment of and discrimination of women, are currently subjects of intense debate, deliberations and discourse. The efficacy and effective implementation of laws and legal initiatives such as the Muslim family law reform, Uniform Civil Code, rape law and law prohibiting sexual harassment have predominantly remained focus areas for such discourses. Feminist jurisprudence, as a philosophy of law based on the social, economic and political equality of the sexes, exerts a considerable influence on debates and discourses around the formulation, interpretation and implementation of laws related to gender based violence and discrimination. It is dedicated to changing women’s status through a re-working of the law and its approach to gender. Against this backdrop, this course aims at critically ‘unpacking’ the law and exploring the potential for and limits of legal transformation in order to achieve gender justice and equality.

A brief description of the Course:

The course offers to examine the potential of law for delivering gender justice, empowerment and equality. It juxtaposes the myriad laws that claim to protect rights of women, within a Constitutional framework of right to life with dignity, equality and non-discrimination, with ground realities of gender-based violence and discrimination, institutional bias and apathy, and impunity embedded in law. By developing a foundational understanding of feminist theories, principles and politics, as well as the engagement of the Indian women’s movement with law, an analysis of the current Indian context is discussed through scholarly writings, an
examination of statutes, judgments, law reform initiatives and discourses on law. While critically examining normative standards set by law, the course also acknowledges the limits of law and explores feminist re-imaginations of gender justice through non-state laws.

Although gender is socially constructed, and gender-based violence and discrimination impacts all genders, this course would largely focus on women. The course is divided into five modules:

Module 1: Introduction to feminist jurisprudence  
Module 2: Gender equality and the law  
Module 3: Feminist doctrines and their application to laws on violence against women in India  
Module 4: Gender-based harassment and discrimination  
Module 5: Limits of law and re-imagining gender justice

Course Objectives

1. To introduce students to key writings, concepts, principles and discourses in feminist jurisprudence;  
2. To enable the students to critically examine statutes, judgments and discourses on law through the feminist lens; and  
3. To facilitate informed discussions and deliberations among students on law and gender justice in India.

FEMINIST JURISPRUDENCE & GENDER JUSTICE

Syllabus with list of readings

Judgments for Reference during the Course (Indicative list)

1. Air India and Others v. Nargesh Meerza 1982 SCR (1) 438  
3. Arumugam Servai v. State of Tamil Nadu (2011) 6 SCC 405  
4. C.B. Muthamma v. Union of India 1979(4)SCC 260  
8. Nyaydhar v. Union of India Ministry of Home Affairs and Others (judgment of the Supreme Court on Nov. 29, 2017)  
12. Shiv Kumar v. Union of India (Karnataka High Court judgment of 3 February 2014)  
15. Vasantha R v. Union of India and Others 2001 II LLJ 843(Mad) 99  
Statutes for Reference during the Course (Indicative list)

5. Dissolution Of Muslim Marriages Act (1939), No. VIII of 1939 (Mar. 17, 1939)
6. Equal Remuneration Act (1976), No. 25 of 1976 (Feb. 11, 1976) along with its amendments
7. Guardian and Wards Act (1890), No. 8 of 1890 (Mar. 21, 1890)
9. Indian Evidence Act (1872), No. 1 Of 1872 (Sep. 1, 1872)
10. Indian Penal Code (1860), No. 45 Of 1860 (Oct. 6, 1860)
12. Pre-conception and Pre-natal Diagnostic Techniques Act (1994), No. 57 of 1994 (Sep. 20, 1994) along with its amendments
15. The Hindu Marriage Act (1955), No. 25 of 1955 (May 18, 1955)
17. The Maternity Benefit Act (1961), No. 53 of 1961 (Dec. 12, 1961) along with its amendments

MODULE 1:
INTRODUCTION TO FEMINIST JURISPRUDENCE (Weeks 1,2 & 3)

The first module introduces the students to feminist theory, politics and jurisprudence. It familiarizes them with basic concepts, major schools of feminism, classical and contemporary feminist discourses, and their linkages with law. The module provides for a close reading of selected aspects of classical and path breaking feminist scholarly writings. It also discusses feminist critique of important institutions.

• Introduction to gender,

Essential Readings:

1. ALISON M JAGGAR, FEMINIST POLITICS AND HUMAN NATURE
patriarchy and feminism

- Overview on schools of feminism: liberal, radical, socialist, post-colonial, Dalit
- Classical and contemporary feminist discourses: neo-liberal, governance & carceral
- Feminist critique of the State, family, marriage, religion and the market

(Rowman & Allanheld 1983), Chapters 3-6

2. **MARY WOLLSTONECRAFT, A VINDICATION OF THE RIGHTS OF WOMAN: WITH STRUCTURES ON POLITICAL AND MORAL SUBJECTS**


**Recommended Readings:**


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**MODULE 2:**

**GENDER EQUALITY & THE LAW**

(Weeks 4 & 5)

Very often, terms such as ‘gender inclusion’, ‘gender blindness’, ‘gender neutrality’, ‘gender sensitivity’ and ‘gender mainstreaming’ are used without a clear understanding of the distinction between the same. This module begins by unpacking these terms. A discussion on the concept of gender justice, and types of and approaches to gender equality seeks to provide a lens through which both international and Indian normative standards are examined.

This module would also examine women’s movements’ engagement with the law in India, thereby providing the student with an understanding of the context in which conversations and initiatives for law reform around gender justice have taken place in India. It then provides an overview of India’s obligations to gender justice under...
international law and the Indian Constitution.

- Understanding gender terminologies
- Concepts of gender justice and gender equality
- Approaches to gender equality
- Women in India: A situational analysis
- Indian women’s movements & their engagement with the law
- India’s obligation to gender justice: Constitutional and international

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<td>MODULE 3: FEMINIST DOCTRINES &amp; THEIR APPLICATION TO LAWS ON VIOLENCE AGAINST WOMEN IN INDIA (Weeks 6, 7 &amp; 8)</td>
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ANTHROPOLOGY OF ETHICS 167-204 (Zubaan 2016)

8. Case Studies: Khairlanji, Soni Sori, Bilkis Bano, Kunan Poshpara & Extra judicial killings in Manipur

Recommended Readings:

2. Sohaila Abdulali, ‘I Was Wounded; My Honor Wasn’t’ - Sohaila Abdulali’, NEW YORK TIMES, Jan. 7, 2013 http://www.nytimes.com/2013/01/08/opinion/after-being-raped-i-was-wounded-my-honor-wasn’t.html?_r=0

MODULE 4
GENDER-BASED HARASSMENT & DISCRIMINATION (Weeks 9 & 10)

This module critically examines laws pertaining to discrimination and harassment, including (but not restricted to) the Uniform Civil Code debate and the discourse around law prohibiting sexual harassment at the workplace. It discusses the relevance and import of feminist doctrines such as 'personal is political' and 'public - private dichotomy’.

The final part of this module aims to trigger discussion around the current context in which due process has come to be discussed and deliberated upon globally, against the backdrop of ‘Me Too’ campaigns, ‘Lists’ that publically shame alleged sexual harassers, and sexual harassment laws that are heavily weighed against the respondents, but also deny justice to the complainants. It examines the meaning and import of due process and procedural fairness and their relevance for the legitimacy of laws related to women’s rights. It juxtaposes procedural fairness with populist and vigilante justice, and examines both through the prism of feminist principles.

- Understanding doctrines: Personal is political, Public-private dichotomy
- Debate on the Uniform Civil Code
- Law to prevent sexual harassment at the

Essential Readings:

1. Carol Pateman, ‘Feminist Critique of the Public and Private’ in FEMINISM AND EQUALITY 103-123 (A Phillips (ed.)
4. Flavia Agnes, ‘The Supreme Court, Media and the UCC Debate’ in Religion, Power & Violence: Expression of Politics in
workplace

- ‘Misuse of law’ by women
- Substantive and procedural justice; the relevance of due process


7. Elizabeth Bartholet, Nancy Gertner, Janet Halley & Jeannie Suk Gersen, Fairness For All Students Under Title IX (Aug. 21, 2017), available at http://nrs.harvard.edu/urn-3:HUL.InstRepos:33789434

Recommended Readings:


MODULE 5
LIMITS OF LAW & RE-IMAGINING GENDER JUSTICE (Weeks 11 & 12)

The last module examines the prospects of gender justice within state and non-state laws and mechanisms for legal redress. It discusses the limits of law and feminist re-imaginations of gender justice.

It draws upon the discourse on homogenous laws versus plural laws, the Feminist Judgment Project initiative, and discussion of non-state and alternative dispute resolution mechanisms for women, examining the transformation of feminist knowledge into praxis, and raising questions of access to justice, legitimacy and effectiveness of non-state mechanisms for grievance redress for advancing gender justice.

Essential Readings:


Recommended Readings:


Background Books

The following books provide useful overviews of the field, and the course draws upon portions of some of these books as part of the syllabus.


Assessment Methodology:

Assessment methodology will consist of a combination of oral and written assignments for evaluation, the rough break up of which is as follows:

- Response essay / critical reading and analysis of a judgment or statute: 30 marks
- Field work-based written assignment & oral presentation: 30 marks *
- Debate (oral + written submission): 30 marks**
- Class participation: 10 marks

*The field work would be devised in a manner so as to expose the students to ground realities of underprivileged women’s lives, inter-sectional vulnerabilities they face, the role of law in addressing the same as well as the women’s access to justice.

** The debate would draw upon the research, analysis, reasoning, oratory and written skills of students on a popular issue such as the Uniform Civil Code, the need for stringent laws to address violence against women, women as victims of oppression versus agents of change, or women’s reservation in the Parliament.

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