



**NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM**

**PROGRAMME: B.A., LL.B(HONS.)FYIC**

**DETAILS OF COURSE OFFERED**

**ODD SEMESTER (IX) – ACADEMIC YEAR :.....**

<b>SL. NO</b>	<b>COURSE CODE</b>	<b>COURSE TITLE</b>	<b>L</b>	<b>T/P</b>	<b>CR</b>	<b>CH</b>
<b>1</b>	<b>903 CN OP VI</b>	<b>GENDER JUSTICE AND FEMINIST JURISPRUDENCE</b>	<b>4 PER WEEK</b>	<b>1 PER WEEK</b>	<b>4</b>	

**A. CODE AND TITLE OF THE COURSE: 903 CN OP VI , GENDER JUSTICE  
AND FEMINIST JURISPRUDENCE**

**B. COURSE CREDIT: 4 (TOTAL MARKS 200)**

**C. MEDIUM OF INSTRUCTION: ENGLISH**

**D. COURSE COMPILED BY: DR KASTURI GAKUL**

**E. COURSE INSTRUCTOR: DR KASTURI GAKUL**

## **1. COURSE OBJECTIVES**

Right to life, dignity, equality of status and opportunity for persons is proclaimed by the Constitution of India. Yet in reality discrimination, oppression and violence upon women has belied the constitutional mandate. Gender equality forms the very basis for establishing just and peaceful civilized society. Every woman has the innate human right to Gender justice whereby she can live with dignity and freedom. Gender Justice is indispensable for human development and progress and requires the sharing of power and responsibilities between women and men in every aspect of life. This has been realized by India in particular and the world community at large which has emphasized upon the equal status of men and women and expressly prohibited discrimination on the basis of sex. However, the constant perpetuation of crimes against women in India and the disregard for their rights has belittled the noble ideal of 'Gender Equality' as envisaged in the Constitution of India. Effective political representation of women in Legislature and other forums too has become a difficult proposition to be achieved. In order to ameliorate the condition of women in India a number of laws have been enacted which are intended to confer upon them rights and render protection against violation. Unfortunately Gender justice in India has been adversely hindered due to institutional bias, apathy and impunity embedded in law. The debates and discourse around the formulation, interpretation and implementation of laws related to gender, have been greatly influenced by the emergence of Feminist jurisprudence. The course on Gender Justice and Feminist Jurisprudence has been designed to critically examine the normative standards set by law and explore the intricate contours circumventing the feminist re-imaginings of gender justice.

The objectives of the course are:

- i. To familiarize the students with the concepts of gender justice and gender equality.
- ii. To develop comprehensive understanding about the internationally recognized legal instruments pertaining to women.
- iii. To study the provisions relating to rights and welfare of women under the Constitution of the India.
- iv. To familiarize students with the national legal framework relating to women in India.
- v. To critically analysis the judicial decisions and interpretation in evolving the rights jurisprudence relating to women.
- vi. To introduce students to the concepts, principles and discourses in feminist jurisprudence.
- vii. To enable the students to critically examine statutes, judicial decisions and discourses on law in the context of feminist perspective.
- viii. To inculcate critical thinking and awareness pertaining to key issues concerning women.

## **2. TEACHING METHODOLOGY**

The teaching methodology shall aim at the generation of critical thinking among the students. For teaching Gender Justice and Feminist Jurisprudence lecture method along with alternative and supplementary strategies for effective teaching will be utilized, such as permissive style of teaching, brain storming, group discussion, seminar presentation. To develop an understanding on varied topics of gender justice and

feminist jurisprudence, group discussion and brain-storming sessions will be held in the classroom. To encourage self study, individualized instruction and to inculcate study attitudes individual seminar topics shall be allotted to students in advance. The teacher will guide the students in their pursuit of legal learning through application of the planned teaching process which includes introduction of the basic concept, presentation and discussion of the subject-matter in details, recapitulation on the topic discussed through questioning, clarification of doubts and queries, if any, and suggestions for further readings. The topic for a particular class shall be informed to the students before hand and readings shall be assigned to them for the said topic. They are expected to have a basic idea about the topic prior to the class. Subsequent to a brief lecture on the topic, there shall be class discussion on the same as well as on the readings assigned. Pursuant to the class discussion, the teacher shall substantiate the issues raised and answer any questions posed or left unanswered. The topics will be taught through projected teaching aids like power point presentation and white board.

### **3. COURSE OUTCOMES**

At the completion of the course, it is humbly expected that the students shall:

- Understand the nuances of each module and comprehend the intricacies of various topics related to gender justice and feminist jurisprudence.
- Be able to analyze the contemporary issues pertaining to gender justice in the light of the concepts learnt and articulate their ideas on the subject matter of the course.
- Develop critical thinking about the interface between gender justice and feminist jurisprudence and articulate on the same.
- Acquire the skill of analytical in-depth research along with a publishable research work
- Improve their knowledge-base and be encouraged to pursue the subject at the post-graduate level
- Undertake future research work on gender justice and feminist jurisprudence at Ph.D. level.

### **4. COURSE EVALUATION METHOD**

The course shall be assessed for 200 marks. The Evaluation scheme would be as follows:

**Internal assessment: 70% (140 marks)**

**External assessment: 30% (60 marks)**

Sl. No.	Internal Assessment	
1	2 Assignments	2 x 20 marks = 40 marks
2	Seminar/Group Discussion	20 marks
3	Class Test (Twice in a Semester)	2 x 35 marks = 70 marks
4	<b>Attendance in Class</b>	10 marks
5	Semester End Examination	60 marks

## 5. DETAILED STRUCTURE OF THE COURSE (SPECIFYING COURSE MODULES AND SUB-MODULES)

### MODULE I

#### Gender Justice

- Concept of Gender Justice and Gender Equality

#### Constitutional Provisions:

- Preamble
- Fundamental Rights
- Directive Principles of State Policy
- Fundamental Duties
- Privileges on Election to Panchayats and Municipalities

#### International Perspective:

- Human Rights of Women
- Civil and Political Rights
- Economic, Social and Cultural Rights
- Discrimination against Women
- Violence against Women
- Gender Equality and Sustainable development Goals

### MODULE II

#### Women and Criminal law in India:

- Rape
- Demand for dowry
- Dowry death

- Cruelty by husband
- Sexual harassment
- Outraging the modesty of a women
- Acid Attack
- Voyeurism
- Stalking
- Trafficking
- Causing Miscarriage
- Domestic Violence
- Kidnapping and Abduction
- Bigamy
- Adultery
- Honour Killing
- Witch Hunting

### **MODULE III**

#### **Family Law and Women:**

- Rights of Woman during Marriage and Divorce
- Right of Woman to Maintenance
- Right of Woman to be Guardian
- Adoption of Children by Woman
- Property and Succession Rights of Women

#### **Labour Legislations and Women:**

- The Factories Act, 1948
- Employee's State Insurance Act, 1948
- The Maternity Benefit Act, 1961
- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- Code of Wages 2019

### **MODULE IV**

#### **Feminist Jurisprudence:**

- Origins
- The Inquiries of Feminist Jurisprudence
- Three Generations of Feminism – Equality; Difference and Complex Identities

- Women and Ideology
- The Public and the Private
- Cultural Pluralism and Women's Rights
- Feminist Legal Methods
- Allied Intellectual Movements – Critical Race Theory ; LGBT Scholarship
- Applied Feminist Legal Scholarship – Economic and Sexual subordination of Women; Motherhood and Reproduction

## 6. PRESCRIBED READINGS

- Anjani Kant, *Law Relating to Women and Children*, (3rd edn, Central Law Publication 2012).
- Lalita Dhar Parihar, *Women and Law*, (1st edn, Eastern Book Company 2011).
- Mamta Rao, *Law Relating to Women and Children*, (3rd edn, Eastern Book Company 2012).
- M. P. Jain, *Indian Constitutional Law* , (7th edn (Reprint), Lexis Nexis 2014).
- Q. C. Sands., Philippe, *Bowett's Law of International Institutions*, (6th edn, Sweet & Maxwell 2009).
- S. Anand, *Justice for Women: Concern and Expressions*, (3rd edn, Universal law Publication 2002).
- Thomas Buergenthal, *International Human Rights In A Nutshell*, (4th edn, West Academic Publishing 2009).
- C.A.MacKinnon, “Difference or Dominance: On Sex Discrimination” in Michael Freeman FBA, *Lloyd's Introduction to Jurisprudence*, (Thomas Reuters, 2014).
- V. N. Shukla, *Constitutional Law of India*, (12th edn , Eastern Book Company 2013).
- K. D. Gaur, *Text Book on Indian Penal Code*, (4th edn. (Reprint), Universal Law Publishing Co Ltd 2014).
- M. Monir, *The Law of Evidence*, (8th edn (Reprint) Edition Universal Law Publishing Co Ltd 2013).
- Paras Diwan, *Law Relating to Dowry, Dowry Deaths, Bride Burning, Rape and Related Offences*, (Universal Law Publishing Co Ltd 2004).
- Paras Diwan and Peeyushi Diwan, *Modern Hindu Law*, (22nd ed., Allahabad Law Agency 2013).
- Flavia Agnes, “Conjugalilty, Property, Morality and Maintenance” in Kalpana Kannabiran (ed), *Women and Law: Critical Feminist Perspectives*, (Sage Publications India Pvt Ltd 2014) Chapter 2
- Ratanlal and Dhirajlal, *The Code of Criminal Procedure*, (20th edn, Lexis Nexis 2012).
- Centre for Child and the Law, National Law School of India University, *Child Marriage and the Protection of Children from Sexual Offences Act, 2012*
- Paras Diwan, *Muslim Law in Modern India*, (11th edn, Allahabad Law Agency 2014).
- S. C. Tripathi and Vibha Arora, *Law Relating to Women and Children*, (6th edn, Central Law Publications 2015).

- A.C.Scales, “The Emergence of Feminist Jurisprudence: An Essay” in Michael Freeman FBA, *Lloyd’s Introduction to Jurisprudence*, (Thomas Reuters, 2014)
- S. N. Mishra, *Labour and Industrial Laws*, (27<sup>th</sup> edn, Central Law Publication 2014).
- D. Nagasaila, “Gender Equality at Workplace: A Frozen Agenda” in Kalpana Kannabiran (ed), *Women and Law: Critical Feminist Perspectives*, (Sage Publications India Pvt Ltd 2014) Chapter 6
- P.A. Cain, “Feminism and the Limits of Equality” in Michael Freeman FBA, *Lloyd’s Introduction to Jurisprudence*, (Thomas Reuters, 2014).
- V. G. Goswami, *Labour and Industrial Laws*, (9<sup>th</sup> edn. Central Law Agency 2011).
- Flavia Agnes, *The Politics behind Criminalising Triple Talaq*, Economic and Political Weekly, Journal Vol. 53, Issue No. 1, 06 Jan, 2018 ([www.epw.in/author/flaviaagnes](http://www.epw.in/author/flaviaagnes))
- R. West, “Jurisprudence and Gender” in Michael Freeman FBA, *Lloyd’s Introduction to Jurisprudence*, (Thomas Reuters, 2014).
- Shruti Pandey, “Women’s Health and Law in India: Trends of Hope and Despair” in Kalpana Kannabiran (ed), *Women and Law: Critical Feminist Perspectives*, (Sage Publications India Pvt Ltd 2014) Chapter 8
- Vrinda Narain, *Muslim Women’s Equality in India: Applying a Human Rights Framework* (Available at : [www.researchgate.net/publication/260103936\\_Musli](http://www.researchgate.net/publication/260103936_Musli))
- Jayshree P. Mangubhai, *Human Rights as Practice: Agency, Power and Strategies of Dalit Women in Rural South India*, 31 Neth. Q. Hum. Rts. 445 (2013) (available at <http://heinonline.org>)
- 252<sup>nd</sup> Report of the Law Commission of India on “Right of the Hindu Wife to Maintenance” A relook at Section 18 of the Hindu Adoptions and Maintenance Act 1956, 2015
- Bindeshwar Pathak, *Supreme Court of India & Widows of Vrindavan*, (1<sup>st</sup> edn, Sulabh International Social Service Organisation 2016).
- Usha Tandon and Sidharth Luthra, *Rape: Violation of the Chastity or Dignity of Woman? A Feminist Critique of Indian Law* (Available at: [www.ssrn.com/abstract=2821495](http://www.ssrn.com/abstract=2821495))
- Ankita Anand and Nasreen Habib, *Witch Hunting: Beyond the Law*, Indian Foundation Journal, Vol.5 Issue No.3, May-June 2017, pp.22-25, ISSN 2347-1522 ([www.indianfoundation.in](http://www.indianfoundation.in))
- Hon’ble Mr. Justice Dipak Misra, *Women Empowerment and Gender Justice* (Available at : [www.latestlaws.com/wp-content/uploads/2015/04](http://www.latestlaws.com/wp-content/uploads/2015/04))
- Martha Chamallas, *Introduction to Feminist Legal Theory*, (3<sup>rd</sup> edn., Wolters Kluwer Law & Business 2013) Chapters 1, 2,3,4,5,6,7,8 and 9
- Upendra Baxi, *Gender and Reproductive Rights in India: Problems, Prospects for the New Millennium* (Available at: [upendrabaxi.in/Gender and reproductive rights in India](http://upendrabaxi.in/Gender%20and%20reproductive%20rights%20in%20India))
- Michael Freeman FBA, *Lloyd’s Introduction to Jurisprudence*, (9<sup>th</sup> edn, Thomas Reuters, 2014) Chapter 14
- Kalpana Kannabiran (ed), *Women and Law: Critical Feminist Perspectives*, (1<sup>st</sup> edn, Sage Publications India Pvt Ltd 2014) Chapters 1, 5 and 7

### **International Legal Instruments:**

- International Commission on Status of Women 1946
- Universal Declaration of Human Rights 1948
- Convention on the Political Rights of Women 1952
- International Covenant on Civil and Political Rights 1966
- International Covenant on Economic, Social and Cultural Rights 1966
- Convention on the Elimination of All Forms of Discrimination against Women 1979
- Declaration on the Elimination of Violence against Women 1993
- Beijing Declaration and Platform of Action 1995
- Convention on the Rights of Persons with Disability 2006

### **Statutes:**

- Constitution of India, 1950
- National Commission for Women Act 1990
- The Indian Penal Code 1860
- The Indian Evidence Act 1872
- The Factories Act, 1948
- Employee's State Insurance Act, 1948
- The Maternity Benefit Act, 1961
- The Criminal Procedure Code 1973
- The Immoral Traffic (Prevention) Act, 1956
- The Dowry Prohibition Act, 1961
- The Medical Termination of Pregnancy Act, 1971
- The Indecent Representation of Women (Prohibition) Act, 1986
- The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act,  
1994
- Protection of Women from Domestic Violence Act, 2005
- Criminal Law (Amendment) Act 2013
- The National Food Security Act, 2013
- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- The Rights of Persons with Disability Act, 2016
- Code of Wages 2019

### **Cases:**

- *Yusuf Abdul Aziz v. State of Maharashtra* AIR 1954 SC 321
- *Shamsher Singh v. State of Punjab* AIR 1970 P&H 372
- *Sarla Mudgal v. Union of India* AIR 1995 SC 1531
- *Gaurav Jain v. Union of India* AIR 1997 SC 3019
- *Air India v. Nergesh Meerza* AIR 1981 SC 1829
- *Javed v. State of Haryana*, AIR 2003 SC 3057



- *Rajesh Kr. Gupta v. State of U. P.* AIR 2005 SC 2540
- *Richa Mishra v State Of Chhatisgarh & Ors* CIVIL APPEAL NO. 274 OF 2016
- *Rupajan Begum v Union Of India* Civil Appeal No.20858 OF 2017
- *Mohd. Amin v. Vakil Ahmad* AIR 1952 SC 358
- *Mohd. Ahmed Khan v. Shah Bano Begam* AIR 1985 SC 945
- *Ramanarayan Gupta v. Ramaswani Gupta* AIR 1988 SC 2766
- *Bodhistava Gautama v. Subhra Chatarborty* AIR 1996 SC 922
- *Vishaka and Others v. State of Rajasthan and Others* AIR 1997 SC 3011
- *Githa Hariharan v. Reserve Bank of India* AIR 1999 SC 1149
- *Municipal Corpn. of Delhi v. Female Workers & Anr* AIR 2000 SC 1274
- *The State of Karnataka v. Krishnappa* AIR 2000 SC 1470
- *Air India Cabin Crew Assn. v. Yeshwainee* AIR 2004 SC 187
- *Sakshi v. Union of India* AIR 2004 SC 3566
- *State of M. P. v. Rameshwar* AIR 2005 SC 687
- *S.R. Batra And Anr v. Smt. Taruna Batra* Appeal (civil) 5837 of 2006
- *Narendra v. K.Meena* Civil Appeal.3253 OF 2008
- *Vikram Vir Vohra v. Shalini Bhalla* AIR 2010 SC 1675
- *D. Velusamy v D.Patchaiammal* CRIMINAL APPEAL NOS. 2028-2029 OF 2010
- *Charu Khurana & Others v. Union of India & Others* Writ Petition (Civil) No. 78 of 2013
- *Parivartan Kendra & Anr v. U.O.I & Ors* WRIT PETITION (CIVIL) NO. 867 OF 2013
- *Prakash & Ors v. Phulavati & Ors* Civil Appeal No.7217 OF 2013
- *Mukesh and Anr. v. State for NCT of Delhi and Others* Criminal Appeal Nos 607-608 of 2017 with Criminal Appeal Nos 609-610 of 2017
- *Shabnam Hashmi v. Union of India (UOI) and Ors* AIR 2014 SC 1281
- *Independent Thought v. Union of India and Anr* AIR 2017 SC 4904
- *Laxmi v. Union of India* (2014) 4 SCC 427
- *Ravada Sasikala v. State of Andhra Pradesh and Anr* AIR 2017 SC 1166
- *Shayara Bano v. Union of India* AIR 2017 SC 4609
- *Shakti Vahini v. Union of India and Ors* AIR 2018 SC 1601
- *Joseph Shine v. Union of India* AIR 2018 SC 4898
- *State of Himachal Pradesh and Ors. v. Vijay Kumar and Ors.* AIR 2019 SC 1543
- *Yogendra v. The State of Madhya Pradesh* (2019) 9 SCC 243
- *The Environment and Consumer v. Union of India* 2017(8) SCALE679
- *Justice K S Puttaswamy (Retd.), and Anr. v. Union of India and Ors* Writ Petition (Civil) No 494 of 2012