

## **COURSE TEMPLATE**

**Course title:**

INTRODUCING INTERSECTIONALITY

Name of TEACHERS : Jayna Kothari and Vikramaditya Sahai

**COURSE DESCRIPTION**

The law must understand the social to which it speaks and responds. Its ability to do justice depends on this understanding. While the law recognizes that there exists difference, the more attentive it is to how difference manifests itself or is lived, the better its capacity to live up to its own ideal and imagination. Difference is not always discreet and inequality can often be aggravated by the simultaneity of more than one form of difference that manifests as marginality. This is precisely what intersectionality equips us to pay attention to and address. There are many ways of writing the history of intersectionality but a broad consensus exists around Kimberle Crenshaw's work on anti-discrimination law in the US as pioneering the field. While a thin approach to intersectionality may choose to focus on an additive approach to forms of difference (caste +gender and so on), this course seeks to introduce students to a thicker conception of intersectionality that not only understands what happens when one lives a life where more than one difference manifests as marginality but also how already formed analytics may be insufficient to understand and address what happens when one experiences discrimination that does not separate what are imagined as discrete identities.

The course uses academic writing, legal texts, commentaries, personal narratives, fiction and cultural texts to understand how intersectionality affects our study of the law, advocacy, and activism; how the law, legal studies and legal practice is transformed by intersectionality; and how intersectionality challenges, resists, and reimagines legal normativity.

The teaching will be text heavy with the lectures mostly spent discussing the readings assigned for class, their methods, illuminations and implications. Students are expected to read the assigned materials in advance of each class and be prepared to engage in a discussion of the readings.

**Module 1****Intersectionality: History, Analytic, Contestation**

In this module we shall understand intersectionality through a genealogy of black feminist texts, texts in which similar conceptions emerge but that do not use the term intersectionality; texts in which the word is used explicitly, sometimes as a theory, other times as an analytic, or a method; and texts which sharpen our understanding of the life worlds intersectionality sought to address and their complexities. We shall also look at some critical

engagements with intersectionality that help sharpen its capacity to do justice. Since its explicit use in Crenshaw's work, intersectionality has been used to address the law and this module would help establish and sediment that relationship. We will finally look at a place where the conversation on intersectionality can be found in Indian law.

## **Module Two**

### **Analysing Normativity**

This module allows us to understand intersectionality as generative of new knowledges and practices of the law by unsettling some of its normative assumptions. It is not sufficient just add intersectionality to legal realism and stir but to take its insights to imagine ways in which the law may better respond to the complexity of our life worlds, oppressive power structures and norms that incapacitate justice.

## **Module Three**

### **Intersectionality in India**

In this module, we grapple with how intersectionality might illuminate our context in India, not just in the times when more than one marginality leads to an aggravated situation of inequality or injustice but how intersectionality might help us better understand what are hitherto imagined as discrete categories - caste, gender, disability, sexuality – as intertwined and co-constitutive. We will figure what intersectionality does to our analysis of each of these categories – what happens to sexuality when it is understood as a function of caste? How do we rethink disability as engendering? And so on. The module seeks to bring these insights to critically analyse legal texts like acts and judgments. Even though the module is divided by analytic frames and forms of oppression, the module doesn't imagine them as discrete. Each module will emphasize how forms of oppression are related and cannot be severed from each other.

Caste: Historically, intersectionality has been used mostly by dalit women and Dalit feminist collectives. In this part of the module, we shall engage with scholarship on caste to not only understand graded inequality in India but also what it tells us about gender and sexuality.

Gender and Sexuality: Using the insights of the conversations on caste, this module would analyse the position of trans persons and communities in India. We shall look at contradictions of legal legibility and the demand for horizontal reservations to qualify the ways intersectionality may be put to work in India.

Disability: In this module we would apply our learnings from the previous modules to read a legal text via intersectionality. In this way, the student is encouraged to examine seemingly neutral and universal texts for their normative assumptions, construction of legal subjects and unavowed exclusions

#### **Module 4**

##### **Intersectionality: Paradoxes and Pulls**

Some people and identities fall to the wayside even with the best of intentions. This module will look at the construction of legal subjects and resistant subjectivity, its interaction with caste, and the irreconcilability of some political articulations. It is not easy to apply to intersectionality to legal frames and arrive at seamless resolutions of social conflicts and inequality. Sometimes intersectionality pulls us from an easy rights-based approach to one that recognizes how social positions lead to seemingly irreconcilable demands and that is where law must do impossible justice. The emphasis is to debate what the maps of justice look like when there is no consensus and universality seems fraught by positions of participants. How does the court do its work then? How is the Constitution to be interpreted? Is it only a matter of taking sides? We see these debates as further invitation to understand the complexity of our location and the dilemmas of law and social transformation.

#### **Module 5**

##### **Anti-Discrimination and Equality Law in India**

We bring these conversations to a close by bringing anti-discrimination work and intersectionality in conversation to discuss an equality bill that might understand the constitutive nature of different structures of power and norms and address better cases of aggravated marginalization. Is intersectionality merely an analytic category or can intersectionality be put to work to imagine and make a comprehensive law to address the forms of inequality and oppression in India?

#### **COURSE OBJECTIVE(S):**

1. To understand and engage with intersectionality – as analytic, theory and method – to reflect on structures of power and operations of norms that frustrate the struggle for justice, equality, and freedom.
2. To improve our knowledge of the experiences that inform the lives of people who are addressed by the law or come to it with their grievances.
3. To respect how our positionality affects our capacities, practices, and normative attachments.
4. To use intersectionality to better our engagement with existing laws to secure rights and freedoms of marginalized communities and in imagining laws and frameworks that are responsive to the complexity of the social.

The course will be particularly useful for any one seeking to do right-based practice or further research and teaching that is more social science inclined.

## SESSION-WISE DISTRIBUTION OF COURSE SYLLABUS (20 Sessions)

### SESSION 1 - (2 HOURS)

Introduction to  
the course  
Virtual Privilege  
Walk Game

### SESSION 2 - (2 hours) - Intersectionality Theory

- (i) Crenshaw, Kimberle, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' (1989) The University of Chicago Legal Forum, 139-167. <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1052&context=uclf>
- (ii) [DeGraffenreid v. General Motors Assembly Division](#), St. Louis 558F.2d 480

#### **Additional reading:**

- (i) Combahee River Collective, 'The Combahee River Collective Statement' in Barbara Smith (ed.) Home Girls: A Black Feminist Anthology (Kitchen Table: Women of Colour Press 1983) 272-283 at <http://circuitous.org/scraps/combahee.html>.

### SESSION 3 - (2 hours) - Intersectionality as Method

- (i) Joanne Connaghan, "Intersectionality and the Feminist Project inLaw"
- (ii) Helma Lutz, "[Intersectionality as Method](#)", DiGeSt. Journal of Gender Studies, Vol. 2, No. 1-2 (2015) pp. 39-44
- (iii) Jennifer Nash, [Re-thinking Intersectionality](#), Feminist Review, 2008.

### SESSION 4 - (2 hours) - Race and Gender

- (i) Leigh Gilmore, 'Anita Hill, Clarence Thomas, and the Search for Adequate Witness,' Tainted Witness (Columbia University Press, 2017), 27-58.
- (ii) Judith Butler, 'Endangered/Endangering: Schematic Racism and White Paranoia' in Robert Goodling-Williams (ed.) Reading Rodney King/reading urban uprising (Routledge 1993) 15-23.

**SESSION 5 - (2 hours) Intersectionality in India: An introduction to Caste**

- (i) B.R. Ambedkar, “[Castes in India: Their Mechanism, Genesis and Development](#)” in Dr. Babasaheb Ambedkar: Writings and Speeches Vol. I (Dr. Ambedkar Foundation, Ministry of Social Justice and Empowerment)
- (ii) Legislations on Caste
  - a. [The Protection of Civil Rights Act 1955](#)
  - b. [The SC/ST Prevention of Atrocities Act, 1989 Hitesh Verma v. State of Uttarakhand and Anr.](#)

**SESSION 6 - (2 hours) - Caste and Gender**

- (i) Meena Gopal “Ruptures and Reproduction in Caste/Gender/Labour” Economic and Political Weekly, Vol.48, No. 18 (MAY 4, 2013), pp. 91-97
- (ii) Jenny Rowena, The Dirt in Dirty Picture, Round Table India – Part I and II, Available [here](#) and [here](#).

**Additional Reading:**

- (i) Urmila Pawar, “The Weave of My Life: A Dalit Woman's Memoirs” TRANSLATED BY MAYA PANDIT (Columbia University Press 2009)

**SESSION 7 - (2 hours) - Gender and Caste continued....**

- (i) [The Karnataka Devadasis \(Prohibition of Dedication\) Act 1982](#)
- (ii) Lucinda Ramberg – citation and extract to be shared shortly
- (iii) Gopal Guru, “[Dalit Women Talk Differently](#)” Vol. 30, Issue No. 41-42, 14 Oct, 1995
- (iv) Sharmila Rege, “[Dalit Women Talk Differently-A Critique of Difference and Towards a Dalit Feminist Standpoint Position](#)” Vol. 33, Issue No. 44, 31 Oct, 1998

**Additional Reading:**

- (i) “Intersections of Caste and Gender: Implementation of Devadasi Prohibition Laws” Available here: <https://clpr.org.in/wp-content/uploads/2019/11/Policy-Brief-on-Devadasi-Legislations.pdf>

**SESSION 8 - (2 hours) : Caste, Gender Identity and Sexual Orientation**

- (i) [National Legal Services Authority \(NALSA\) v. Union of India](#), AIR 2014 SC 1863.
- (ii) Gee Imaan Semmalar and Karthik Bittu Kondaiah, Interview with Living Smile Vidya, (Trans)gender and caste lived experience – Transphobia as a form of Brahminism, (26 January 2013). Available [here](#).

**Additional readings:**

- (i) [Arun Kumar & Anr. v The Inspector General of Registration & Ors.](#), WP (MD) No. 4125 of 2019 dated 22 April 2019.
- (ii) Aniruddha Dutta, ‘Contradictory Tendencies: The Supreme Court’s NALSA Judgment on Transgender Recognition and Rights’ (2014) Vol.5 Journal of Indian Law and Society 225-236. Available [here](#).

### **SESSION 9 - (2 hours) - Disability, Caste and Gender**

- (i) Ghai, Anita, 'At the Periphery: Marginalised Disabled Lives,' and 'Politics of Identity: Oppression and Resistance' in *Rethinking Disability in India* (Routledge 2015). 101-165, 261-297.
- (ii) The Intersection of Disability and Caste Policy: A Policy Paper, CLPR. Available [here](#).

#### **Additional Readings**

- (i) G.C. Pal '[Dalits with Disabilities: The Neglected Dimension of Social Exclusion](#)', (2010) Indian Institute of Dalit Studies, Working Paper Series 3(4) 2.
- (ii) Nilika Mehrotra, '[Disability, gender and caste intersections in Indian Economy](#)' (2013), in (eds) Disability and Intersecting Statuses, Research in Social Science and Disability (7) Emerald Group Publishing Limited, 295 – 324.
- (iii) [Patan Jamal Vali vs The State of Andhra Pradesh](#), Criminal Appeal No 452 of 2021 dated 27<sup>th</sup> April 2021
- (iv) Jayna Kothari, [Recognising Caste Based Violence against Women](#), The Hindu, June 1<sup>st</sup>, 2021

### **SESSION 10 - (2 hours)**

To discuss what we have learnt till now, where we are and to discuss Seminar Papers the students shall be writing.

### **SESSION 11 - (2 hours) - Pulls and Paradoxes**

- (i) [Navtej Johar v. Union of India](#), (2018) 1 SCC 791. Also available [here](#).
- (ii) Gee Imaan Semmalar, Re-Cast(e)ing Navtej Singh v. Union of India, NUJS Law Review, Volume 13 Issue 3 (2020), Available [here](#).

### **Session 12 - (2 hours)**

- (i) Dhruvo Jyoti, 'A Letter to My Lover(s),' in *Eleven Ways to Love* (Penguin Random House: 2018) 3-30.
- (ii) Ponni Arasu, Priya Thangarajah, 'Queer Women and Habeas Corpus in India: The Love that Blinds the Law,' *Indian Journal of Gender Studies*, Volume 19 Issue 3, pg 413-435.
- (iii) 2 students presenting their ideas for their paper.

**SESSION 13 - (2 hours) - The Bar Dancers Case**

- (i) [Indian Hotel and Restaurant Association & Anr. v. State of Maharashtra & Ors.](#) WP (Civil) No. 576 of 2016

**SESSION 14 - (2 Hours) - Temple Entry**

- (i) [The Sabarimala Judgement](#) WRIT PETITION (CIVIL) NO. 373 OF 2006 dated September 28, 2018

**SESSION 15 - (2 hours) - Intersectionality in Anti-Discrimination Law**

- (i) Dagmar Schiek, Jule Mulder, Chapter 16. Intersectionality in EU Law: A Critical Appraisal in European Union Non-Discrimination Law and Intersectionality
- (ii) [The Equality Act 2010](#) (UK)

**SESSION 16 - (2 hours) - Intersectionality in Anti-Discrimination Law**

Looking at Article 15 and 16 in the Indian constitution

- (i) [Rajesh Kumar Daria v. Rajasthan Public Service Commission and Others](#)
- (ii) Making Rights Real, available at: <https://clpr.org.in/wp-content/uploads/2018/12/Policy-Brief-2018-Implementing-Reservations-for-Transgender-and-Intersex-Persons.pdf>

**SESSION 17 - (2 hours)**

- (i) The Equality Bill, 2021, available at: <https://clpr.org.in/wp-content/uploads/2020/01/Equality-Bill-2021-8th-January-2021.pdf>

**SESSION 18 - paper presentations**

**SESSION - 19 - paper presentations**

**SESSION - 20 - paper presentations**



**Any other information (For instance project guidelines, resources etc.)**

**Prescribed word limit for seminar paper submission - not more than 3000 words**

**Class participation shall involve a written submission of a question/s (not more than three, in less than 250 words) that emerge/s from the readings to be discussed at the beginning of each session.**

**Guidelines to students**

Students are expected to read the readings of the module to be discussed before the class. This would enable the student to bring their doubts to the classroom and also the most engaged discussion for the subject at hand.