

**COMPARATIVE HUMAN RIGHTS LAW**

***Responsible Faculty Instructor:***

**Aakriti Malhotra** [amalhotra@jgu.edu.in]

Assistant Professor

Credits: 4

Credits Type: Law

Cross-registration: No

Pre-requisites: Constitutional Law I & Public International Law

**COURSE DESCRIPTION (COURSE VISION):**

The course is an opportunity for the students to further dive into the world of human rights by learning the nuances of human rights in more detail and how the different jurisdictions have approached the subject matter.

The course begins by looking at the theoretical foundations of human rights law. After laying the foundation, the meaning of particular human rights would be analysed, along-with their significance in theory as well as practise. Towards the end, the course examines the efficacy of the legal institutions designed to protect the human rights.

By engaging in a comparative analysis, key human rights issues would be highlighted and the possible solutions presented by different jurisdictions would be discussed. It would examine materials from India, Europe, North America, South Africa, regional human rights organisations and other jurisdictions where necessary.

This elective is primarily a comparative course, but draws on international human rights law where appropriate. In sum, the course would provide for an in-depth comparative study of human rights.

**INTENDED LEARNING OUTCOMES:**

- Be better equipped to review and analyse primary and secondary sources of human rights.
- Be able to decipher the similarities and differences between the human rights protection documents.
- Be better equipped to identify and analyse contemporary human rights problems and developments.
- Be able to develop an understanding of the different approaches adopted by the different jurisdictions to human rights adjudication.
- Be able to critically examine the role of the courts in protecting human rights across jurisdictions.

READING LIST (upto 10 select readings):

1. S Fredman, *Human Rights Transformed* (OUP 2008)
2. S Fredman, *Discrimination Law* (2nd edn, Clarendon Series 2011)
3. S Fredman, *A Comparative Study of the Anti-Discrimination and Equality Laws of the USA, Canada, India and South Africa* (European Communities 2012)
4. A Barak, 'Response to The Judge as Comparatist: Comparison in Public Law' (2005-6) 80 *Tulane Law Review* 195
5. M Rosenfeld and A Sajo, *The Oxford Handbook of Comparative Constitutional Law* (OUP 2012)
6. U Baxi, 'Taking Suffering Seriously' in R Dhavan *Essays on Law and Poverty* (Tripathy 1988)
7. A Desai and S Muralidhar, 'Public Interest Litigation: Potential and Problems' in B Kirpal (ed), *Supreme but not Infallible: Essays in honour of the Supreme Court of India* (OUP India 2000)
8. H Duffy, 'Human Rights Litigation in Sub-regional African Courts: Towards Justice for Victims or Just More Fragmentation?' in V D Herik and C Stahn (eds), *Fragmentation in International Law* (Martinus Nijhoff, 2012)
9. D Moeckli, et al. *International human rights law* (OUP 2022)
10. H Duffy, *The 'War on Terror' and the Framework of International Law* (CUP 2015)

WEEKLY READING PLAN (WEEKLY OUTLINE):

A weekly plan is provided below:

MODULES	WEEK(S)
<b>MODULE 1: THEORY I – HUMAN RIGHTS THEORY</b>	Week 1
<b>MODULE 2: THEORY II – JUDICIAL USE OF COMPARATIVE/INTERNATIONAL HUMAN RIGHTS</b>	Week 2
<b>MODULE 3: EQUALITY (I) – DIRECT &amp; INDIRECT DISCRIMINATION</b>	Week 3
<b>MODULE 3: EQUALITY (II) – GROUNDS</b> - RACE & CASTE - RELIGION - DISABILITY	Week 4
<b>MODULE 3: EQUALITY (III) – GROUNDS (B)</b> - SEX & GENDER	Week 5

- SEXUAL ORIENTATION	
<b>MODULE 4: FREEDOM OF EXPRESSION &amp; CONSCIENCE (I) – FREE SPEECH</b>	Week 6
<b>MODULE 4: FREEDOM OF EXPRESSION &amp; CONSCIENCE (II) – FREEDOM OF RELIGION</b>	Week 7
<b>MODULE 5: RIGHT TO LIFE &amp; SECURITY (I) – DEATH PENALTY</b>	Week 8
<b>MODULE 5: RIGHT TO LIFE &amp; SECURITY (II) - ABORTION</b>	Week 9
<b>MODULE 5: RIGHT TO LIFE &amp; SECURITY (III) - TORTURE</b>	Week 10
<b>MODULE 5: RIGHT TO LIFE &amp; SECURITY (IV) - EDUCATION</b>	Week 11
<b>MODULE 6: ROLE OF JUDICIARY IN PROTECTING HUMAN RIGHTS (I) – JUSTICIABILITY &amp; DEMOCRACY</b>	Week 12
<b>MODULE 6: ROLE OF JUDICIARY IN PROTECTING HUMAN RIGHTS (II) – JUDICIAL COMPETENCE</b>	Week 13
<b>REVISION WEEK</b>	Week 14