

Elective course: Disability Rights and Justice: Access into Law's Domain (Spring, 2026)

Abstract and Key Readings

By Shruti Pandey, Professor of Legal Practice, JGLS

This course critically engages with foundational concepts around disability, beginning with lexical constructs such as disabled, disability, normality and impairment, and the hierarchies within the spectrum of disabilities including physical, mental, and intellectual.

It examines the major models of disability studies: bio-medical; societal and environmental; and systemic and structural. Analysing a range of social responses to disability—including bias, stigma, othering, discrimination, and exclusion—it distinguishes the charity and service-based approaches from rights-based approach centred on equality and non-discrimination, for addressing the social responses. The various routes to agency of persons with disabilities are examined such as incentives, quotas/ reservation, equal opportunities, reasonable accommodation and accessibility, to bridge the gap between formal and substantive equality.

A sample intersectionality—of disability and gender—is examined to interrogate the norms around ableism, beauty standards, sexuality, reproductive rights, and bodily integrity within the context of patriarchy and heteronormativity. Also, some contentious bio-ethical dilemmas are explored such as eugenics through assisted reproductive technologies, disability-selective abortions, and euthanasia.

Overviews of the United Nations Convention on the Rights of Persons with Disabilities, 2006 (UNCRPD) and India's Constitution and statutes on physical and mental disability, and some landmark judgments are carried out. These are geared to understand the legal frameworks to address the specific disadvantages faced by persons with disabilities, and the provisions for their civil and political rights (CPRs) and economic, social and cultural rights (ESCRs), while challenging the structures of inequality and discrimination that perpetuate their exclusion and marginalization. The roles of state, private sector (such as employers, educational institutions, and service providers) and family are also considered.

The course concludes by drawing learning from disability rights for the key human rights to equality and non-discrimination, with the centrality of the inherent dignity and autonomy of every person and their right of full participation in society. It also demonstrates the importance of intersectional approaches and coherence between inclusive policies and practices, rights, laws, and justice.

This would be of interest to **law students with advanced interest in human rights and litigation, including on disability issues, but not limited to them.** The formative assessment will be based on two in-class tests, the first reflective and the second scholastic.

Some key readings are:

1. Lennard Davis, 'Disability, Normality, and Power', The Disability Studies Reader (Routledge 2013).

2. Kanter, Arlene S. "The Law: What's Disability Studies Got to Do With It or an Introduction to Disability Legal Studies." *Columbia Human Rights Law Review* 42 (2011 2010): 403.
3. Mladenov, Teodor. "Disability and Social Justice." *Disability & Society* 31, no. 9 (January 1, 2009): 1226–41.
4. Lawson, Anna, and Angharad E. Beckett. "The Social and Human Rights Models of Disability: Towards a Complementarity Thesis." *The International Journal of Human Rights* 25, no. 2 (February 7, 2021): 348–79.
5. Zosia Zaks, 'Changing the Medical Model of Disability to the Normalization Model of Disability: Clarifying the Past to Create a New Future Direction' [2023] *Disability & Society* 1.
6. Oliver, Mike. "The Social Model of Disability: Thirty Years On." *Disability & Society* 28, no. 7 (October 1, 2013): 1024–26.
7. Hughes, Bill, Linda McKie, Debra Hopkins, and Nick Watson. "Love's Labours Lost? Feminism, the Disabled People's Movement and an Ethic of Care." *Sociology* 39, no. 2 (April 1, 2005): 259–75.
8. Harriet MacBryde Johnson. "Unspeakable Conversations." In *Disability Visibility*, edited by Alice Wong 3-27. Vintage Books, 2020.
9. Quinn, Gerard, and Anna Arstein-Kerslake. "Restoring the 'Human' in 'Human Rights': Personhood and Doctrinal Innovation in the UN Disability Convention." 2012.
10. Jain, Dipika, and Shampa Sengupta. "Reproductive Rights and Disability Rights through an Intersectional Analysis." *Jindal Global Law Review* 12, no. 2 (2021): 337.
11. Fredman Sandra. "Disability Equality: A Challenge to the Existing Anti-Discrimination Paradigm?" In *Disability and Equality Law*. Routledge, 2005.
12. Saia, Toni, Rana Yaghmaian, Rachel Cuesta, Carlynn Mueller, and Roxanna N. Pebdani. "A Call to Action for Disability and Rehabilitation Research Using a DisCrit and Disability Justice Framework." *Disability and Rehabilitation* 46, no. 14 (July 2, 2024): 3189–95.
13. Theresia Degener, 'Disability in a Human Rights Context' (2016) 5 *Laws* 35.
14. Addlakha, Renu, and Saptarshi Mandal. "Disability Law in India: Paradigm Shift or Evolving Discourse?" *Economic and Political Weekly* XLIV, no. 41/42 (2009): 62–68.
15. Dhanda, Amita. "Legal Capacity in the Disability Rights Convention: Stranglehold of the Past or Lodestar for the Future?"; (2006–2007." *Syracuse J. Int'l L. & Com.* Accessed July 6, 2024.
16. Jain, Sanjay. "Exploring the Relationship of Law and Emotions in the Context of Disability Rights Jurisprudence." *Jindal Global Law Review* 12, no. 2 (December 1, 2021): 263–92.
17. Dhanda, Amita. "Constructing a New Human Rights Lexicon." *Sur - International Journal on Human Rights* 5, no. 8 (January 2008).
18. Leslie Francis, 'Supported Decision-Making: The CRPD, Non-Discrimination, and Strategies for Recognizing Persons' Choices About Their Good' (2021) 1 *The Journal of Philosophy of Disability* 57.
19. Beco, Gauthier de. "The Indivisibility of Human Rights and the Convention on the Rights of Persons with Disabilities." *International & Comparative Law Quarterly* 68, no. 1 (January 2019): 141–60.
20. Davis, Lennard J.. "The End of Identity Politics and the Beginning of Dismodernism: On Disability as an Unstable Category." In *Bending Over Backwards*, 9–32. Essays on Disability and the Body. NYU Press, 2002.