Course Title: Law and Justice in a Globalizing World

Program in which it is offered: LL.M. All Programmes

Course Category: [Core] **Schedule of Offering: [Trimester 1]**

Course Code [EG753] **Course Credits: [3]**

- **Lecture: [4 Hours per week]**
- **Tutorial: [1Hours per week]**

Contact Hours per week: [5 Hours per week]

Course Co-ordinator: Prof. Vanisree Ramanathan

1. ## Introduction

   In an ever changing world of diversity, the system of law and its theory should not only accommodate but also allow for the peaceful development. It cannot be based on imposing one system's preferences over the other but based on those methods of research and practices that are commonly available to all, irrespective of their cultural diversity. A description of the idea of law is not the same thing as description of how this idea evolves in social reality.

   This course is a probe into the reasons of the essential evolution of law and notions of justice according to the changing social reality of the vibrant globalised world. The volatility in social world reality creates deviations within the idea of law and justice. Political, economic and social changes that globalisation creates, sometimes disturbs the traditional norms of law. This course focuses on how this reflects on the notions of law and justice in a globalised world and shall use the thoughts of legal thinkers to trigger our own thinking process to address the present day dilemmas. Above all, the course integrates the post-graduate legal education in Chinmaya Vishwavidyapeeth Deemed to be University in the current global context in a meaningful way.

2. ## Course Objectives

   1. To understand the process of globalization and its impact on law and justice

   2. To critically analyse the concept of global justice and the pathways to achieve the same

3. To better appreciate the demands for change raised by different groups to the international legal order

4. To investigate the possibilities of global legal order and India's interest in such a project

5. Pre-requisites

There are no pre-requisites for this course as it is both introductory and compulsory in nature

6. Readings

There shall be no prescribed text-book for this course. However, a set of readings have been identified under each module of the course. Students will be required to finish these readings prior to the classes make their own inquisitive remarks along the discussion in class.

7. Module-wise topics

Module 1: Introduction to Global Politics and the Ideas of Global Justice

Read and Discuss:

1. Andrew Heywood (2011), "Historical Context", *Global Politics, pp.25-53,*

2. Andrew Heywood (2011), "Images of Future", *Global Politics, pp. 507-524*

3. Amartya Sen (2009) "Justice and the World", *The Idea of Justice, pp.388-415*

4. John Rawls (1971) *A Theory of Justice*. Harvard University Press

5. Gillian Brock (2009), "A Cosmopolitan Model of Global Justice: The Basic Framework", *Global Justice – A cosmopolitan Account, pp.45-84*

6. Thomas Pogge (2005), "Real World Justice", Current Debates in Global Justice, pp. 29–53

7. James P. Sterba(2005), Global Justice for Humans or for All Living Beings and What Difference It Makes, Current Debates in Global Justice 283–300

8. Gelijn Molier (2018), "Justifying Militant Democracy: Philosophical and Legal Reflections on Dutch Militant Democracy", in Afshin Ellian and Bastiaan Rijpkema(ed.) *Militant Democracy – Political Science, Law and Philosophy,* pp.97-117

9. Miroslav Mares (2018), "How Does Militant Democracy Function in Combating Right-Wing Extremism? A Case Study of Slovakian Militant Democracy and the Rise of Kotleba – People's Party Our Slovakia", in Afshin Ellian and Bastiaan Rijpkema(ed.) *Militant Democracy – Political Science, Law and Philosophy, pp.61-76*

Module 2: Technological Advancement and Law

Read and Discuss

1. Sujatha Raman (2015), "Science, uncertainty and the normative question of epistemic governance in policymaking", Knowledge Technology and Law, pp. 17-33

Law and Innovation

2. Rochelle Cooper Dreyfuss (2010), *"Does IP need IP? Accommodating Intellectual production outside the intellectual property paradigm",* Cardozo Law Review, Vol: 31 pp 1437-1473

Implications for Developing Countries

3. Tu Thanh Nguyen (2010), *Competition Law, Technology Transfer and the TRIPS Agreement: Implications for Developing Countries*, pp.286-303

Refusal to Transfer Technology

4. Tu Thanh Nguyen (2010), *Competition Law, Technology Transfer and the TRIPS Agreement: Implications for Developing Countries*, pp.105-128

National Security, Law and Technology

5. Namira Negm (2009), "Benefits and Costs of Using Nuclear Technology for Peaceful Purpose", Transfer of Nuclear Technology under International Law, pp.13-44

6. David York (2007), "Illicit Trafficking in Nuclear and Radiological Materials", Thomas A Johnson(ed.), National Security Science, Law and Technology, 75-96

7. Thomas A Johnson (2007), "Introduction to the Intelligence Process for Addressing National Security Threats and Vulnerabilities", Ibid. 3-23

8. Kriangsak Kittichaisaree (2017), *The Public International Law of Cyberspace, 335-357*

Technology, Trade and Finance

9. Nicole Meulen (2011), *Financial Identity Theft: Context, Challenges and Countermeasures*, pp. 249-294

10. Sophie van Loo (2012) , "The Power of Google: First Mover Advantage or Abuse of a Dominant Position?", *Google and the Law*, 9-37

Module 3: Economic Globalization, Development and Law

Read and Discuss:

1. Alexander Gillespie (2001), *The Illusion of Progress,* pp.1-14, 111-123

Foundations to Economic Globalisation and Governance

2. Keren Wang(2019), *Legal and Rhetorical Foundation of Economic Globalisation, pp1-16,121-136*

3. Celine Tan (2010), "The new disciplinary framework: conditionality, new aid architecture and global economic governance", *International Economic Globalisation and Developing Countries,* pp.112-138

4. Tomer Broude (2013), "Development Disputes in International Trade", *Ibid.* 29-48

Responses and Resistance to Economic Globalization

5. David Schneiderman (2013), "Hardt and Negri and the Immobilization of States" *Resisting Economic Globalization*, pp.24-51

6. Tonia Novitz (2010), "Core labour standards conditionalities: a means by which to achieve sustainable development?", Ibid. 234-252

7. Balakrishnan Rajagopal (2003), "From resistance to renewal: Bretton Woods institutions and the emergence of the "new" development agenda", *International law from Below*, pp.95-134

8. Colin B. Picker (2013), "Islands of Prosperity and Poverty: A Rational Trade Development Policy for Economically Heterogeneous States", *Law and Development Perspective on International Trade Law*, pp. 317-333

Economic Globalization, Development and Law – a way forward

9. Emmanuelle Tourme-Jouannet (2011), "Prospects and Alternatives", *What is a Fair International Society?*, pp.81-100

10. Karen B. Brown (2017) *Taxation and Development - A Comparative Study*, pp.3-17

11. Mkhululi Nyathi (2019), *The Southern African Development Community and Law,* pp.23-43

Module 4: CPRS, Common Concerns and Heritage of Mankind

Read and Discuss

1. Susan J. Buck(1998) *The Global Commons, An Introduction*, pp.21-35

Environmental Justice and Globalization
2. Timothy O'Riordan (2004) "Beyond Environmentalism: Towards Sustainability", *Unifying Geography: Common heritage, Shared Future,* pp.117-143

3. Oran R. Young (1995) "The Problem of Scale in Human/Environment Relationships", *Local Commons and Global Interdependence*, pp.27-46

4. M.R. Bhutiyani (2018), "Mitigation Strategies to Combat Climate Change in the Himalayan Mountains", Ibid. pp.115-126

Knowledge as a Public Good
5. Pamela Samuelson (2006), "*Enriching Discourse on Public Domains",* Duke Law Journal, Vol: 55 pp 783-834

6. Valentina Moscon (2018) "University Knowledge Transfer: From Fundamental Rights to Open Access Within International Law" Law, Development and Innovation, pp.147-191

Concerns over Common Pool Resource in Globalised World
7. Elinor Ostrom (1995), "Constituting Social Capital and Collective Action", *Ibid.* pp.125-160

8. Pranab Mukhopadhyay (2008), "Heterogeneity, Commons, and Privatization: Agrarian Institutional Change in Goa", *Promise, Trust, and Evolution: Managing the Commons of South Asia,* pp.213-237

Cultural Heritage vis-à-vis Globalization

9. Umberto Leanza (2014) "General Problems of International Law Concerning Sacred Places", *Between Cultural Diversity and Common Heritage,* pp.37-56

Artic & Antarctic- socio-economic justice in a Globalised World

10. Douglas C Nord (2016), "Placing the Arctic within Analytical and Theoretical Frameworks", *The Changing Arctic*, pp.9-22

11. Brooks A. Kaiser, Julia Pahl, and Chris Horbel (2018), "Arctic Ports: Local Community Development Issues", *Arctic Marine Resource Governance and Development,* pp.185-218

12. Betsy Baker(2015), "Interlinkages in International Law: The Convention on Biological Diversity as a Model for Linking Territory, Environment, and Indigenous Rights in the Marine Arctic", *Diplomacy on Ice,* pp.41-60

13. Aant Elzinga (2016), "Some Reflections on the Emergence of Antarctic Humanities", *Antarctica and the Humanities* , pp. 273 -302

14. Alan D. Hemmings (2018), "The Hollowing of Antarctic Governance", *Science and Geopolitics of The White World*, pp.17-32

15. Bimal N. Patel (2018), "State Practices on Antarctica and International Law: Attempt at Identification of India's Interests, Needs and Future Position", Governance", *Science and Geopolitics of The White World,* pp. 33-50

Law and Justice in Outer space Governance

16. Bohumil Doboš (2019) "European Astropolitics", *Geopolitics of the Outer Space: A European Perspective,* pp.107-133

17. Edward Burger & Giulia Bordacchini (2017), "China's 2016 White Paper on Space: An Analysis", *Yearbook on Space Policy*, pp.157-162

18. Edward Burger & Giulia Bordacchini (2017), "Trump's Administration Plans for Space: Implications for Europe", Ibid. pp. 163-166

19. Olavo de Oliveira Bittencourt Neto (2015), *Defining the Limits of Outer Space for Regulatory Purposes*, pp.31-56

20. Detlev Wolter (2005), "Structural change of international law, the common heritage of mankind principle and common security in outer space", *Common Security in Outer Space and International Law* pp.85-128

21. Marco Aliberti (2018) "Understanding India's Uses of Space: Space in India's Changing Geopolitics", *India in Space: Between Utility and Geopolitics,* pp.157-192

Law and Governance in Oceans – Case Study: Indian Ocean

1. Edwin Egede (2011) "The Legal Status of the Area: Common Heritage of Mankind and African States", *Africa and the Deep Seabed Regime: Politics and International Law of the Common Heritage of Mankind,* pp.55-74

2. Philippe Beaujard (2018), "The Worlds of the Indian Ocean", *Trade, Circulation, and Flow in the Indian Ocean World,* pp.15-27

3. G. S. Roonwal (2018) *"*The Future Options: The Growing Ocean Economy", *Indian Ocean Resource and Technology,* pp.183-203

4. Manoj Gupta (2010) *Indian Ocean Region: Maritime Regimes for Regional Cooperation,* pp.49-68, 183-203

5. Manoj Gupta (2010) "Prospects for Regional Cooperation in the Indian Ocean Region", *Indian Ocean Region: Maritime Regimes for Regional Cooperation* 265-275

Module 5: Integration Experiments and Law

Read and Discuss

1. Carlos Closa And Lorenzo Casini (2016) *Comparative Regional Integration: Governance and Legal Models,* pp.43-69, 141-154, 157-175, 227-247

Regional Integration and Global Dynamics

2. Miguel Poiares Maduro (2002) "The Constitution of the Global Market", *Regional and Global Regulation of International Trade,* pp. 49-71

3. Frank Mattheis,   Luca Raineri,   Alessandra Russo   (2019)   *Fringe Regionalism,* pp.1-7, 39-77

4. Golam   Robbani (2016), *"*India as a Global Power: Capability, Willingness, and Acceptance*", Global and Regional Leadership of BRICS Countries,* pp. 135-146

5. Mills Soko and Neil Balchin (2006), "South Africa's Quest for Leadership in Africa: Achievements, Constraints and Dilemmas", Ibid. pp.225-243

6. Lurong Chen (2018), "Japan and China in a Two-Hub Formation of Regional Integration in East Asia", *Initiatives of Regional Integration in Asia in Comparative Perspective Concepts, Contents and Prospects*

South Asian Integration and India

7. Rajendra K Jain(2002) "Indian Foreign Policy on the Threshold of the Twenty-first Century", ibid. pp.131-165

8. Hailin Ye (2018), "Modi's Attitude Towards China, "Issue Diplomacy" and the Prospect of India's Participation in the "OBOR" Initiative", *Annual Report on the Development of the Indian Ocean Region (2017) The Belt and Road Initiative and South Asia,* pp. 35-51

9. Sourajit Aiyer (2017)*, Capital Market Integration in South Asia: Realizing the SAARC Opportunity, pp.18-35*

10. Dhananjay Tripathi (2016), **"***Indian Aspirations and South Asian Realities; Perceived Hegemon or Emerging Leader?", i*bid. 147-169

Global South Integration

11. Cintia Quiliconi and Raúl Salgado Espinoza (2018), "The South American Regionalisms: A Shift or the Return of Economic Integration?", *Regionalism, Development and the Post-Commodities Boom in South America* pp.291-308

12. Timothy M. Shaw (2018), "Africa: Clues about the Tendencies of the Global South", *Ibid.* pp.309-332

10. **Pedagogy**

This course employs a guided discussion andragogy model, whereby exposing students to a variety of diverse perspective aiding them to identify and investigate their assumptions and prejudices. This course intends to have an active process of learn, unlearn and relearn.

11. **Evaluation Pattern**
- Class Participation
  - Reading Presentation (2 readings)   : 20 percentage
  - Engagement in discussion   : 10 percentage

- Submission:
    o India's Interest in Global Governance projects
      & International Law   : 20 percentage
- Final Exams   : 50 percentage