

LL.M. (2 Years) Program

CRIMINAL LAW

(Program Code : 5-2-06)

(W.E.F. 2022-2023)



**Dr. B.R. Ambedkar College of Law
ANDHRA UNIVERSITY
Visakhapatnam - 530 003**

LL.M: 2 YEAR DEGREE PROGRAM

CRIMINAL LAW (W.E.F. 2022-2023)

Program Objectives :

A Master of Laws (LLM) is a postgraduate course in Criminal Law designed to enhance academic legal knowledge, allowing student to focus on specific areas of interest. With the Master of Law one can enjoy maximum flexibility in choice of modules and dissertation topic. The course has been purposely designed to be an innovative, adaptable program for law graduates to customize their studies to suit their preferred areas of interest. The LL.M. (Research) Degree is running under Semester system following Choice Based Credit System. The Department is implementing revised curriculum of UGC- CDC.

Program Outcomes:

- Analytical learning of the legal and judicial system in India.
- Application of Legal knowledge so acquired to solve the socio-legal problems of the society with emphasis on vulnerable sections of the society.
- Identification of contemporary research areas relevant to the society and undertake such research for the benefit of the society.
- Acquisition of learn to write Doctrinal writing, to learn to conduct empirical study and to learn to analyse the court cases in particular area, legal writing, management of time and court etiquette to argue in a logical manner.

ANDHRA UNIVERSITY

REGULATIONS AND SYLLABUS RELATING TO LL.M. DEGREE COURSE (TWO YEAR) SEMESTER PATTERN

(Effective from the Academic Year 2022-2023)

- Admission: Candidates admitted into 2-year LL.M. course should have;
 - i Passed the Bachelor of Law Degree examination of this University or an examination of any other university recognized as equivalent thereto.
 - ii Qualified in the LL.M. Entrance Test conducted in the year for which the candidate seeks admission.
- For the award of LL.M. Degree: A candidate shall be required to have i) received instruction and training for the prescribed course of study as full-time student for two academic years, and ii) qualified all the examinations prescribed for the award of the two Year LL.M. Degree.

- Duration: LL.M. Course has to be pursued in four semesters stretching over two academic years. Each academic year comprises of two Semesters. Each semester will be of the duration of 16 weeks.
- Medium of Instruction will be in English language.
- Attendance: In order to be eligible to take the examination in any subject, candidate is required to 75% of attendance in each subject which includes lectures, tutorials and practical training.

If a student for any exceptional reason fails to attend 75% of the classes held in any subject, he/she may be condoned for the shortage of attendance if the student concerned attended at least 66% of the classes held in the subject concerned subject to the payment of the fine prescribed from time to time by the University.

Course Structure & Content: LL.M Course is subject to UGC norms prescribed from time to time.

LL.M Course is to be pursued in a selected branch of specialization offered by the University.

The course consists of 4 compulsory theory papers, one practical examination and dissertation common to all LL.M students and 6 papers of specialization opted by the candidate.

In the first semester, the candidate has to offer two compulsory theory papers (Compulsory Papers 1&2) and two Papers from the branch of specialization (Branch Papers.1&2).

In the second semester, the candidate has to offer two compulsory theory papers (Compulsory Papers 3&4) and two Papers from the branch of specialization (Branch papers 3&4).

In the third semester the candidate has to offer two papers exclusively from the selected branch of specialization (Branch papers 5 & 6) and practical examination comprising of doctrinal work, non-doctrinal work, clinical work and class room teaching. In the fourth semester he/ she has to complete the dissertation in partial fulfillment of the LL.M degree.

Semester	Compulsory core paper	Specialization/ Branch papers	Total papers	Marks	Credits
First	2	2	6 X 4	400	24
Second	2	2	6 X 4	400	24
Third	1 (Practical)	2	6 X 3	350	20
	MOOCS	1	1		
Fourth	Practical (Dissertation) Viva			150	14
	MOOCS	1	1		
				1300	82

Compulsory Papers:

1. Law and Social Transformation in India
2. Indian Constitutional Law: The New Challenges
3. Judicial Process
4. Legal Education and Research Methodology
5. Dissertation

Practical Paper with the following components:

Doctrinal Research:

Each student would be assigned in advance a topic and asked to write a doctrinal research paper.

Non-Doctrinal Research:

The student would be asked to go out of the class room and library to make an empirical study of a problem which has social, economic moral or political dimension. Field data can be collected through any model of data collection.

Clinical Work:

The modalities can be evolved by the law school. One method is that the legal aid clinic of the law school can involve itself with other legal aid programmes in the area. Students are encouraged not only to work with the clinic but also to acquaint themselves with court proceedings, attending Lok Adalat, working of a business organization, tackling of labour disputes, drafting of business or other deeds and with public interest litigation. *Law Teaching* A topic would be assigned to the student in advance. He is required to handle a class for 25 to 30 minutes, where LL.B. programme co-exists with LL.M. programme, the students may be asked to teach the LL.B. students.

Proposed change :

MOOCS – Two MOOCS have to be undergone. One in IIIrd Semester & another in IVth Semester. Each MOOC carries 2 Credits (Max. 50 Marks) for each Semester.

Dissertation:

Dissertation of a minimum length of 120 pages has to be carried by the candidate in the area of his/her area of specialization in fourth semester. Dissertation shall be evaluated internally and externally through viva-voce.

Credits:

All papers carry six credits and the dissertation in fourth semester along with VIVA & MOOCs carries 14 credits. Total credits are 82.

Question Paper Pattern:

For semester end written examinations in theory, the question paper carrying 70 marks consists of 9

essay questions (Nineth question consists of four short notes out of which the candidate may choose any two to answer). The candidate may choose to write any five questions out of nine questions. Each question carries 14 marks.

Marks: Every paper carries 100 marks.

Except for the practical papers, 70 marks are allotted to written examination and 30 marks are allotted to internal assessment, which split as follows;

i.	Class and Seminar Presentation	-	10 Marks
ii.	Assignment	-	10 Marks
iii.	Viva-Voce	-	10 Marks

Practical Examination:

The practical examination consists of 100 Marks shall be held at the end of the third semester on Research Methodology, Law Teaching and Clinical Work. The marks are allotted as follows.

i.	Doctrinal research	-	25 Marks
ii.	Non-doctrinal research	-	25 Marks
iii.	Law teaching	-	25 Marks
iv.	Clinical work	-	25 Marks

Examination:

- Candidate shall take examination in each of the subjects prescribed for study at the end of the semester by registering for that semester examination and obtaining hall ticket for the same. Duration of the examination is three hours.
- The semester end examination shall be based on the question paper set by an external paper setter.
- A candidate will be declared to have passed in the concerned paper if the candidate secures a minimum of 40% marks. However, for practical papers, a minimum of 50% is essential. The practical papers of LL.M course are, paper 3 (compulsory practical paper) in the Third semester and the Dissertation in the Fourth Semester.
- For qualifying in the whole examination for obtaining the LL.M degree, the candidate has to secure a minimum overall aggregate of 50%. The calculation of the aggregate percentage required for qualifying in the examination would be done only at the end of the completion of the course.
- Grafting/Grace is permitted. Grafting allows a candidate an opportunity to utilize the excess marks he earned in a paper for filling up the shortage of marks in the paper in which the candidate failed. Eg, A candidate who secured only 35 Marks, would fail having fallen short by 5 Marks of the required minimum pass mark which is 40 Marks. However, If such candidate happened to secure 45 marks in another paper, the extra five marks which is in excess of what is required for a pass could be notionally added to fill the deficit of 5 marks of the paper in which the candidate actually failed and thereby declare the candidate to have been passed in such paper.

Note: Grafting can be availed only when the candidate will be able to pass in the whole examination due to grafting. Grafting to the extent of one mark per hundred marks of each semester can be added to a maximum of two papers only.

- 0.5 or more will be rounded up to the higher value of 1 only for the purpose of obtaining pass mark or class elevation, third class to second class or second class to first class. Eg 4.96 will be treated as 5.0. Similarly, 5.45 becomes 5.5

Scheme of Grading

S.No	Range of Marks	Grade	Grade Point	
1	>90 < 100	O	10	Outstanding
2	>80 < 90	A+	9	Excellent
3	>70 < 80	A	8	Very Good
4	>60 < 70	B+	7	Good
5	>55 < 60	B	6	Above Average
6	>50 < 55	C	5	Average
7	>40 < 50	P	4	Pass
8	< 40	F	0	Fail
9			0	Ab (Absent)

Classification of successful candidates is based on CGPA as follows:

➤ Distinction	---	CGPA 7.0 or more
➤ I Class	---	CGPA 6.0 or more but less than 7.0
➤ II Class	---	CGPA 5.0 or more but less than 6.0
➤ Pass	----	CGPA 4.0 or more but less than 5.0

Note:

Only those candidates who appear and pass the examination in all the papers of the First semester, all the papers of the Second semester, all the papers of the Third semester, and similarly all the papers of the Fourth semester, at first appearance are eligible to be placed in O grade.

Awards:

No candidate who has not passed all the papers relating to any semester at the first appearance shall be eligible for the Award of Medals or Prizes by the University and to receive certificates of rank obtained by them in the examination.

Explanation: Credits, Grade Letter, Grade Points, Credit Points

Credit means the unit by which the course work is measured. One credit means one hour of teaching work or one hour of practical work per week.

Grade Letter is an index to indicate the performance of a student in a particular course (Paper). It is the transformation of actual marks secured by a student in a course/paper. It is indicated by a

Grade letter O, A, B, C, D, E. There is a range of marks for each Grade Letter.

Grade Point is Weightage allotted to each grade letter depending on the marks awarded in a course/paper

CGPA: CGPA means Cumulative Grade Point Average. It will be calculated from 2nd semester onwards.

SGPA means Semester Grade Point Average. This is calculated for each semester of the programme.

CGPA x 10 will be the overall percentage of the marks obtained by the candidate

Revaluation

The candidate has to apply for revaluation on or before 15 days from the date of publication of the results.

Betterment

A candidate can avail the betterment chances during the validity of all the courses.

General Rules

The candidate who secures less than prescribed SGPA/CGPA may be permitted to appear for the examination within the duration of the course or before the expiry of transitory regulations.

Failed candidates will be permitted to appear for the University examinations after the expiry of transitory regulations as per the existing regulations, scheme and syllabi which are enforce.

Ranks will be given only to the candidates, who have passed all the subjects/papers at a time. However, Distinction will be given to the candidates, who secure 70% and above, those who have passed all the subjects / papers at a time.

Programme Name : CRIMINAL LAW

FIRST SEMESTER:

Sl. No	Course Code	Paper No	Title of the Paper	Title of the Branch	Hours per week			Max Marks		Credits
					I	II	III	E	I	
1	TH-103101	Compulsory Paper - 01	Law and Social Transformation in India	Common paper	4	2	-	70	30	6
2	TH-103102	Compulsory Paper -02	Indian Constitutional Law: The New Challenges	Common paper	4	2	-	70	30	6
3	TH-103133	Paper- I	Paper-1: Indian Penal Code and Important Prevention Detention Laws	Criminal Law	4	2	-	70	30	6
4	TH-103112	Paper -II	Paper-2: Comparative Criminal Procedure	Criminal Law	4	2	-	70	30	6
										24

SECOND SEMESTER:

Sl. No	Course Code	Paper No	Title of the Paper	Title of the Branch	Hours per week			Max Marks		Credits
					I	II	III	E	I	
1	TH-103201	Compulsory Paper-03	Judicial Process	Comm on paper	4	2	-	70	30	6
2	TH-103202	Compulsory Paper-04	Legal Education and Research Methodology	Comm on paper	4	2	-	70	30	6
3	TH-103227	Paper -III	Penology and Privileged Class Deviance	Criminal Law	4	2	-	70	30	6
4	TH-103228	Paper- IV	Drug Addiction, Criminal Justice, and Human Rights	Criminal Law	4	2	-	70	30	6
										24

THIRD SEMESTER

Sl. No	Course Code	Paper No	Title of the Paper	Title of the Branch	Hours per week			Max Marks		Credits
					L	T	P	E	I	
1	TH-103323	Paper -V	Juvenile Delinquency	Criminal Law	4	2	-	70	30	6
2	TH-103324	Paper -VI	Collective Violence and Criminal Justice System	Criminal Law	4	2	-	70	30	6
3	PR-3001	Compulsory Practical	Doctrinal Work, Law Teaching Non Doctrinal Work, Clinical work,				12			6
MOOCS										2
										20

FOURTH SEMESTER:

Sl. No	Course Code	Title of the Paper	Max. marks		Credits
			E	I	
1	DI-2002	Dissertation	50	50	12
2	VV-2002	Viva			
		MOOCS	--	--	2
		TOTAL			14
		GRAND TOTAL			82

FIRST SEMESTER

COURSE CODE : TH-103101

COURSE NAME : LAW AND SOCIAL TRANSFORMATION IN INDIA

Course Objectives:

This course is to be designed to offer (a) awareness of India approaches to social and economic problems in the context of law as a means of social control and change; and (b) a spirit of inquiry to explore and exploit law and legal institutions as a means to achieve development within the framework of law. The endeavour is to make the students aware of the role the law has played and has to play in the contemporary India society.

Syllabus

1. Law and social change

Law as an instrument of social change.
Law as the product of traditions and culture. Criticism and evaluation in the light of colonization and the introduction of common law system and institutions in India and its impact on further development of law and legal institutions in India.

Learning outcome :

To provide a comprehensive knowledge of Law as an instrument of social change with special reference to Indian Constitution.

2. Religion and the law

Religion as a divisive factor. Secularism as a solution to the problem.
Reform of the law on secular lines: Problems.

2.1.4 Freedom of religion and non-discrimination on the basis of religion. Religious minorities and the law

Learning outcome :

To acquaint the students with religion as a divisive factor in society and how to bring reforms in religion by enacting laws on secular lines.

3. Language and the law

Language as a divisive factor: formation of linguistic states.
Constitutional guarantees to linguistic minorities.
Language policy and the Constitution: Official language; multi-language system
Non-discrimination on the ground of language

Learning outcome :

Make the students to understand the factors that led to linguistic states and constitutional guarantees to linguistic minorities.

4. Community and the law

Caste as a divisive factor

Non-discrimination on the grounds of caste. Acceptance of caste as a factor to undo past injustices.

Protective discrimination: Scheduled castes, tribes and backward classes. Reservation; Statutory Commissions, Statutory provisions.

To create awareness among the students the evils of caste in India society and constitutional guarantees provided to SSC, ST and BCs.

Learning outcome :

5. Regionalism and the law

Regionalism as a divisive factor.

Concept of India as one unit.

Right of movement, residence and business; impermissibility of state or regional barriers.

Equality in matters of employment: the slogan “Sons of the soil” and its practice.

Admission to educational institutions: preference to residents of a state.

Learning outcome :

To acquaint the students the concept of regionalism and role of India Constitution.

6. Women and the law

Crimes against women.

Gender injustice and its various forms. Women’s Commission.

Empowerment of women: Constitutional and other legal provisions.

Learning outcome :

To make the students to have a knowledge of the Crimes against women and the role of International and national agencies in the Protection and Empowerment of Women.

7. Children and the law

Child labour

Sexual exploitation

Adoption and related problems.

Children and education

Learning outcome :

To make the students to understand the exploration of children in society and the role of law in protection of their Rights.

8. Modernisation and the law

Modernisation as a value: Constitutional perspectives reflected in the fundamental duties.

Modernisation of social institutions through law Reform of family law

Agrarian reform – Industrialisation of agriculture

Industrial reform: Free enterprise v. State regulation –

Industrialisation Environmental protection.

Reform of court processes

Criminal law: Plea bargaining; compounding and payment of compensation to victims Civil law: (ADR) Confrontation v. consensus; mediation and conciliation; Lok adalats Prison reforms

Democratic decentralization and local self-government

Learning outcome :

To analyse the modern approaches to law and alternative methods of conflict resolution.

9. Alternative approaches to law

The jurisprudence of Sarvodaya---Gandhiji, Vinoba Bhave; Jayaprakash Narayan--- Surrender of dacoits; concept of grama nyayalayas

Socialist thought on law and justice: An enquiry through constitutional debates on the right to property.

Indian Marxist critique of law and justice.

Naxalite movement: cause and cure

Learning outcome :

To make the students to understand the jurisprudence of Gandhiji, Vinoba Bhave and the role of Gram Nyayalayas and a critical analysis of naxal movement in India and steps taken by the Government to control naxal movement.

Course Outcome :

After completion of this course, the student will be able

- a) To know how law has changed the society and how there is an improvement in the social status of women and children because of certain specific legislations in favour of children and women.
- b) To analyse the role of language in interpretation of laws and its importance in statutes.
- c) To elucidate the concepts of regionalism and religion as divisive factors in society and how law effectively control this divisiveness.
- d) To analyse the challenges that witness in the society in recent times in the areas of social, political and economic relations and how far the existing law meet these challenges.
- e) To understand the alternative social approaches given by Mahatma Gandhi and Vinoba Bhave and its impact on the present societal relations.

Select Bibliography

- Marc Galanter (ed.), Law and Society in Modern India (1997) Oxford. Robert Lingat, The Classical Law of India (1988), Oxford.
- U.Baxi, The Crisis of the Indian Legal System (1982). Vikas, New Delhi. U.Baxi (ed.), Law and Poverty Critical Essays (1988), Tripathi, Bombay. Manushi, A Journal about Women and Society.
- Duncan Derret, The State, Religion and Law in India (1999). Oxford University Press, New Delhi. H.M. Seervai, Constitutional Law of India (1996), Tripathi.
- D.D. Basu, Shorter Constitution of India (1996), Prentice – Hall of India (P) Ltd., New Delhi.
- Sunil Deshta and Kiran Deshta, Law and Menace of Child Labour (1997), Sage.
- India Law Institute, Law and Social Change: Indo-American Reflections, Tripathi (1988)
- J.B. Kripalani, Gandhi: His life and Thought, (1970) Ministry of Information and Broadcasting, Government of India.
- M.P. Jain, Outlines of Indian Legal History, (1993), Tripathi, Bombay
- Agnes, Flavia, Law and Gender Inequality: The Politics of Women's Rights in India (1999), Oxford.

COURSE CODE : TH-103102

COURSE NAME : INDIAN CONSTITUTIONAL LAW: THE NEW CHALLENGES

Course Objectives

The Constitution, a living document, is said to be always in the making. The judicial process of constitutional interpretation involves a technique of adapting the law to meet changing social mores. Constitution being the fundamental law, an insight into its new trends is essential for a meaningful understanding of the legal system and processes. The post graduate students in law who had the basic knowledge of Indian Constitutional Law at LL.B. level, should be exposed to the new challenges and perspectives of constitutional development while they are allowed to choose an area of law for specialization. Obviously, rubrics under this paper require modification and updating from time to time.

Syllabus

1. Federalism

Creation of new states

Allocation and share of resources – distribution of grants in aid The inter-state disputes on resources

Rehabilitation of internally displaced persons.

Centre's responsibility and internal disturbance within States. Directions of the Centre to the State under Article 356 and 365.

Federal Comity: Relationship of trust and faith between Centre and State. Special status of certain States.

Tribal Areas, Scheduled Areas

Learning outcome :

By proper study of this unit, the student will be able to remember about the **Federalism**, Allocation and share of resources, the inter-state disputes on resources Centre's responsibility and internal disturbance within States and Special status of certain States etc., that are already studied in his LL.B. Course. By study of this unit, the student will be able to exhibit memory of the previously learned material by recalling facts terms, basic concepts and answers. He will be able analytically study and exhibit new thoughts also.

2. "State": Need for widening the definition in the wake of liberalization.

Learning outcome :

By proper study of this unit, the student will be able to demonstrate understanding of facts and ideas by Interpreting giving descriptions and stating main ideas of the need for widening the definition in the wake of liberalization. By analytically study of this chapter, the student will be able to know that whether the private undertaking will be coming into the purview of the State.

3. Right to equality: privatization and its impact on affirmative action.

Learning outcome :

By proper study of these units, the student will be able to understand and solve the problems with regard to the Right to equality, privatization and its impact on affirmative action, empowerment of women. By proper study of this unit, the student can be able to solve the problems to new situations by applying acquired knowledge and skills of the students are to be improved as their analyzing capacity will be enhanced. The students will also be able to apply his mind towards the laws which are enacted for empowerment of women and up to how much the women were secured by study of the case laws relating to it.

4. Empowerment of women.

Learning outcome :

By proper study of these units, the student will be able to examine by identifying motives or causes for the strikes, Hartal, Bundh, Freedom of press and challenges of new scientific development and whether the wrongful information is given by press and media attracting the defamation, freedom of speech and right to broadcast and telecast can be liable to be prosecuted on the wrongful information. The students also be able to give guidelines how to solve the problems on this issue.

5. Freedom of press and challenges of new scientific development
Freedom of speech and right to broadcast and telecast. Right to strikes,
hartal and bandh.

Learning outcome :

By proper study of this unit, the student will be able to gather the information, validity of ideas regarding emerging regime of new rights and remedies, study of Directive Principles and Fundamental Duties into Fundamental Rights, Compensation jurisprudence, Right to education under Art 21 A of the Constitution, Commercialization of education and its impact though the Educational trust of the educational institution is established on non- profit basis and Brain drain by foreign education market. By proper study of this unit, the skills of the students are to be improved as their analyzing capacity will be grown up.

6. Emerging regime of new rights and remedies
Reading Directive Principles and Fundamental Duties into Fundamental
Rights Compensation jurisprudence
Right to education

Commercialization of education and its impact. Brain drain by foreign education market.

Learning outcome :

By proper study of these units, the student will be able to compile information together in a different way by comparing with minority rights with Secularism in a new pattern. The students also be able to give guidelines how to solve the problems of this issue.

7. Right of minorities to establish and administer educational institutions and state control.

Learning outcome :

By proper study of this unit, the student will be able to compile information relating to the **Separation of powers: Stresses and strain**, Judicial activism and judicial restraint, PIL: implementation, Appointment, transfer and removal of judges. The students will also be able to judge that whether collegiums for appointment of judges of High Courts and also the Supreme Court will be leading to bias, whether Kripark Vs. Union of India case up to how much will be applicable in case of collegiums. The students also be able to give guidelines how to solve the problems for this issue.

8. Secularism and religious fanaticism.

Learning outcome :

By proper study of this unit, the student will be able to compile information relating to the Nexus of politics with criminals and the business, whether delay in trials on political offenders are justifiable and Economic offenders are left free is reasonable, why their passports are not ceased, Election commission, Electoral Reforms, why the candidates with criminal records are given eligibility for contesting in elections, what is the inner relationship between the election commission and politicians etc., will be deeply thought by the students. The students also be able to give guidelines how to solve the problems for this issue.

9. **Separation of powers: Stresses and strain**

Judicial activism and
judicial restraint. PIL:
implementation.
Judicial independence.
Appointment, transfer and removal
of judges. Accountability:
executive and judiciary.
Tribunals

10. **Democratic Process**

Nexus of politics with criminals and
the business. Election

Election
commission: status.
Electoral Reforms
Coalition government, 'stability, durability,
corrupt practice' Grass root democracy.

Course outcome:

After studying this paper, the student can

- The students will get an idea about the supreme document of India
- Every citizen of India must aware the constitution because each and every enactment found its base in the constitution
- Students will have the command on the rights that are given under the constitution
- Students can understand why the center and state relations are important in a country like India
- Students can be able to know the forms of governments and the features of our Constitution.

Select Bibliography

No specific bibliography is suggested for this course since the course materials obviously depends upon the latest developments. These developments in the areas specified in the course can be gathered from the recent materials such as case law, changes and amendments of laws, critical comments, studies and reports, articles and research paper and lastly contemporary emerging ethos impacting on constitutional values.

COURSE CODE :TH- 103133

PAPER-I: INDIAN PENAL CODE AND IMPORTANT PREVENTION DETENTION LAWS

Objectives of the course:

Keeping in view the changing contours of crimes the syllabus has been framed with a view to equip the candidates with contemporary trends the classification of crimes and criminals as a thorough backdrop of not only a substantive criminal law of the country but also the other legislations which try to deprive an individual of his liberty would enable the candidates to have a better perspective. All this has been included in the syllabus.

Syllabus

1. Concept of Crime
2. Theories of Punishment
3. Influence of various schools in framing the Indian penal code 1860 – Historical background
4. Applicability
 - 4.1. Actuaries
 - 4.2. Inchoate crimes
 - 4.3. Abatement
 - 4.4. attempt
 - 4.5. Conspiracy
 - 4.6. factors negative criminal responsibility
5. General exceptions
6. Joint and constructive crime
7. Mens rea in statutory offences against the State and concerning armed forces
8. Offences against public tranquility and against public authorities and justice
9. Offences against person
 - 9.1. Murder
 - 9.2. Culpable homicide
 - 9.3. Attempt to murder
 - 9.4. attempt of suicide
 - 9.5. grievous hurt
 - 9.6. Wrongful confinement
 - 9.7. Criminal Force

- 9.8. Kidnapping
- 9.9. Rape etc.,
- 10. Offence against Property
 - 10.1. Mischief,
 - 10.2. Trespass
 - 10.3. Misappropriation,
 - 10.4. Breach of trust
 - 10.5. Cheating
 - 10.6. Dacoity
 - 10.7. Falsification of accounts
 - 10.8. Theft
 - 10.9. Robbery and Dacoity
- 11. Offences against religion and marriage
- 12. Defamation'
- 13. Intimidation
- 14. Insult
- 15. Preventive Detention Laws
 - 15.1. Preventive Detention Act
 - 15.2. MISA'
 - 15.3. NSA
 - 15.4. COFEPOSA
 - 15.5. TADA
 - 15.6. POTA

Select bibliography

Kenny's Outlines of Criminal Law
Hall's Principles of Criminal Law
H.C. Gour's Indian Penal Code
Atchuttan Pillai's Indian Penal Code
Bhatia's Preventive Detention Laws in India

COURSE CODE : TH- 103112

PAPER-II: COMPARATIVE CRIMINAL PROCEDURE (TH-103112)

Objectives of the course

Criminal Procedure is being taught as a compulsory paper at the level of LL.B. today. However, a jurisprudential thrust has to be given to this subject at the post-graduate level as this is a subject which has constitutional undertones and jurisprudential importance. A study of comparative criminal procedure helps students develop an ecumenical approach and broadens their vision. It inspires them to renew and revise their laws to be in tune with developed systems. The paper is taught with reference to India England, France and China

Syllabus

1. Organisation of Courts and Prosecuting Agencies
 - 1.1. Hierarchy of criminal courts and their jurisdiction
 - 1.1.1. Nyaya Panchayats in India
 - 1.1.1.1. Panchayats in tribal areas
 - 1.2. Organisation of prosecuting agencies for prosecuting criminals
 - 1.2.1. Prosecutors and the police
 - 1.3. Withdrawal of prosecution.
2. Pre-trial Procedures
 - 2.1. Arrest and questioning of the accused
 - 2.2. The rights of the accused
 - 2.3. The evidentiary value of statements / articles seized / collected by the police
 - 2.4. Right to counsel
 - 2.5. Roles of the prosecutor and the judicial officer in investigation.
3. Trial Procedures
 - 3.1. The accusatory system of trial and the inquisitorial system
 - 3.2. Role of the judge, the prosecutor and defence attorney in the trial
 - 3.3. Admissibility and inadmissibility of evidence
 - 3.3.1. Expert evidence
 - 3.4. Appeal of the court in awarding appropriate punishment
 - 3.5. Plea bargaining
4. Correction and Aftercare services
 - 4.1. Institutional correction of the offenders
 - 4.2. General comparison - After - care services in India and France
 - 4.3. The role of the court in correctional programmes in India.

5. Preventive Measures in India
 - 5.1. Provisions in the Criminal Procedure Code
 - 5.2. Special enactments
6. Public Interest Litigation
 - 6.1. Directions for criminal prosecution.

Select bibliography

Celia Hampton, Criminal Procedure
 Wilkins and Cross, Outline of the Law of Evidence
 Archbold, Pleading, Evidence and Practice in Criminal Cases
 Sarkar, Law of Evidence
 K.N.Chandrasekharan Pillai(ed.), R. V. Kelkar's Outlines of Criminal Procedure (2000), Eastern, Lucnow .
 Patric Devlin, The Criminal Prosecution in England
 American Series of Foreign Penal Codes Criminal Procedure Code of People's Republic of China.
 John N. Ferdico, Criminal Procedure (1996), West
 Sanders & Young, Criminal Justice (1994)
 Christina Van Den Wyngart, Criminal Procedure Systems in European Community Joel Samaha, Criminal Procedure (1997), West
 Criminal Procedure Code,1973
 The French Code of Criminal Procedure,
 14th and 41 st Reports of Indian Law Commission.
 The Paper will be taught with reference, wherever necessary, to the procedures in India, England, US
 Fr.1nce. Russia and China

SECOND SEMESTER

COURSE CODE :TH- 103201

COURSE NAME : JUDICIAL PROCESS

Course Objectives:

A lawyer, whether academic or professional, is expected to be competent to analyse and evaluate the legal process from a broader juristic perspective. The objective of this paper is to study the nature of judicial process as an instrument of social ordering. It is intended to highlight the role of court as policy maker, participant in the power process and as an instrument of social change. This paper further intends to expose the intricacies of judicial creativity and the judicial tools and techniques employed in the process.

Since the ultimate aim of any legal process or system is pursuit of justice, a systematic study of the concept of justice and its various theoretical foundations is required. This paper, therefore, intends to familiarise the students with various theories, different aspects and alternative ways, of attaining justice.

Syllabus

1. Nature of judicial process

Judicial process as an instrument of social ordering
Judicial process and creativity in law – common law model – Legal Reasoning and growth of law – change and stability.
The tools and techniques of judicial creativity and precedent.
Legal development and creativity through legal reasoning under statutory and codified systems.

Learning outcome :

UNIT 1: The student will understand how judicial process works as social ordering, and how it brings change and stability in Law,

2. Special Dimensions of Judicial Process in Constitutional Adjudications.

Notions of judicial review
'Role' in constitutional adjudication – various theories of judicial role.
Tools and techniques in policy-making and creativity in constitutional adjudication. Varieties of judicial and juristic activism
Problems of accountability and judicial law-making.

Learning outcome :

UNIT 2: This unit makes the student to understand the special dimensions of judicial process, its role in constitutional adjudication, using judicial tools and techniques in policy making.

3. Judicial Process in India

Indian debate on the role of judges and on the notion of judicial review.
The “independence” of judiciary and the “political” nature of judicial process
Judicial activism and creativity of the Supreme Court-the tools and techniques of creativity.

Judicial process in pursuit of constitutional goals and values – new dimensions of judicial activism and structural challenges

Institutional liability of courts and judicial activism – scope and limits.

Learning outcome :

UNIT 3: Here the student understands judicial process in India, independence of judiciary, creativity of the Supreme Court, and the meaning of judicial activism.

4. The Concepts of Justice

The concept of justice or Dharma in Indian thought
Dharma as the foundation of legal ordering in Indian thought.
The concept and various theories of justice in the western thought.
Various theoretical bases of justice: the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

Learning outcome :

UNIT 4: This unit makes the student understand the concept of Dharma, how Law has been derived from Dharma, and various theories of justice in the western thought.

5. Relation between Law and Justice

Equivalence Theories – Justice as nothing more than the positive law of the stronger class.

Dependency theories – For its realization justice depends on law, but justice is not the same as law.

The independence of justice – means to end relationship of law and justice – The relationship in the context of the Indian constitutional ordering.

Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

Learning outcome :

UNIT 5: Here the student will be able to understand the relation between Law and Justice, different theories of justice and the selected cases of Supreme Court where judicial process is seen influenced by theories of justice.

Course Outcome:

1. The student understands the role of judicial dimensions, legal reasoning and growth of Law.
2. The student understands problems of accountability and judicial Law making.
3. The student will be able to make difference between independence of judiciary and political nature of judicial process.
4. The student will understand the concept of Dharma, Dharma as the foundation of legal ordering in India, and the relation between Law and Justice.

Select Bibliography

Julius Stone, The Province and Function of Law, Part II, 1.8-16 (2000), New Delhi. Cardozo, The Nature of Judicial Process (1995) Universal, New Delhi.
Henry J. Abraham, The Judicial Process (1998) , Oxford. W. Friedmann, Legal Theory (1960), Stevens, London.
Bodenheimer, Jurisprudence – the Philosophy and Method of the Law (1997), Universal, Delhi J. Stone, Legal System and Lawyers' Reasonings (1999), Universal, Delhi
U. Baxi, The Indian Supreme Court and Politics (1980), Eastern, Lucknow.
Rajeev Dhavan, The Supreme Court of India – A Socio-Legal Critique of its Juristic Techniques (1977), Tripathi, Bombay.
John Rawls, A Theory of Justice (2000), Universal, Delhi
Edward H. Levi, An introduction to Legal Reasoning (1970), University of Chicago.

COURSE CODE : TH-103202

COURSE NAME : LEGAL EDUCATION AND RESEARCH METHODOLOGY

Course Objectives:

A post-graduate student of law should get an insight into the objectives of legal education. He should have an exposure to programmes like organization of seminars, publication of law journals and holding of legal aid clinics.

Law is taught in different ways in different countries. The LL.M. course, being intended also to produce lawyers with better competence and expertise, it is imperative that the student should familiarise himself with the different systems of legal education. The lecture method both at LL.B. level and LL.M. level has many demerits. The existing lacunae can be eliminated by following other methods of learning such as case methods, problem method, discussion method, seminar method and a combination of all these methods. The student has to be exposed to these methods so as to develop his skills.

Growth of legal science in India depends on the nature and career of legal research. The syllabus is designed to develop also skills in research and writing in a systematic manner.

Syllabus

1. Objectives of Legal Education

Learning outcome :

Studies doctrinal and non- doctrinal social legal research.

2. Lecture Method of Teaching – Merits and demerits

Learning outcome :

Knowthe relevance of empirical research.

3. The Problem Method

Learning outcome :

- Preparing the hypothesis.

4. Discussion method and its suitability at postgraduate legal teaching

Learning outcome :

Understand the induction and deduction of the study

5. The Seminar Method of teaching

Learning outcome :

- Studies the research problem.

6. Examination system and problems in evaluation – external and internal

assessment.

Learning outcome :

- Importance of survey on available literature and bibliographic research.
7. Student participation in law school programmes – Organisation of Seminars, publication of journal and assessment of teachers.

Learning outcome :

- Studying the decisional materials including foreign decisions in the area pertaining research problem.
8. Clinical legal education – legal aid, legal literacy, legal survey and law reform

Learning outcome :

- Study the juristic writings relevant to research in India along with foreign periodicals.

9. .Research Methods

Social Legal Research Doctrinal and non-doctrinal
Relevance of empirical research induction and deduction

Identification of Problem of research

What is a research problem?

Survey of available literature and bibliographical research.
Legislative materials including subordinate legislation, notification and policy statements.

Decisional materials including foreign decisions; methods of discovering the “rule of the case” tracing the history of important cases and ensuring that these have not been over-ruled; discovering judicial conflict in the area pertaining to the research problem and the reasons thereof.

Juristic Writings – a survey of juristic literature relevant to select problems in India and foreign periodicals.

Compilation of list of reports or special studies conducted relevant to the problem.

10. Preparation of the Research Design

Formulation of the Research problem

Devising tools and techniques for collection of data:

Methodology Methods for the collection of statutory and case materials and juristic literature

Use of historical and comparative research materials

Use of observation studies

Use of questionnaires/interview Use of case studies

Sampling procedures – design of sample, types of sampling to be adopted.’ Use of scaling techniques

Jurimetrics

Computerized Research – A study of legal research programs such as Lexis and West law coding
Classification and tabulation of data – use of cards for data collection – Rules for tabulation. Explanation of tabulated data.
Analysis of data

Learning outcome :

Understand the list of reports or special studies relevant to the research problem.

Course outcomes:

After studying this paper, the student can

- Get to know the doctrinal and non-doctrinal social legal research.
- Enlighten about the relevance of empirical research.
- Know the identification of hypothesis and problem of research.
- Know the importance of juristic writings in India as well as foreign periodicals.
- Understand the preparation of research design.
- Know the formulation of research problem.
- Understand how to apply the methods and techniques to the study.
- Get to know how to use case studies, questionnaires, interview, and observation methods.
- Understand the computerized research by the study of lexis and west law coding.
- Preparation of classification and tabulation of data through various sources.

Bibliography

High Brayal, Nigel Dunean and Richard Crimes, Clinical Legal Education: Active Learning in your Law School, (1998) Blackstone Press Limited, London.

S.K.Agrawal (Ed.), Legal Education in India (1973), Tripathi, Bombay.

N.R.Madhava Menon, (ed) A Handbook of Clinical Legal Education, (1998) Eastern Book Company, Lucknow.

M.O.Price, H.Bitner and Bysiewicz, Effective Legal Research (1978) Pauline V. Young Scientific Social Survey and Research, (1962)

William J. Grade and Paul K.Hatt, Methods in Social Research, Mc Graw-Hill Book Company, London

H.M.Hyman, Interviewing in Social Research (1965) Payne, The Art of Asking Questions (1965)

Erwin C.Surrency, B.Fielf and J.Crea, A Guide to Legal Research (1959) Morris L.Cohan, Legal Research in Nutshell, (1996), West Publishing Co. Harvard Law Review Association, Uniform System of Citations.

ILI Publication, Legal Research and Methodology.

COURSE CODE :TH- 103201

PAPER-3: PENOLOGY AND PRIVILEGED CLASS DEVIANCE

Objectives of the course

This course offers a specialist understanding of criminal policies including theories of punishment, their supposed philosophical and sociological justifications and the problematic of discretion in the sentencing experience of the 'developing' societies, a focus normally absent in law curricula so far.

The expert 'work of the U.N. Committee on Crime Prevention and Treatment of Offenders will be availed of in this course. Especially, at each stage, the three 'D's will be explored as offering a range of alternatives: decriminalisation, dependization, deinstitutionalization. Broadly, the course will concern itself with:

This course focuses on the "Criminality of the "Privileged classes". The definition of "privileged classes" in a society like India should not pose major problem at all; the expression nearly includes wielders of all forms of state and social (including religious) power. Accordingly, the course focusses on the relation between privilege power and deviant behaviour. The traditional approaches which highlight "white-collar offences", "socio-economic offences" or "crimes of the powerful" deal mainly with the deviance of the economically resourceful. The dimension of deviance associated with bureaucracy, the new rich (nouveau riche), religious leaders and organizations, professional classes and the higher bourgeoisie are not fully captured here.

In designing teaching materials for this course, current developments in deviance, as reflected in newspapers/journals, law reports, and legislative proceedings should be highlighted.

It should be stressed that the objectives of the course include:

- (a) Dispelling of the commonly held belief that deviance crime is usually associated with the impoverished or improvident;
- (b) Construction of modelSo understanding the reality of middle and upper; middle class deviance criminality in India;
- (c) Critical analyses of legal system responses and
- (d) Issues and dilemmas in penal and sentencing policies.

The following syllabus prepared with the above objectives will be spread over a period of one semester.

PART-A: PENOLOGY

- (a) Theories of Punishment
- (b) Approaches to Sentencing

- (c) Alternatives to Imprisonment
 - (d) The State of Institutional Incarceration in India: Jails and other custodial institutions
 - (e) The problematic of Capital Punishment
 - (f) Penology in relation to, privileged class deviance
 - (g) Penology in relation to marginalized deviance or criminality
 - (h) The distinctive Indian (historical and contemporary) approaches to penology
- The following syllabus prepared with this perspective will be spread over a period of one semester.

Syllabus

1. Introductory
 - 1.1. Definition of Penology
 1. Theories of Punishment
 - 2.1. Retribution
 - 2.2. Utilitarian prevention: Deterrence
 - 2.3. Utilitarian: Intimidation
 - 2.4. Behavioural prevention: Incapacitation
 - 2.5. Behavioural prevention: Rehabilitation - Expiation
 - 2.6. Classical Hindu and Islamic approaches to punishment.
 3. The Problematic of Capital Punishment
 - 3.1. Constitutionality of Capital Punishment
 - 3.2. Judicial Attitudes towards Capital Punishment in India - An inquiry through the statute law and case law.
 - 3.3. Law Reform Proposals
4. Approaches to Sentencing
 - 4.1. Alternatives to Imprisonment
 - 4.1.1. Probation
 - 4.1.2. Corrective labour
 - 4.1.3. Fines
 - 4.1.4. Collective fines
 - 4.1.5. Reparation by the offender/by the court
5. Sentencing
 - 5.1. Principal types of sentences in the Penal Code and special laws
 - 5.2. Sentencing in white collar crime
 - 5.3. Pre-sentence hearing

- 5.4. Sentencing for habitual offender
- 5.5. Summary punishment
- 5.6. Plea-bargaining
- 6. Imprisonment
 - 6.1. The state of India's jails today
 - 6.2. The disciplinary regime of Indian prisons
 - 6.3. Classification of prisoners
 - 6.4. Rights of prisoner and duties of custodial staff.
 - 6.5. Deviance by custodial staff
 - 6.6. Open prisons
 - 6.7. Judicial surveillance - basis - development reforms

PART-B:

- 1. Introduction
 - 1.1. Conceptions of white collar crimes
 - 1.2. Indian approaches to socio-economic offences
 - 1.3. Notions 'of privileged class deviance as providing a wider categorization of understanding Indian development
 - 1.4. . Typical forms of such deviance
 - 1.4.1. Official deviance (deviance by legislators, judges, bureaucrats)
 - 1.4.2. Professional deviance: journalists, teachers, doctors, lawyers, engineers, architects and publishers
 - 1.4.3. Trade union deviance (including teachers, lawyers/urban property owners)
 - 1.4.4. Landlord deviance (class/caste based deviance)
 - 1.4.5. Police deviance
 - 1.4.6. Deviance on electoral process (rigging, booth capturing, impersonation, corrupt practices)
 - 1.4.7. Gender-based aggression by socially, economically and politically powerful

NOTE: Depending on specialist interest by the teacher and the taught any three areas of deviance of privileged class may be explored. What follows is only illustrative of one model of doing the course.

- 2. Official Deviance
 - 2.1. Conception of official deviance - permissible limit of discretionary powers.
 - 2.2. The Chambal valley dacoit Vinoba Mission and Jai Prakash Narain Mission - in 1959 and 1971
 - 2.3. The Chagla Commission Report on LIC-Mundhra Affair
 - 2.4. The Das Commission Report on Pratap Singh Kairon The Grover Commission Report on Dev Raj Urs
 - 2.5. The Maruti Commission Report
 - 2.6. The Ibakkar-Natarajan Commission Report on Fairfax.
- 3. Police Deviance
 - 3.1. Structures of legal restraint on police powers in India

- 3.2. Unconstitutionality of "third-degree" methods and use of fatal force by police
- 3.3. "Encounter" killings
- 3.4. Police atrocities
- 3.5. The plea of superior orders
- 3.6. Rape and related forms of gender-based aggression by police and para-military forces
- 3.7. Reform suggestions especially by the National Police Commissions
4. Professional Deviance
 - 4.1. Unethical practices at the Indian bar
 - 4.2. The Lentin Commission Report
 - 4.3. The Press Council on unprofessional and unethical journalism
 - 4.4. Medical malpractice
5. Response of Indian Legal Order to the Deviance of Privileged Classes
 - 5.1. Vigilance Commission
 - 5.2. Public Accounts Committee
 - 5.3. Ombudsman
 - 5.4. Commissions of Enquiry
 - 5.5. Prevention of Corruption Act, 1947
 - 5.6. The Antulay Case

Select bibliography

- S. Chhabbra, *The Quantum of Punishment in Criminal Law* (1970),
 H.L.A. Hart, *Punishment and Responsibility* (1968)
 Herbert L. Packer, *The Limits of Criminal Sanction* (1968)
 Alf Ross, *On Guilt, Responsibility and Punishment* (1975)
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 Law Commission of India, *Forty-Second Report Ch. 3* (1971)
 K.S. Shukla, "Sociology of Deviant Behaviour" in *3 ICSSR Survey' of Sociology and Social Anthropology 1969-179* (1986)
 Tapas Kumar Banerjee, *Background to Indian Criminal Law* (1990), R.Campray & Co., Calcutta.
 Upendra Baxi, *The Crisis of the Indian Legal System* (1982) Vikas Publishing House, New Delhi.
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 Upendra Baxi, *Liberty and Corruption: The Antulay Case and Beyond* (1989)
 Surendranath Dwevedi and G.S. Bbargava, *Political Corruption in India* (1967)
 A.R. Desai (ed.) *Violation of democratic Rights in India* (1986)
 A.G. Noorani, *Minister's Misconduct* (1974)
 B.B. Pande, "The Nature and Dimensions of Privileged Class Deviance" in *The Other Side of Development 136* (1987; K.S. Shukla ed.).
 Indira Rotherrn und, "Patterns of Trade Union Leadership in Dhanbad Coai fields" *23 J.I.L.I* 522'(1981)

COURSE CODE : TH-103228

PAPER-4: DRUG ADDICTION, CRIMINAL JUSTICE, AND HUMAN RIGHTS

Objectives of the course

Almost all the major dilemmas of criminal policy surface rather acutely in combating drug addiction and trafficking through the legal order. The issue of interaction between drug abuse and criminality is quite complex, At least three important questions have been recently identified as crucial for comparative research, First, to what extent drug dependence contributes to criminal behaviour?

Second, in what ways do criminal behaviour patterns determine drug abuse? Third, are there any common factors which contribute to the determination of both drug abuse and criminal behaviour?

Apart from these causal issues, there is the broad questions of the social costs-benefits of criminalization of addictive behaviour. Should drug-taking remain in the category of "crime without victims?" Or should it be viewed as (i>osing an ever-growing threat to human resource development and be subjected to state control, over individual choices as to survival and life-styles?

The problems here are not merely ideological or theoretical. User of drugs for personal, non-therapeutic purposes may well be linked with international trafficking in psychotropic substance. It has even been suggested that encouragement of drug-dependency may have, in addition to motivation of high profits, politically subversive aspects.

Assuming that both addiction and trafficking have to be reg_lated, what penal policies should be appropriate? What human rights costs in the administration of criminal justice should be considered acceptable? The international response to these questions is indicated by the Single Convention on Narcotic Drugs, 1961, adopted in New York, 30 March 1961 and as amended by 1972 Protocol in Geneva, 25 March, 1972 and the Convention on Psychotropic substances, adopted in Vienna, 21 February 1971. India has recently adopted the basic principles of these conventions in the Narcotic Drugs and Psychotropic Substances Act, 1986 Broadly, penal policy dilemmas here relate to: (a) management of sanctions relating to production, distribution and illicit commerce in Narcotic Substances and, (b) ways of prevention of abuse of drugs, including speedy diagnosis, treatment, correction, aftercare, rehabilitation, and realization of persons affected, Important problems of method in studying the impact of regulation need evaluated at every stage.

The following syllabus prepared with the above perspective will be spread over a period of one semester.

Syllabus

1. Introductory

1.1. Basic conceptions

1.1.1. Drugs' narcotics" "psychotropic substances"

1.1.2. 'Dependence," "addiction"

1.1.3. "Crimes without victims

- 1.1.4. "Trafficking" in "drugs"
 - 1.1.5. "Primary drug abuse"
 2. How Does One Study the Incidence of Drug Addiction and Abuse?
 - 2.1. Self-reporting
 - 2.2. Victim-studies
 - 2.3. Problems of comparative studies
3. Anagraphic and Social Characteristics of Drug Users
 - 3.1. Gender
 - 3.2. Age
 - 3.3. Religiousness
 - 3.4. Single individuals/cohabitation
 - 3.5. Socio-economic level of family
 - 3.6. Residence patterns (urban/rural/urban)
 - 3.7. Educational levels
 - 3.8. Occupation
 - 3.9. Age at first use
 - 3.10. Types of drug use
 - 3.11. Reasons given as cause of first use
 - 3.12. Method of intake
 - 3.13. Pattern of the – Use
 - 3.14. Average Quantity and Cost
 - 3.15. Consequences on addict's health (physical/psychic)

NOTE: Since no detailed empirical studies exist in India, the class should be in this topic sensitized by comparative studies. The principal objective of this discussion is to orient the class to a whole variety of factors which interact in the making of a drug addict.

4. The International Legal Regime
 - 4.1. Analysis of background, text and operation of the Single Convention on Narcotic Drugs, 1961, 1972
 - 4.2. Analysis of the Convention on Psychotropic Substances, 1972
 - 4.3. International collaboration in combating drug addiction
 - 4.4. The SARC, and South-South Cooperation
 - 4.5. Profile of international market for psychotropic substances
5. The Indian Regulatory System
 - 5.1. Approaches to narcotic trafficking during colonial India
 - 5.2. Nationalist thought towards regulation of drug trafficking and usage
 - 5.3. The Penal provisions (under the IPC ands the Customs Act)
 - 5.4. India's role in the evolution of two international conventions
 - 5.5. Judicial approaches to sentencing in drug trafficking and abuse
 - 5.6. The Narcotic Drugs and Psychotropic Substances Act, 1985

- 5.7. Patterns of resource investment in India: policing adjudication, treatment, aftercare and rehabilitation
6. Human Rights Aspects
 - 6.1. Deployment of marginalized people as carrier of narcotics
 - 6.2. The problem of juvenile drug use and legal approaches
 - 6.3. Possibilities of misuse and abuse of investigative prosecutory powers
 - 6.4. Bail
 - 6.5. The Problem of differential application of the Ugal Regimes, especially in relation to the resource less
7. The Role of Community in Combating Drug Addiction
 - 7.1. Profile of Community initiatives in inhibition of dependence and addiction (e.g. de addiction and aftercare)
 - 7.2. The role of educational systems
 - 7.3. The role of medical profession
 - 7.4. The role of mass media
 - 7.5. Initiatives for compliance with regulatory systems
 - 7.6. Law reform initiatives

Select bibliography

H.S. Becker, *Outsiders: The Studies in Sociology of Deviance* (1966)

J.A. Incard, C.D. Chambers, (eds.), *Drugs and the Criminal Justice System* (1974)

R. Goeken, *Drug Abuse and personality in Young Offenders* (1971)

G. Edwards Busch, (ed.) *Drug Problems in Britain: A Review of Ten Years* (1981)

P. Kondanram and Y.N. Murthy, "Drug Abuse and Crime: A Preliminary Study" 7 *Indian Journal of Criminology*, 65-68 (1979)

P.R. Rajgopat *Violence and Response: A Critque of the Indian Criminal System* (1988)

United Nations, *Economic and Social Reports of the Commission on Narcotic Drugs*, United Nations

Social Defence, Research Institute (UNSDRI) *Combating Drug Abuse and Related Crimes* (Rome, July 1984, Publicatio.n No. 21).

Lok Sabha and Rajya Sabha Debates on 1986 Bill on Psychotropic Substances. Useful Journals in this area are:

The Law and Society Review (USA)

Journal of Drug Issues (Tallahassee Florida)

International Journal of Addictions (New York)

British Journal of Criminology

Journal of Criminal Law, Criminology and Police Science (Baltimore, Md.)

Journal of Criminal Law and Criminology (Chicago, III)

International Journal of Offender Therapy and Comparative Criminology (London)

Bulletin on Narcotics (United Nations)

THIRD SEMESTER

COURSE CODE : TH- 103323

PAPER-5 : JUVENILE DELINQUENCY

Objectives of the course

Juvenile delinquency is considered an important branch of criminology. The impact of juvenile delinquency upon the formation of Indian criminology tradition does not seem to be noticeable. No understanding of crimes and treatment of offenders can be complete without a sure grasp of causes, carrots, and cures of juvenile delinquency.

Increasingly, it is being also realized that young offenders require a wholly different centre of criminal justice system and should not be treated in the same way as the adult offenders.

Juvenile

Justice System, although a part of the criminal justice system has now its own autonomous characteristics.

In addition, the state and the law have to deal with juveniles in certain situations, as *Parens Patriae*. The category of 'neglected children' defines the burdens of care which state and society have to assume for neglected children. Most categories of neglected children are also themselves the victims of crime: The institutional care of children poses its own distinctive dilemmas. These, too, should be discussed, especially, at the level of resource investment compared with the extent of need.

The following syllabus prepared with this perspective will extend to a period of one semester.

Syllabus

1. The Basic Concepts

- 1.1. The conception of 'child' in Indian Constitution and Penal Code.
- 1.2. Delinquent juvenile
- 1.3. "Neglected" juvenile
- 1.4. The overall situation of children/young persons in India, also with reference to crime statistics (of crimes by and against children)

2. Determining Factors of Juvenile Delinquency

- 2.1. Differential association
- 2.2. Anomie
- 2.3. Economic pressure
- 2.4. Peer group influence

- 2.5. Gang sub-culture
- 2.6. Class differentials
- 3. Legislative Approaches
 - 3.1. Legislative approaches during the late colonial era.
 - 3.2. Children's Act
 - 3.3. Legislative position in various States
 - 3.4. The Juvenile Justice Act
 - 3.4.1. Constitutional aspects.
 - 3.4.2. Distinction between "Neglected" and "delinquent" juveniles.
 - 3.4.3. Competent authorities
 - 3.4.4. Processual safeguards for juveniles
 - 3.4.5. Powers given to government
 - 3.4.6. Community participation as envisaged under the Act
- 4. Indian Context of Juvenile Delinquency
 - 4.1. The child population percentage to total sex-ratio, urban/rural/rural-urban
 - 4.2. Neglected - below poverty line, physically and mentally disabled, orphans, destitutes, vagrants.
 - 4.3. Labourers
 - 4.3.1. In organised industries like zari, carpet, bidi, glass
 - 4.3.2. In unorganised sector like domestic servant, shops and establishments, rag-pickers family trade.
 - 4.4. Delinquent - number, sex-ratio, ratio to adult crime, types of offences committed, recidivism, rate of increase background
 - 4.5. Drug addicts
 - 4.6. Victims
 - 4.6.1. Of violence - sexual abuse, battered, killed by parents
 - 4.6.2. Of criminal activities like bootlegging, drug pollution as a response of protective approach
- 5. Judicial Contribution
 - 5.1. Social action litigation concerning juvenile justice
 - 5.2. Salient judicial decisions
 - 5.3. Role of legal profession in juvenile justice system.
- 6. Implementation
 - 6.1. Institutions, bodies, personnel
 - 6.2. Recruiting and funding agencies
 - 6.3. Recruitment qualifications and salaries or fund
 - 6.4. Other responsibilities of each agency/person
 - 6.5. Coordination among related agencies
 - 6.6. Accountability-annual reports and accessibility of public to juvenile justice institution.

7. Preventive Strategies

- 7.1. State Welfare programmes health, nutrition, ICWS, grants-in-aid
- 7.2. State Welfare programmes health, nutrition, ICWS, grants-in-aid
- 7.3. Compulsory education Role of community, family, voluntary, bodies, individuals.

Select bibliography

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K.S. Shukla, Adolescent Offender (1985)

United Nations, Beijing Rules on Treatment of Young Offenders (1985)

Myron Weiner, The Child and State in India (1990)

The United Nations Declaration on the Rights of Children

UNICEF periodic materials

COURSE CODE (TH- 103324)

PAPER-6: COLLECTIVE VIOLENCE AND CRIMINAL JUSTICE SYSTEM

Objectives of the course

This is a crucial area of Indian development with which traditional, western, criminology is not overly preoccupied. Collective political violence (CPV) is the order of the day, whether it is agrarian (feudal) violence, or it is atrocities against untouchables, communal riots, electoral violence, police violence (encounters), political violence by militant and extremist groups, gender-based violence or violence involved in mercenary terrorism and its containment. It is not very helpful in such contexts, to mouth the generalities such as "criminalization" or "lumpenization" of Indian politics. Closer scientific investigation of these phenomena is crucial, which should help us understand both the aetiology and the prognosis of CPV. Instead of political analysis the course should focus on a broader social understanding of the political economy of law in India. Each specific form of violence will be examined with a view to identifying the course of its evolution, the state-law response policies of management of sanctions, compensation and rehabilitation of victims of violence, social and political costs. The growth of police and paramilitary forces will also, in this context, be an object of study. Primary materials here will be governmental and citizen investigative reports. The emphasis of the course will be on fashioning overall democratic understanding and responses to meet this problem. The following syllabus prepared with this perspective will be spread over a period of one semester.

Syllabus

1. Introductory

- 1.1. Notions of "force", "coercion", "violence"
- 1.2. Distinctions: "symbolic" violence, "institutionalized" violence, "structural violence"
- 1.3. Legal order as a coercive normative order
- 1.4. Force-monopoly of modern law

- 1.5. "Constitutional" and "criminal" speech: Speech as incitement to violence
- 1.6. "Collective political violence" and legal order
- 1.7. Notion of legal and extra-legal "repression"

2. Approaches to Violence in India

- 2.1. Religiously sanctioned structural violence: Caste and gender based
- 2.2. Ahimsa in Hindu, Jain, Buddhist, Christian, and Islamic traditions in India
- 2.3. Gandhiji's approach to non-violence
- 2.4. Discourse on political violence and terrorism during colonial struggle
- 2.5. Attitudes towards legal order as possessed of legitimate monopoly over violence during the colonial period

3. Agrarian Violence and Repression

- 3.1. The nature and scope of agrarian violence in the 18-19 centuries India
- 3.2. Colonial legal order as a causative factor of collective political (agrarian) violence
- 3.3. The Telangana struggle and the legal order
- 3.4. The Report of the Indian Human Rights Commission on Arwal Massacre

4. Violence against the Scheduled Castes

- 4.1. Notion of Atrocities
- 4.2. Incidence of Atrocities
- 4.3. Uses of Criminal Law to combat Atrocities or contain aftermath of Atrocities
- 4.4. Violence Against Women

5. Communal Violence

- 5.1. Incidence and courses of "communal" violence
- 5.2. Findings of various commissions of enquiry
- 5.3. The role of police and para-military systems in dealing with communal violence
- 5.4. Operation of criminal justice system tiring, and in relation to, communal violence

6. Collective Political Violence and State Action

- 6.1. Electoral violence and Reforms
- 6.2. Violence by Militant and Extremist Groups
- 6.3. Violence by Police and Paramilitary Forces
- 6.4. State Measures – Statutory and Non-statutory
- 6.5. Role of Civil society

NOTE: Choice of further areas will have to be made by the teacher and the taught

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