

Syllabus :

1. Law and Social Change
  - 1.1 Law as an instrument of Social change.
  - 1.2 Law as the product of traditions and culture Criticism and evaluation in the light of colonisation and the introduction of common law system and institution in India and its impact on further development of law and legal institutions in India.
  
2. Religion and the law
  - 2.1 Religion as a divisive factor.
  - 2.2 Secularism as a solution to the problem.
  - 2.3 Reform of the law on Secular lines : Problem.
  - 2.4 Freedom of religion and non-discrimination on the basis of religion.
  - 2.5 Religious minorities and the law.
  
3. Language and the law.
  - 3.1 Language as a divisive factor formation of linguistic states.
  - 3.2 Constitutional guarantees to linguistic minorities.
  - 3.3 Language policy and the Constitution: Official language : multi - Language System.
  - 3.4 Non-discrimination on the ground of language.
  
4. Community and the Law.
  - 4.1 Caste as a divisive factor.
  - 4.2 Non-discrimination on the ground of caste.
  - 4.3 Acceptance of caste as a factor to undo past injustices.
  - 4.4 Protective discrimination Scheduled castes tribes and backward classes.
  - 4.5 Reservation : Statutory Commissions Statutory provisions.
  
5. Regionalism and the law.
  - 5.1 Regionalism as a divisive factor.
  - 5.2 Concept of Indian as one unit.
  - 5.3 Right of movement residence and business, impermissibility of state or regional barriers.
  - 5.4 Equality in matters of employment the slogan "Sons of the Soil" and its practice.
  - 5.5 Admission to educational institutions preference to residents of a state.
  
6. Women and the law
  - 6.1 Crimes against women
  - 6.2 Gender injustice and its various forms.
  - 6.3 Women's Commission
  - 6.4 Empowerment of women constitutional and other legal provisions.
  
7. Children and the law
  - 7.1 Child labour
  - 7.2 Sexual exploitation
  - 7.3 Adsorption and related problems.
  - 7.4 Children and education.
  
8. Modernization and the law
  - 8.1 Modernization as value Constitutional perspectives reflected in the fundamental duties.
  - 8.2 Modernization of social institutions through law
    - 8.2.1 Reform of family law
    - 8.2.2 Agrarian reform - Industrialization of agriculture.
    - 8.2.3 Industrial reform : Free enterprise Vs State regulation-Industrialization Vs. environmental protection.
  - 8.3 Reform of court processes
    - 8.3.1. Criminal law plea bargaining compounding and payment of compensation to

victims.

8.3.2 Civil Law : (ADR) Confrontation V Consensus, mediation and conciliation, Lok Adalats.

8.3.3. Prison reforms.

8.4 Democratic decentralization and local self-government.

9. Alternative approaches to law

9.1 The Jurisprudence of Sarvodaya - Gandhiji, Vinobha Bhave, Jayaprakash Narayan - Surrender of dacoits; concept of gramnyayas.

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

9.3 Indian Marxist critique of law and justice.

9.4 naxalite movement : Causes and cure.

Select Bibliography :

1. Mare Galanter (ed.) Law and Society in Modern India (1997) Oxford. Robert Lingat, The Classical Laws of India (1998), Oxford.
  2. U. Baxi, The crisis of the India Legal System (1982), Vikas, New Delhi.
  3. U. Baxi (ed.) Law and Poverty Critical Essays (1988), Tripathi, Bombay.
  4. Manushi, A Journal About women and Society.
  5. Duncan Derret, The State, Religion and law in India (1999), Oxford University Press, New Delhi.
  6. H.M. Seervai. Constitutional law of India (1996), Tripathi.
  7. D.D. Basu, Shorter Constitution of India (1996). Prentice - Hall of India (p) Ltd. New Delhi.
  8. Sunil Deshta and Kiran Deshta, Law and menace of Child Labour (2000) Armol Publications Delhi.
  9. Savitri Gunasekhare, Children, Law and Justice (1997), Sage
  10. Indian law Institute, Law and Social Change : Indo-American Reflections, Tripathi (1998)
  11. J.B. Kripalani, Gandhi : His life and Thought (1970) Ministry of Information and Broadcasting, Govt. of India.
  12. M.P. Jain, Outlines of Indian legal History, (1993) Tripathi, Bombay, Angas, Flavia, law and Gender Inequality : The Politics of Women's Rights in India (1999), Oxford.
- Master of Laws Law 2008-09  
LL.M. (Previous) (Semester-1)

Paper - 2

MARKS-100

INDIAN CONSTITUTIONAL LAW : THE NEW CHALLENGES

Objectives of the Course :

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 and 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.

The following syllabus prepared with this perspective will be spread over a period of one year/one semester.

### Syllabus

1. Federalism
  - 1.1 Creation of New States.
  - 1.2 Allocation and share of resources - distribution of grants in aid.
    - 1.2.1 The inter state disputes on resources.
  - 1.3 Rehabilitation of internally displaced persons.
  - 1.4 Centre's responsibility and internal disturbance within states.
  - 1.5 Directions of the Centre to the State under Article 356 and 365
  - 1.6 Federal Comity : Relationship of trust and faith between center and State.
  - 1.7 Special Status of certain States.
    - 1.7.1 Tribal Areas, Scheduled Areas
2. "State" : Need for widening the definition in the wake of liberalization.
3. Right to equality : Privatization and its impact on affirmative action.
4. Empowerment of women.
5. Freedom of press and challenges of New scientific development
  - 5.1 Freedom of Speech and right of broadcast and telecast.
  - 5.2 Right to strikes, hartal and bandh.
6. Emerging regime of new rights and remedies.
  - 6.1 Reading Directive Principals and Fundamental Duties into Fundamental Rights.
    - 6.1.1 Compensation Jurisprudence.
    - 6.1.2. Right to education
      - 6.1.2.1. Commercialization of education and its impact.
      - 6.1.2.2. Brain drain by foreign education market.
7. Right to minorities to establish and administer educational institutions and state control.
8. Secularism and religious fanaticism.
9. Separation of powers : stresses and strain
  - 9.1 Judicial activism and judicial restraint.
  - 9.2 PIL : implementation.
  - 9.3 Judicial Independence.
  - 9.4 Accountability : executive and judiciary.
  - 9.5 Tribunals
10. Democratic process
  - 10.1 Nexus of politics with criminals and the business.

Master of Laws  
LL.M. (Previous) (Semester-1)  
Group - B  
CRIMINAL LAW

2008-09

Paper - 3  
**COMPARATIVE CRIMINAL PROCEDURE CODE**

MARKS-100

Objective of the course :

Criminal Procedure is being taught as a compulsory paper at the level of LLB. 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 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. Organization of Courts and Prosecuting Agencies.
  - 1.1 Hierarchy of criminal courts and their jurisdiction.
    - 1.1.1 Nyaya panchyats in India
      - 1.1.1.1 Panchyats in tribal areas.
  - 1.2 Organization 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 the court in correctional programmes in India.
5. Preventive Measures in India
  - 5.1 Provision in the Criminal Procedure Code
  - 5.2 Special enactments
6. Public interest litigation
  - 6.1 Directions for criminal prosecution.

### Selected bibliography :

1. Celia hamptom, Criminal Procedure
2. Wilkins and Cross, Outline of the law of Evidence
3. Archbold, Pleading, Evidence and Practice in Criminal Cases.
4. Sarkar, Law of Evidence.
5. K.N. Chandrsekharan Pillai(ed). R.V.Kelkar's Outlines of Criminal procedure (2000), Eastern, Lucknow,
6. Patric Devlin, The criminal Prosecution in England.
7. American Series of Foreign Penal Codes Criminal Code of People's Republic of China.
8. John N. Ferdico Criminal procedure (1996) West
9. Sanders and Young Cnmnal justice (194)
- 10 Christina Van Den Wyngart, Criminal Procedure Systems in European Community Joel Samaha, Criminal Procedure (1997). West Criminal Procedure Code, 1973
11. The French Code of Criminal Procedure,
12. 14th and 41st Reports of Indian Law Commission.

The Paper will be taught with reference, wherever necessary, to the procedures in India,

England, US France, Russia and China.

Master of Laws

2008-09

LL.M. (Previous) (Semester-2)

Group - B

**JUDICIAL PROCESS** Paper - 4

MARKS-100

Objectives of the Course :

A lawyer, whether academic or professional is expected to analysis and evaluate the legal process from a broader juristic perspective Hence a compulsory paper on judicial Process is essential in the LL.M. curriculum. 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 marker, participant in the power process and as an instrument of social change. This paper further intends to expost 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 familiarized the students with various theories. Different aspects and alternative ways of attining justice.

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

Syallabus :

1. Nature of Judicial Process

- 1.1 Judicial Process as an instrument of social ordering.
- 1.2 Judicial process and creativity in law - Common law model Legal Reasoning and growth of law-change and stability.
- 1.3 The tools and techniques of judicial creativity and precedent
- 1.4 Legal development and creativity through legal reasoning under statutory and codified systems.

2. Special Dimensions of Judicial Process in Constitutional Adjudications

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

3. Judicial process in India

- 3.1 Indian debate on the role of judges and on the notion of judicial review.
- 3.2 The "independence" of judiciary and the "political" nature of judicial process.
- 3.3 Judicial activism and creativity of the Supreme Court the tools and techniques of creativity.
- 3.4 Judicial process in pursuit of constitutional goals and values-new dimensions of judicial activism and structural challenges.
- 3.5 Institutional liability of courts and judicial activism - scope and limits.

4. The concepts of Justice

- 4.1 The concept of justice or Dharma in Indian thought
- 4.2 Dharma as the foundation of legal ordering in Indian Thought.
- 4.3 The Concept and various theories of justice in the western thought.
- 4.4 Various thorical bases of justice : the liberal contractual tradition the liberal utilization and the liberalmoral tradition.

5. Relation between Law and Justice

- 5.1 Equivalence Theories - Justice as nothing more than the positive law of the stronger class.
- 5.2 Dependency theories - for its realization justice depends on law, but justice is not the

same as law.

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

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

Selected Bibliography :

1. Julius Store, The Province and Function of Law, Part II, Chs 1, 8-16 (2000), Universal New Delhi.
2. Cardozo, The Nature of Judicial Process (1995) Universal, New Delhi.
3. Henry, J Abraham, The Judicial Process (1998), Oxford.
4. J. Stone, Precedent and the law; Dynamics of common law growth (1985), Butterworths.
5. W. Friedmann, legal Theory (1960), STEVENS, London
6. Bodeneimer, Jurisprudence - the philosophy and Method of the Law (1997), Universal, Delhi.
7. J. Stone Legal system and Lawyer's Reasonings (1999), Universal Delhi.
8. U. Baxi, The Indian Supreme Court and Politics (1980), Eastern, Lucknow.
9. Rajeev Dhavan, The Supreme Court of India - A Socio - Legal Critique of its Juristic Techniques (1977), Tripathi, Bombay.
10. John Rawls, A Theory of Justice (2000) , Universal Delhi.
11. Edward H. Levi, An Introduction of legal Reasoning (1970) University of Chicago. Master of Laws 2008-09

LL.M. (Previous) (Semester-2)

Paper - 5

MARKS-100

PRIVILEGED CLASS DEVIANCE

Objective of the Course :

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 and deviant behavior. The traditional approaches which highlight "white-collar offences" "Socioeconomic offences" or "Crimes of the powerful" deal mainly with the deviance of economically resourceful. The dimension of deviance associated with bureaucracy. The new rich (nouveau riche), religious leaders and organization, Professional classes and the higher bourgeoisie are not fully captured here.

In designing teaching material for this course, current development is deviance, as reflected in newspapers/journals, law reports and legislative proceeding 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 model so 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 year/one semester.

Syllabus

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 an 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 deoiti 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
- 2.5 The Gorver Commission Report of Dev Raj Urs.
- 2.6 The Maruti Commission Report
- 2.7 The Ibakkar - Natarajan Commission Report on Fairfax.

## 3. Police Deviance

- 3.1 Structures of legal restraint on police power 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

## Selected Bibliography :

1. Upendra Baxi, The Crisis of the Indian Legal System (1982) Vikas Publishing House, New Delhi.
2. Upendra Baxi (ed) Law and Poverty : Essays (1988)
3. Upendra Baxi, Liberty and Corruption : The Antulay case and Beyond.
4. Surendranath Dwevedi and G.S. Bhargava, Political Corruption in India. (1967)
5. A.R. Desai (ed) Violation of democratic Rights in India (1986)
6. A.G. Norrani, Minister's Misconduct (1974)

7. B.B. Pande. "The Nature and Dimensions of Privileged class deviance in The Other side of Development 136 (1987, K.S. Shukla ed.)
8. Indira Rothermund, "Patterns of Trade Union Leadership in Dhanbad Coal fields" 23. J.I. 1522 (1981)

Master of Laws

2008-09

LL.M. (Final) (Semester-2)

Paper - 6

MARKS-100

DRUGADDICTION, CRIMINAL JUSTICE AND HUMAN RIGHTS

Objective 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 tissue 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



three any common factors which contributes to the determination of both drug abuse and criminal behaviour ?

Apart from these causal issues, there is the board questions of the social costs benefitis of criminalization of addictive behavious should drug taking remain in the category of "crime without victims" ? Or should it be viewed as posing 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 has even been suggested that encouragement of drug depenency may have in addition motivation of high profits, politically subversive aspects.

Assuming that both addition and trafficking have to be regulated, what penal policies should be appropriate ? What human rights constis in administration of criminal justice should be considered acceptable ? The international response of these questions is indicated by the Single Convention on Nacotic 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 substance adopted in Vienna 21 February 1971. India has recently adopted the basic principles of these conventions in the Nacrotic Drugs and Psychotropic Substance Act, 1986.

Broadly, penal policy dilemmas here relate to : (a) Management of sanctions relating to production distribution and illicit commerce in Narcotic Substance 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 year/one semester.

## Syallabus

### 1. Introduction

#### 1.1 Basic conceptions

- 1.1.1 Durgs 'nacrotics' "Psychtropic 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 Type of drug use
- 3.11 Reasons given as cause of first use
- 3.12 Method of intake
- 3.13 Average Quantity and Cost
- 3.14 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 the 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 Co-operation.
  - 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 and the Customs Act)
  - 5.4 India's role in the evolution of the two international conventions.
  - 5.5 Judicial approaches to sentencing in drug trafficking and abuse.
  - 5.6 The Narcotic Drugs and Psychotropic substance Act, 1985
  - 5.7 Patterns on resource investment in India : Policing adjudication, treatment, aftercare and re-habitation.
  
- 6. Human Rights Aspects
  - 6.1 Deployment of marginalized people as carrier of narcotics.
  - 6.2 The problems 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 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 :

- 1. H.S. Becker, *Outsiders : The Studies in Sociology of Deviance* (1966)
- 2. J.A. Incard, C.D. Chambers, (eds), *Drugs and the Criminal Justice System* (1974)
- 3. R. Cocken, *Drug Abuse and personality in Young Offenders* (1971)
- 4. G.Edwards Busch, (ed.) *Drug Problems in Britain : A Review of Ten Years* (1981)
- 5. P. Kondanram and Y.N. Murthy, "Drug abuse and Crime : "A Preliminary Study" 7 *Indian Journal of Criminology*, 65-68 (1979)
- 6. P.R. Rajgopat, *Violence and Response : A Critique of the Indian Criminal System* (1988)
- 7. United Nations, *Economics and Social Reports of th Commission on Narcotic Drugs*, United Nations.
- 8. *Social Defence, Research Institute (UNSDRI) Comabting Drug Abuse and Related Crimes* (Rome, July 1984, Publication No. 21)

9. Lok Sabha and Rajya Sabha Debates on 1986 Bill on Psychotropic Substance. Useful Journals in this area are :
- i) The Law and Society Review (USA)
  - ii) Journal of Drug Issues (Tallahassee Florida)
  - iii) International Journal of Addiction (New York)
  - iv) British Journal of Criminology
  - v) Journal of Criminal Law, Criminology and Police Science (Baltimore, Md.)
  - vi) Journal of Criminal Law and Criminology (Chicago III)
  - vii) International Journal of Offender Therapy and Comparative Criminology (London)
  - viii) Bulletin of Narcotics (United Nations)

Paper - 7 VII

LEGAL EDUCATION AND RESEARCH METHODOLOGY - THEORY

Marks 100

Objectives of the course :

A post-graduate student of law should get an insight into the objective of legal education. He should have an exposure to programmes like organisation 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 methods, problem 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 systemic manner.

Syllabus

1. Objectives of legal Education
2. Lecture Method of Teaching - Merits and demerits
3. The Problem Method
4. Discussion method and its suitability at postgraduates level teaching.
5. The seminar method of teaching.
6. Examination system and problems in evaluation - external and internal assessment.
7. Student participation in law school programmes - Organisation of Seminars, publication of journal and assessment of teachers.
8. Clinical legal education - legal aid, legal literacy, legal survey and law reform.
9. Research Methods
  - 9.1 Socio Legal Research
  - 9.2 Doctrinal and non-doctrinal
  - 9.3 Relevance of empirical research
  - 9.4 Induction and deduction
10. Identification of Problem of research
  - 10.1 What is a research problem
  - 10.2 Survey of available literature and bibliographical research.
    - 10.2.1 Legislative materials including subordinate legislation, notification and policy statements.
    - 10.2.2 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.

- 10.2.3 Juristic writings - a survey of juristic literature relevant to select problems in India and foreign periodicals.
- 10.2.4 Compilation of list of reports or special studies conducted relevant to the problem.
11. Preparation of the Research Design
- 11.1 Formulation of the Research Problem.
- 11.2 Devising tools and techniques for collection of data :  
Methodology
- 11.2.1 Methods for the collection of statutory and case materials and juristic literature.
- 11.2.2 Use of historical and comparative research amterials.
- 11.2.3 Use of observation studies.
- 11.2.4 Use of questionnaires\interview.
- 11.2.5 Use of case studies.
- 11.2.6 Sampling procedures - design of sample, types of sampling to be adopted.
- 11.2.7 Use of scaling techniques.
- 11.2.8 Jurimetrics
- 11.3 Computerized Research - A study of legal research programmes such as lexis and West Iwa coding
- 11.4 Classification and tabulation of data - use of cards for data collection -  
Rules for tabulation, Explanation of tabulated data.
- 11.5 Analysis of data

#### 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 Bysiewiez, 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.

Havard Law Review Association, Uniform System of Citations.

ILI Publication, Legal Research and Methodology.

Master of Laws	Law	2008-09
LL.M. (Final) (Semester-3)		
Paper - 7	PRACTICAL	MARKS-100

## Practical - LEGAL EDUCATION AND RESEARCH METHODOLOGY

The Practical examination shall be held in the Final year. These shall be 25 each for doctoral research and for non-doctrinal research and 25 marks for each, teaching and clinical work. How the components of practical shall be evaluated is left to the Department of Law. They can formulate their own models of assessment However, for making the practical examination objective and meaningful, the following guidelines shall be adhered to.

### 1. Research Methodology

#### i) Doctrinal Research (25 Marks)

Each student is assigned in advance a separate topic and asked to collect materials. A period of 5-7 days can be set apart for carrying out this assignment in the library. The materials indicated or collected during the assignment shall be evaluated by a group of faculty members.

#### ii) Non-doctrinal research (25 marks)

Here the students are asked to go out of the room and library and 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. The results are to be assessed by a team of faculty members.

### 2. Clinical Work (25 marks)

The modalities can be evolved by the law school. One method is that the legal aid clinic of law school can be involve itself with other legal aid programme in the area. Students are encouraged not only to work with the clinic but also to acquaint themselves with court proceedings, working of a business organization, tackling of labour disputes, drafting of business or other deeds and with public interest litigation the interactive and potential of the student and the actual work turned out by him shall be assessed by the faculty.

#### 2.1 Law Teaching (25 marks)

A topic is 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. They can select any of the methods of teaching. In legal education practical, the LL.M. students are evaluated internally and externally.

Master of Laws	Law	2008-09
LL.M. (Final) (Semester-3)		
Paper - 8	MARKS-100	
JUVENILE DELINQUENCY		

#### Objective of the courses :

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 realized that young offenders require a wholly different center 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 not 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 year\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 Procedural 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 urban.
  - 4.2 Neglected-below poverty line, physically and mentally disabled orphans, destitutes, vagrants.
  - 4.3 Labourers
    - 4.3.1 In organized industries like zari, carpet, bidi, glass.
    - 4.3.2 In unorganised sector like domestic servant, shops and establishment, 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 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 qualification 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 Compulsory education
  - 7.3 Role of community, family, voluntary, bodies, individuals.

#### Select bibliography

1. National Institute of social defence, Model Rules under the juvenile Justice Act, 1986 (1986)
2. K.S. Shukla, Adolescent Offender (1985)
3. United nations, Beijing Rules on Treatment of Young Offenders (1985)
4. Myron Weiner, The child and State in India (1990)
5. The United Nations Declaration on the Rights of Children
6. UNICEF Periodic materials.

Master of Laws Law 2008-09

LL.M. (Final) (Semester-3)

Paper - 9

MARKS-100

#### COLLECTIVE VIOLENCE AND CRIMINAL JUSTICE SYSTEM

#### Objective of the courses :

This is a crucial area of Indian development with which traditional, western criminology overly preoccupied. Collective political violence (CPV) is the order of the day, whether it is (feudal) violence, or it is atrocities against untouchables, communal riots, electoral 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 Impenization" of Indian politics closer scientific investigation of these phenomena is which should help us understand both the aetiology and the prognosis is 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 economic law in India. Each specification form of violence will be examined with a view to identifying the course its evolution through state law response policies of management of sanctins, compensation 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 government and citizen investigative reports. The emphasis of the response to meet this problem.

The following syllabus prepared with this perspective will be spread over a period of one year/one semester.

#### Syllabus

1. Introductory
  - 1.1 Notions of 'force' 'coercion', 'violence'
  - 1.2 Distinctions 'symbolic' violence 'institutionalised' violence, 'structural violence.
  - 1.3 Legal order as a corrective 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 approaches 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 Notions 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 paramilitary systems in dealing with communal violence
  - 5.4 Operation of criminal justice system being and in relation to communal violence.

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

#### Select bibliography

1. U. Baxi, "Dissent, Development and Violence" in R. Meagher (ed.) Law and Social Change Indo-American Reflections 92 (1988)
2. U. Baxi (ed.) Law and Poverty Critical Essays. (1988)
3. A.R. Desai (ed) Peasant Struggles in India (1979)
4. A.R. Desai, Violation of democratic Rights in India (1986)
5. A.R. Desai, Violation of democratic Rights in India (1986)
6. D.A. Dhangare, Peasant Movement in India 1920-1950 (1983)
7. Ranjit Guha, Elementary Aspects of Peasant Insurgency in Colonial India (1983) Ranjit Guha, (ed.) Subaltern Studies Vol. 1-6 (1983-1988)
8. T. Honderich, Violence for Equality (1980)
9. Mark Juergensmeyer, "The Logic of Religious Violence : The case of Punjab" 22, Contribution to Indian Sociology 65 (1988)
10. Rajni Kothari, State Against Democracy (1987)
11. G. Shah, Ethnic Minorities and nation Building Indian Experience (1984)
12. K.S. Shukla, "Sociology of Deviant Behaviour", in 3 ICSSR Survey of Sociology and Social Anthropology 1969 1979 (1986)

Master of Laws Law 2008-09  
 LL.M. (Final) (Semester-3)  
 Paper - 10 MARKS-100  
 PENOLOGY : TREATMENT OF OFFENDERS

Objective of the courses :

This course offers a specialist understanding of criminal policies including theories of punishment their supposed philosophical and sociological justification 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 : decriminalization, dependization, de-institutionalization.

Broadly, the course will concern itself with :

- 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 year/one semester.

Syllabus :

1. Introductory
  - 1.1 Definition of Penology
2. Theories of Punishment
  - 2.1 Retribution
  - 2.2 Utilization Prevention : Deterrence
  - 2.3 Utilization : 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 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 prison
  - 6.7 Judicial surveillance - basis - development reforms.

### Selected bibliography

1. S. Chhabbra, the Quantum of Punishment in Criminal law (1970)
2. H.L.A. Hart, Punishment and Responsibility (1968)
3. Herbert L. Packer. The Limits of Criminal Sanction (1968)
4. Alf Ross, On guilt Responsibility and Punishment (1975)
5. A. Siddque, Criminology (1984 eastern Lucknow.
6. Law Commission of India, Forty Second Report Ch 3 (1971)
7. K. S. Shukla, "Sociology of Deviant Behaviour" in 3ICSSR Survey of Sociology and Social Anthropology 1969-1979 (1986)
8. Tapas Kumar Banerjee, Background to Indian Criminal Law (1990), R. Campray & Co., Calcutta.

Master of Laws                      Law                      2008-09  
LL.M. (Final) (Semester-4)  
Paper - 11                                      MARKS-200  
DISSERTATION

Candidate must communicate the subject of his/her dissertation within 3 months from the commencement of the session. The topic of the dissertation shall be in accordance with the syllabus prescribed for LL.M. Every topic should be approved by the Head of the Department of the College. The Head of the Department will appoint the guide for each student.

It should be submitted before the completion of the examination in the form of Thesis in three copies in the Law Dept. The Dept. shall send two copies to the University and one copy in the college Library.

The dissertation shall be valued by an internal and an external examiner and there will be viva voce of 5 marks by the internal and an external examiner. The internal Examinations will be Head of the Dept. for all students. External will be appointed by the University.

The awards shall be by the consensus of examiners. In case of difference of Opinion external examiner shall award out of 20 marks and the internal examiner shall award out of 30 marks. The marks so awarded will be totaled in the end.

### Carry Forward Marks

A candidate who does not secure the pass percentage in LL.M. Previous or Final is fail. He will have to reappear in all the paper. In case of Dissertation and Practical if the candidate has secured 50 or more marks the marks shall be carried forwarded. If the candidate has secured less than 50 marks in the dissertation and the practical then he will have to submit a fresh Dissertation and appear again in the Practical.