

# **LL.M. SEMESTER-IV**

## **Core**

**LMC138 Dissertation**

## **Elective- Criminal Law**

**LME139 Collective Violence & Cr. Justice System**

**Or**

**LME140 Social Security Laws**

## **Elective- Constitution and Legal Order**

**LME141 National Security, Public Order and Rule of Law**

**Or**

**LME142 Comparative Administrative Law**

## **Elective- Human Rights Law**

**LME143 Science, Technology and Human Rights**

**Or**

**LME144 Juvenile Delinquency**

## **Skill**

**LMS145 Skill Development**



**LL.M. SEMESTER-IV**

**DISSERTATION**

**Core Course LMC138**

**Credit 12  
100 marks**

**LL.M. SEMESTER-IV**  
**GROUP –B CRIMINAL LAW**

**COLLECTIVE VIOLENCE & CRIMINAL JUSTICE SYSTEM**

**Elective Course LME139**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

Objective of the course

This is a crucial area of India development with 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, 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 etiology and the prognosis of CPV. Instead of political analysis the course should focus on broader social under –standing of the political economy of law in India. Each specific form of violence will be examined with a view to identifying the cause 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 response to meet this problem.

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

Syllabus

**UNIT-I**

**1. Introductory**

Notions of “force”, “coercion”, “violence”

Distinctions: “symbolic” violence, “institutionalized” violence, “ structural violence”

Legal order as a coercive normative order

Force- monopoly of modern law

“Constitutional” and “criminal” speech: Speech as incitement to violence  
“Collective political violence” and legal order  
Notion of legal and extra-legal “repression”

## UNIT-II

### 2. Approaches to Violence in India

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

## UNIT-III

### 3. Agrarian Violence and Repression

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

## UNIT-IV

### 4. Violence against the Scheduled Castes

- 4.1 Notion of Atrocities
  - 4.1.1. Incidence of Atrocities
  - 4.1.2. Corrective labour
  - 4.1.3. Fines
  - 4.1.4. Collective fines
  - 4.1.5. .Reparation by the offender/by the court

## UNIT-V

### 5. Communal Violence

- 5.1 Incidence and course 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

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

Select bibliography

U.Bax, "Dissent, Development and Violence" in R. Meagher (ed.) Law and Social Change: Indo- American Reflections 92 (1988)

U.Baxi (ed.), Law and Poverty: Critical Essays, (1988)

A.R.Desal, (ed.) Peasant Struggles in India (1979)

A.R.Desai, Agrarian Struggles in India: After Independence (1986) A.R. Desai, Violation of democratic Rights in India (1986)

D.A.Dhangare, Peasant Movement in India: 1920-1950 (1983)

Ranjit Guha, Element any Aspects of Peasant Insurgency in Colonial India (1983) Ranjit Guha, (ed.) Subaltern Studies Vol. 1-6 (1983-1988)

## **LL.M. SEMESTER-IV**

### **SOCIAL SECURITY LAWS**

**Elective Course LME140**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

#### **OBJECTIVES OF THE SUBJECT**

Social security is a necessary phenomenon of a welfare state. This course shall examine the various dimensions of labour security measures and seek linkages with social security would expose the students to the evolution and theory of concept of social security, social insurance and labour welfare. The objects to study this subject are: To study the laws regarding social security legislation in India and their judicial interpretation. To appreciate the legal problems connected with the coverage of the Statutes, nature and extent of the risks covered, types and extend of benefits, claims, settlement, procedures etc.

#### **UNIT-I**

1. Labour Welfare and Security as a part of general Social Security from *laissez faire* to Welfare

State

1.1 Origin and Development

1.2 Western Countries Charitable Institutions Professional Guilds Philanthropic Organizations

Workmen's Compensation Law in England and USA

2.2 Eastern Societies in India: Collective Bargaining System

2.3 International norms on social security for labour: the ILO Measures

UNIT-II

2. Constitutional Perspectives

2.1 Fundamental Rights: Realization of the rights through meaningful social security measures:

Right to life

2.2 Right to adequate means of livelihood, free legal aid, public assistance in cases of unemployment, old age sickness and disablement

UNIT-III

3. Towards an ideal Social Security Scheme:

3.1 Comprehensive and integrated social security: a utopian concept or a pragmatic approach

3.2 Funding

3.3 Benefits and beneficiaries

3.4 Role of Trade Unions

3.5 Social Security clauses in collective agreements

4. The Economics of Wages

4.1 Concepts of Minimum, Fair and Living Wages

4.2 Methods of Wages Fixation;

4.3 Wage Differentials Allowances and other Fringe Benefits

4.4 Minimum Wages Act, 1948: Aims, Objectives and Scope

UNIT-IV

5. Maternity Benefits Act, 1961

5.1 Definitions, Aims, Objective and Scope

5.2 Admissible Benefits and Eligibility

5.3 Criteria and Forfeiture

5.4 Powers and Duties of Inspectors

5.5 Offences and Penalties

6. Workmen's Compensation Act 1923

8.1 Aims, Objective and Scope

6.2 Definition, Substantive and Procedural Provisions regarding Compensation

6.3 Role of Workmen's Compensation Commissioner

UNIT-V

7. Employees State Insurance Act, 1948

7.1 Aims, Objectives and Scope

7.2 Definition of Corporation

7.3 Standing Committee and Medical Benefit Council

7.4 Contribution, Kinds of benefits and eligibility

7.5 Conditions, Adjudication of Disputes and claims

8. Employees Provident Funds and Miscellaneous Provisions Act, 1952

8.1 Aims, Objectives and Scope

8.2 Definitions Central Boards and its Role Provident Fund Scheme

8.3 Deposit Linked Insurance Scheme

9.4 Family Pension Scheme

## SELECT BIBLIOGRAPHY

1. Dr. Vivek Bhattacharya: Social Security Measures in India (Metropolitan, Delhi, 1970)
2. Bakshi and Mitra: Workmen's Compensation Act and other Social Insurance Legislations.
3. K. D. Srivastava: Commentaries on Employees, State Insurance Act
4. T. A. Raj Gopal: Employees Provident Funds Act and Scheme (Laws of India Pvt Ltd., Madras, 1967)
5. Larson: Workmen's Compensation Law
6. F. I. Barawala : The Law and Practices of the Provident Fund in India.
7. Dr. C. B. Mamoria : Principles of Social Security (Kitab Mahal, Allahabad, 1965)
8. Report of the Royal commission of India, 1931.
9. Report of the National commission on Labour, 1969.
10. O. P. Malhotra, Law of Industrial Disputes (1999)

## LL.M. SEMESTER-IV

### GROUP G- CONSTITUTION & LEGAL ORDER

#### NATIONAL SECURITY, PUBLIC ORDER, AND RULE

#### OF LAW

**Elective Course LME141**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

#### **Objectives of the Course**

In every written constitution, provision is required to be made to equip the state to face grave threats to its existence arising from extra-ordinary circumstances created by war or external aggression or armed rebellion. Although "amidst the clash of arms, the laws are not silent" they do not speak the same language in war as in peace. Extra-ordinary circumstances warrant the invocation of extra-ordinary laws and such laws are known as emergency laws. They put greater fetters on individual liberty and also eclipse certain aspects of the due process. But in such circumstances, the democratic force must assert that for survival of the State, the least possible liberty should be available. The students should be familiarized with different aspects of such emergency powers and scrutinizing intellectual attitude towards such powers.

The following syllabus prepared with the perspective will comprise 42 units of one-hour duration each to be covered over a period of one semester.



## **Syllabus**

### **UNIT-I**

#### **1. National Security, Public Orders and Rule of Law**

Emergency Detention in England –Civil Liberties

Subjective satisfaction or objective assessment?

Pre-Independence law.

### **UNIT-II**

#### **2. Preventive Detention and Indian Constitution**

Article 22 of the Constitution

Preventive Detention and Safeguards

Declaration of Emergencies

1962,1965 and 1970 Emergencies

1975 Emergency

### **UNIT-III**

#### **3. Exceptional Legislation**

3.1 COFEPOSA and other legislation to curb economic offender

3.2 TADA: “ the draconian law” –comments of NHRC

3.3 Special courts and tribunals

3.4 Due process and special legislation

### **UNIT-IV**

#### **4. Civil Liberties and Emergency**

4.1 Article 19

4.2 Meaning of “Security of State”

4.3 Meaning of “Public Order”

4.4 Suspension of Article 19 rights on declaration of emergency

4.5 President’s Right to suspend right to move any court

4.6 Article 21- special importanc

4.7 e – its non-suspendability

4.8 Suspendability –44<sup>th</sup> amendment

### **UNIT-V**

## **5. Access to Courts and Emergency**

5.1 Article 359: ups and downs of judicial review

5.2 Constitution ( Forty-fourth ), Amendment Act, 1978

5.3 Constitution ( Fifty –ninth) Amendment Act,. 1988.

### **Martial Law**

5.4.Provisions in English Law

5.5.Provisions in the Constitution

### **Select bibliography**

G.O.Kopell “ The Emergency, the Courts and Indian Democracy” 8 J.I.L.I. 287 (1966)

H.M. Seervai, The Emergency, Future Safeguards and the habeas Corpus: A Criticism (1978) International Commission of Jurists, Status of Emergency and Human Rights

(1984) N.C. Chatterji and Parameshwar Rao, Emergency and the Law (1966)

## **LL.M. SEMESTER-IV**

### **CAMPARATIVE ADMINISTRATIVE LAW**

**Elective Course LME142**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

### **Objective of the course**

Specialists in Administrative Law have to be in the position to assess the development in Indian administrative law from a comparative angle. That the administrative law jurisprudence in the country owed major its growth from the English and American development fact. However, India is still to go for general legislation of the English and U.S. type laying down administrative norms. From a comparative angle, the course of discretion, the doctrine of fairness struck by judicial process for administrative decision-making and the liabilities of the administration.

### **Syllabus**

#### **UNIT -I**

- 1. Evolution and Signification of Administrative Law in Various Systems of Governance**

French system  
England and U.S.  
Other systems

## **UNIT -II**

### **2. Doctrine of Separation of Powers**

2.1 Comparative survey-common law and continental systems: English , US, French German and Indian.

#### **Delegated Legislation**

2.2 Comparative approaches: widening contours: classification over delegated legislation

## **UNIT -III**

### **3. Administrative Discretion**

3.1 Need for discretionary powers

3.2 .Nature, scope and limits.

## **UNIT -IV**

### **4 Processual Fairness**

4.1 Evolution and significance of natural justice

4.2 England: judicial process: doctrine of fairness and doctrine of legitimate expectation- legislation 5.1.2

4.3 US: due process and judicial decisions- legislation India: through judicial process doctrine of fairness: Articles 14,19 and 21 – doctrine of legitimate expectation.

4.4 Access to information

## **UNIT -V**

### **5 Liability of Administration- England, US and Indian Practices.**

5.1 Contractual liability

5.2 Tortious liability

5.3 Federal Tort Claims Act, 1946

5.4 Crown Proceeding Act 1947

5.5 Indian attempts at legislation

#### **Select bibliography**

Peter H. Schuck, Foundations of Administrative Law (1994), Oxford, New York.

Friedman, The State and the Rule of law in a Mixed Economy

Neville L. Brown and J.F. Garner, French Administrative Law  
Ivor Jennings, Law and the Constitution  
Schwartz & Wade, Legal Control of Government  
Davis, Discretionary Justice  
De Smith, Judicial Review of Administration Action (1995)  
Neil Hawke and Neil Papworth, Introduction to Administrative Law (1996), Lawman,  
New Delhi.  
D.D.Basu, Comparative Administrative Law, (1998).

## **LL.M. SEMESTER-IV**

### **GROUP J- HUMAN RIGHTS LAW**

#### **SCIENCE, TECHNOLOGY & HUMAN RIGHTS**

**Elective Course LME143**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

We live in an era of scientific development. The alarming rate of development in biotechnology calls for drastic in the law. Many concepts and terms have to be re-defined. The development in information technology poses serious problems and challenges the rapid changes made by science and technology will have to be reflected in law to make it meaningful and realistic in the modern era. This course is intended to make students conscious of various legal problems arising due to developments in such areas as biotechnology and information technology and to identify the changes needed in the law.

#### **Syllabus**

##### **UNIT-I**

#### **1. Interrelationship of Science, Technology and Human Rights**

##### **1.1 Implication of Development of Science and Technology on Human Rights**

1.2 Right to environment in the development of science and technology

1.3 Right to development in the advancement of science and technology

1.4 Right to human health and impact of development in medical science

##### **UNIT-II**

- 2.1 **2. Medical and the law** Organ transplantation
- 2.2 Experimentation on human beings
- 2.3 Euthanasia (mercy killing)
- 2.4 Gene therapy

### **UNIT-III**

#### **3. Issue of Human Rights Ethics in Scientific and Technological Development**

- 3.1 Sex determination test
- 3.2 Induced abortion
- 3.3 Reproductive technology
- 3.4 Cloning
- 3.5 In vitro fertilization
- 3.6 Artificial insemination
- 3.7 Surrogate motherhood

### **UNIT-IV**

#### **4 Development in Information Technology and Human Rights**

### **UNIT-V**

#### **5 Impact of Scientific and Technological Progress on Human Rights: Normative Response of the International Community**

- 5.1 Right to life
- 5.2 Right to privacy
- 5.3 Right to physical integrity
- 5.4 Right to information
- 5.5 Right to benefit from scientific and technology progress
- 5.6 Right to adequate standard of living

#### **Select bibliography**

- Diane Rowland, Elizabeth Macdonald, Information Technology Law, (1997)
- Suresh T. Viswanathan, The Indian Cyber Law,(2000)
- The International Dimensions of Cyberspace Law (2000), UNESCO Publication
- D.P.Mittal, Law of Information of Technology ( Cyber Law), (2000)
- Michael Chissick, Alistair Kelman, Electronic Commerce, Law and Practice, (1999)

Adwin W. Patterson, *Law in a Scientific Age*, (1963)

Steve Jones, Borin Van Leon, *Genetics for Beginners*, (1993).

Weeramantry, C. G. *Human Rights and Scientific and Technology Development*, 1990

Kamenka , E., *Ideas and Ideologies Human Rights* ( 1978)

Galtung, *Human Rights in Another Key*, (1994)

Akbar, M.J. , *Roits After Riots* ( 1988)

Baxi, U. (ed.) , *Rights to be Human*, (1986)

Kazmi, F., *Human Rights*,( 1987)

Levin L., *Human Rights* (1982)

Gromley W.P., *Human Rights and Environment*, (1976)

Madhavtirtha, *Human Rights*, (1953)

Beddard, H. *Human Rights and Europe*, (1980)

Swarup J., *Human Rights and Fundamental Freedoms*. (1975)

Nagendra Singh, *Human Rights and International Cooperation*

Kashyap, S.C. *Human Rights and United Nations*, (1977)

Moskowitz, *Human Rights and World Order*, (1958)

Drost, *Human Rights as Legal Rights*, (1979)

Garling M., *Human Rights Handbook*, (1979)

Andrews, J.A. *Human Rights in Criminal Procedure*, (1982)

Kalaiah A. B., *Human Rights in International Law*, (1985)

Robertson, A.B.(ed.), *Human Rights in National and International Law* (1973)

Lauterpacht, E. *International Law and Human Rights* ( 1973)

Roberston, E., *Human Rights in the World*, (1972)

Sohn, Lonis & Burgenthal, *International Protection of Human Rights* (1973)

Baxi, U., “Human Rights, Accountability and Development”. *Indian Journal of International Law*, 279, (1978)

Basu, D.D., *Human Rights in Constitution Law*, (1994)

Macfarlane, L.J., *The Theory and Practice of Human Rights*, (1985)

Krishna Iyer, V.R., *Human Rights – A Judge’s Miscellany*, (1995)

Rama Jois, M., *Human Rights: Bharatiya Values*, (1998)

## **LL.M. SEMESTER-IV**

### **JUVENILE DELINQUENCY**

**Elective Course LME144**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

#### Objective 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 center of criminal justice system and should not be treated in the same way as the adult as 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 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

#### **UNIT-I**

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)

#### Determining Factors of Juvenile Delinquency

- 1.5 Differential association
- 1.6 Anomie
- 1.7 Economic pressure
- 1.8 Peer group influence
- 1.9 Gang sub-culture
- 1.10 Class differentials

### UNIT-II

2. Legislative Approaches
  - 2.1 Legislative approaches during the late colonial era.
  - 2.2 Children's Act
  - 2.3 Legislative position in various States
  - 2.4 The Juveniles Justice Act
    - 2.4.1 Constitutional aspects
    - 2.4.2 Distinctions between "Neglected" and delinquent juveniles
    - 2.4.3 Competent authorities
    - 2.4.4 Processual safeguards for juveniles
    - 2.4.5 Powers given to government
    - 2.4.6 Community participation as envisaged under the Act

### UNIT-III

3. Indian Context of Juvenile Delinquency
  - 3.1 The child population percentage to total sex-ratio, urban/rural, urban
  - 3.2 Neglected-between poverty line, physically and mentally disabled, orphans, destitutes, vagrants
  - 3.3 Labourers
    - 3.3.1 In organized industries like zari, carpet, bidi, glass
    - 3.3.2 In unorganised sector like domestic servant, shpoes and establishments, rag-pickers family trade.



3.4 Delinquent-number, sex-ratio, ratio to adult crime, types of offences committed, recidivism, rate of increase background

3.5 Drug addicts

3.6 Victims

3.6.1 Of violence –sexual, battered, killed by parents

3.6.2 Of criminal activities like bootlegging, drug pollution as a response of protective approach

#### **UNIT-IV**

#### 4 Judicial Contribution

4.1 Social action litigation concerning juvenile justice

4.2 Salient judicial decisions

4.3 Role of legal profession in juvenile justice system.

#### **UNIT-V**

#### 5 Implementation

5.1 Institutions, bodies, personal

5.2 Recruiting and funding agencies

5.3 Recruitment qualification and salaries or fund

5.4 Other responsibilities of each agency/person

5.5 Coordination among related agencies

5.6 Accountability- annual reports and accessibility of public to juvenile justice institution.

Preventive Strategies

5.7 State Welfare programs health, nutrition, ICWS, grants-in-aid

5.8 Compulsory education

5.9 Role of community, family, voluntary, bodies, individuals

Select bibliography

National institute of Social Defence, Model Rules under the Juvenile Justice Act, (1986)

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.

# **LL. M. Semester-IV**

## **SKILL DEVELOPMENT MODULE-IV**

**Skill Course LMS145**

**Credit 12  
100 Marks**

**Comprehensive *Viva-Voce***

**Credit 04**

Comprehensive *viva-voce* of 4 virtual credits will be conducted at the end of each semester of the programme by a board of examiners. The grades awarded in the *viva-voce* shall be shown separately in the grade-sheet.

