

SCHOOL OF LEGAL STUDIES  
CENTRAL UNIVERSITY OF KASHMIR

SEMESTER BASED SYLLABUS FOR  
**MASTER OF LAWS (LL.M)**

EFFECTIVE FROM 2012

## **SCHEME AND SYLLABI OF DEGREE OF MASTER IN LAWS**

**There shall be the following course of study for LL.M First, Second, Third and Fourth Semesters. In the First Semester there shall be two foundation courses and in Semesters II and III there will be one foundation course in each. Third Semester shall comprise three papers and one paper shall consist of Project Work. Last semester shall include teaching practice and dissertation.**

**The break-up of the papers along with the credits and marks is given as under;**

### **Foundation courses**

1. Law and Social Transformation in India
2. Indian Constitutional Law: The New Challenges
3. Legal Education and Research Methodology
4. Judicial Process (Role of Judiciary in Criminal Procedure)
5. Internship
6. Dissertation

### **Group I**

#### **Criminal Justice System**

1. Penal Laws and Theorization of Deviant Behaviour
2. Jurisprudence of punishment
3. Comparative Substantive Criminal Law
4. Comparative Perspectives of Criminal Procedure Law
5. Juvenile Justice System
6. Police & Criminal Justice System
7. Evidentiary Issues Relating to the Use of Modern Technology & Forensic in Criminal Trials

### **Group II**

#### **Business Law**

1. Law of Industrial and Intellectual Property
2. Legal Regulation of Economic Enterprises
3. Law of Export - Import Regulation
4. Banking Law
5. Insurance Law
6. Corporate Finance
7. Corporate Governance and Business Responsibility

## Group - I

### First Semester

Course Code	Subject	Credits	Total marks 100	
			Internal	External
LLM-C101	Law and Social Transformation in India*	04	40	60
LLM-C102	Indian Constitutional Law: The New Challenges*	04	40	60
LLM-E101	Penal Laws and Theorization of Deviant Behaviour	04	40	60
LLM-E102	Jurisprudence of Punishment	04	40	60

### Second Semester

LLM-C201	Legal Education and Research Methodology*	04	40	60
LLM-E201	Comparative Substantive Criminal Law	04	40	60
LLM-E202	Comparative Perspectives of Criminal Procedure Law	04	40	60
LLM-E203	Juvenile Justice System	04	40	60

### Third Semester

LLM-C301	Judicial Process* (Role of Judiciary in Criminal Procedure)	04	40	60
LLM-C302	Project Work	04	40 (Presentation) 60 (Project Report)	
LLM-E301	Police and Criminal Justice System	04	40	60
LLM-E302	Evidentiary Issues Relating to Modern Technological Forensic in Criminal Trials	04	40	60

### Fourth semester

Paper I	Internship (Teaching Assignment)	08	Total Marks 200
Paper II	Dissertation	08	Total Marks 200***

\* Foundation Courses

\*\* 40% marks will be allocated to the feedback and 60% marks will be awarded on the basis of teaching material.

\*\*\* 75% marks are allocated for evaluation of Dissertation and 25% marks for viva-voice of Dissertation.

## Group - II

### First Semester

Paper	Subject	Credits	Total marks 100	
			Internal	External
Paper I	Law and Social Transformation in India*	04	40	60
Paper II	Indian Constitutional Law: The New Challenges*	04	40	60
Paper III	Law of Industrial and Intellectual Property	04	40	60
Paper IV	Legal Regulation of Economic Enterprises	04	40	60

### Second Semester

Paper I	Legal Education and Research Methodology *	04	40	60
Paper II	Judicial Process*	04	40	60
Paper III	Law of Export - Import Regulation	04	40	60
Paper IV	Banking Law	04	40	60

### Third Semester

Paper I	Insurance Laws	04	40	60
Paper II	Corporate Finance	04	40	60
Paper III	Corporate Governance and Business Responsibility	04	40	60
Paper IV	Project Work	04	60(Project Report), 40 ( Presentation)	

### Fourth semester

Paper I	Internship	08	Total Marks 200	
Paper II	Dissertation	08	Total Marks 200	

\* Foundation Courses

\*\* 40% marks will be allocated to the feedback and 60% marks will be awarded on the basis of teaching material.

\*\*\* 75% marks are allocated for evaluation of Dissertation and 25% marks for viva-voice of Dissertation.

## **Group- I**

### **FIRST SEMESTER**

*There are four papers in semester one with 4 credits and 100 marks each (4x4=16 credits & 4x100=400 marks). Two of the four papers are foundation courses and the other two are optional courses. Every paper will compromise of 8 questions spread over four parts. Every part will comprise of two questions. A candidate shall have to attempt one question from each part.*

#### **Course Code: LLM-C101**

#### **Law and Social Transformation in India**

*Objective of the course:*

This course is designed to offer the teacher and the taught an opportunity to discuss, explore and analyze the issues regarding;

- a) Indian approaches to social and economic problems in the context of law as a means of social control and change; and
- b) Law and legal institutions as a means to achieve development within the framework of law.

The basic endeavour is to make the students aware of the role law has played and has to play in the contemporary Indian society.

#### **Unit 1: Law and Public Opinion**

- a) Law as the product of traditions and culture
- b) Law as an instrument of social change
- c) Caste disabilities, Child Marriage and Sati
- d) 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.

#### **Unit 2: Religion and the Law**

- a) Religion as a divisive factor and secularism as a solution to the problem
- b) Problems in reforming law on secular lines
- c) Freedom of religion and non-discrimination on the basis of religion
- d) Religious minorities and the law

#### **Unit 3: Community and the Law**

- a) Constitutional guarantee of equality before law
- b) Protective discrimination: Scheduled castes, tribes and backward classes
- c) Empowerment of women: Constitutional and other legal provisions
- d) Problems related to children (adoption, child labour and sexual exploitation): Legal provisions

#### Unit 4: Modernisation and the Law

- a) Modernisation as a value: Constitutional perspectives reflected in the fundamental duties
- b) Modernisation of social institutions through law
- c) Criminal law: Plea bargaining; compounding and payment of compensation to victims

#### *Select Bibliography:*

- D.D. Basu, *Constitution of India*, Prentice-Hall of India (P) Ltd., 1996.
- Duncan Derret, *The State, Religion and Law in India*, OUP, New Delhi, 1999.
- Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India*, Oxford, 1999.
- Freedman, *Law in Changing Society*, 1959.
- H.M. Seervai, *Constitutional Law of India*, Tripathi, 1996.
- Indian Law Institute, *Law and Social Change: Indo-American Reflections*, Tripathi Publications, 1988.
- Julius Stone, *Social Dimension of Law and Justice*,
- Marc Galanter (ed.), *Law and Society in Modern India*, Oxford, 1997.
- Robert Lingat, *The Classical Law of India*, Oxford, 1998.
- Savitri Gunasekhare, *Children, Law and Justice*, Sage Publications, 1997.
- Sunil Deshta and Kiran Deshta, *Law and Menace of Child Labour*, Anmol Publications, 2000.
- Upendra Baxi, *The Crisis of the Indian Legal System*, Vikas Publications, 1982.
- A.V.Dicey, *Law and Public Opinion in 19<sup>th</sup> Century England*.
- Morris Ginsberg, *Law and Public Opinion in 20<sup>th</sup> Century England*.
- P. Ishwar Bhatt, *Law and Social Transformation*, Eastern Book Company, Lucknow, 2008.
- Stones, *Social Dimensions of Law and Justice*.

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**Course Code: LLM-C102****Indian Constitutional Law: The New Challenges***Objective 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 at LL.B. level, shall be exposed to the new challenges and perspectives of constitutional developments.

**Unit 1: Federalism**

- a) Creation of new states
- b) Allocation and share of resources – distribution of grants in aid
- c) The inter-state disputes on resources
- d) Rehabilitation of internally displaced persons
- e) Centre's responsibility and internal disturbance within states
- f) Directions of the centre to the state under Articles 356 and 365
- g) Federal comity – relationship of trust and faith between centre and state
- h) Special status of certain states

**Unit 2: Emerging regime of new rights and remedies**

- a) Freedom of speech and right to broadcast and telecast
- b) Right to strikes, hartal, and bandh
- c) Reading Directive Principles and Fundamental Duties as Fundamental Rights
- d) Right to education; Commercialization of education and its impact; and Brain drain by foreign education market

**Unit 3: Separation of Powers: Stresses and strain**

- a) Judicial activism, judicial restraint and judicial independence
- b) Appointment, transfer and removal of judges
- c) Accountability of executive and judiciary
- d) Implementation of Public-interest litigation
- e) Tribunals

**Unit 4: Democratic Process**

- a) Nexus of politics with criminals and the business
- b) Election: Status of election commission, electoral reforms
- c) Coalition government: „stability, durability, and corrupt practice“
- d) Grass root democracy

***Select Bibliography:***

No specific bibliography is suggested for this course since the course materials obviously depend 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 papers and lastly contemporary emerging ethos impacting on constitutional values. However, the following books are recommended: -

- D.D. Basu, Constitutional Law of India, 1991.
- H.M. Seervai, Constitutional Law of India, 1996.
- M. Hidayatullah, Constitutional Law of India, Bar Council of India Trust, 1989.
- M.P. Jain, Indian Constitutional Law, 2003.
- S.G. Mishra, Constitutional Law of India, 1993.

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**Course Code:LLM-E101:**

**Penal Laws and Theorizations of Deviant Behaviour**

***Objectives:***

**Unit 1: Concept of Crime/Deviance and Criminal Justice System**

- a) Crimes in primitive, medieval and Kingship/State organized societies
- b) Consensus and Conflict Perspectives in Crime
- c) Philosophical/Rational versus Historical/Contextual Approaches to Crimes

**Unit 2: Prominent Criminological Thought Currents**

- a) Pre-classicalism
- b) Classicalism
- c) Positivism
- d) Radicalism
- e) Neo-classicalism

**Unit 3: Classifications of Crime in Traditional and Modern Societies**

- a) Protection of Traditional interests by Criminal Law
  - Bodily interest
  - Property interest
  - State and Religion
  - Social institutions and Traditions
- b) Power and Crime
- c) Gender and Crime

**Unit 4: Special Forms of Modern Criminalities-Upper Class/Privileged Class Deviance**

- a) Corruption
- b) Drug and Human Trafficking Trade
- c) Food Adulteration and Black-marketing in Essential Commodities
- d) Professional Malpractices

**Selected Bibliography:**

- Alan Norrie, *Crime, Reason and History*, (1993), Weidenfeld Anderson Nicholson, England.
- H.S. Becker, *Outsiders; The Studies in Sociology of Deviance Series*, (1966).
- Upendra Baxi, *Crisis of Indian Legal System*.
- Upendra Baxi, *Liberty and Corruption: The ..... and Beyond*, EBC (1989)
- A.R.Desai, *Violation of Democratic Rights in India* (1986)
- Mehraj Uddin, *Socio-Legal Dimensions of Drug Addiction*.

- Taylor, Walton and Young, *New Criminology*, Routledge Kegan Paul, U.K.
- Ahmad Siddique's, *Criminology*, Eastern Book Company,
- Pande, B.B., "Privileged Class Deviance-Nature and Dimensions" in K.S.Shukla (Et.), *The Other side of Development* (1987), Sage India
- Steven Box, *Law, Crime and Mystification*, Tavistock Publications London (1983)

**Course Code:LLM-E102**  
**Jurisprudence of Punishment**

*Objective 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: decriminalization, dependization, and deinstitutionalization.

**Unit 1: Jurisprudential Issues and Theories of Punishment**

- a) Trancendentalists versus Utilitarians
- b) Kelsonites versus Benthamites
- c) Retribution
  - Limiting Retributivists
  - Rule Retributivists
- d) Deterrence-General Deterrence and Specific Deterrence
- e) Incapitation: Behavior Prevention
- f) Reformation and Rehabilitation
- g) Traditional Hindu and Islamic Approaches- Expiation and Atonement
- h) Western Ideas of Restorative Justice or Braithwastes „Reintegrative Shaming“

**Unit 2: Legislative and Judicial Regulation of Punishment/Sentencing**

- a) Right to Pre-sentence hearing U/S 235(2) and 248(2) Cr.P.C.
- b) Limited Legislative Guidance on Sentencing -Maximum provided for a majority of offences- For few offences minimum also provided- for a few graded sentence provided
- c) Sentencing accords a wide discretion to judiciary without any kind of guidelines
  - Sentencing disparity
  - Subjective, judge-centric sentencing
- d) Simple Imprisonment, rigorous imprisonment and life imprisonment

**Unit 3: Prison as an Agency of Punishment**

- a) Prison as a system
- b) History and evolution of Indian Prisons
- c) Prisoners rights and duties
- d) Prison Reforms

**Unit4: Special Forms of Punishment/Sentencing**

- A. Probation
  - a) Probation under the Probation of Offenders Act 1958- Sections 3,4,6 &12
  - b) Probation under Cr.P.C.- Sections 360, 361, 256E(a) & (b)
  - c) Probation and Judicial Process
- B. Death Penalty
  - a) Trend of Abolition world over

- b) Retentionist Countries use it as a „rarest of rare“ sentence
- c) Death Penalty and Judicial Process

***Select Bibliography:***

- H.L.A. Hart, *Punishment and Responsibility*, 1968.
- Herbert L. Packer, *The Limits of Criminal Sanction*, 1968.
- S. Chhabra, *The Quantum of Punishment in Criminal Law*, 1970.
- Siddique, *Criminology*, Eastern: Lucknow, 1984.
- Andrew Ashworth, *The Sentencing Function*, OUP (2010)
- Nigel walker, *Sentencing-Theory and Practice*, Butterworths London,1996
- Nigel walker, *Sentencing in a Rational Society*, 1972
- Mehraj Uddin, *Crime and Criminal Justice System in India*, 1984

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## **SECOND SEMESTER**

*Every paper will compromise of 8 questions spread over four parts. Every part will comprise of two questions. A candidate shall have to attempt one question from each part.*

**Course Code: LLM-C201**

### **LEGAL EDUCATION AND RESEARCH METHODOLOGY**

#### *Objectives of the course:*

A post-graduate student of law should get an insight into the objectives 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 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.

#### **Unit 1 Research Methods**

- a) Socio-legal research
- b) Doctrinal and non-doctrinal
- c) Relevance of empirical research
- d) Induction and deduction

#### **Unit 2 Identification of Research Problem**

- a) Meaning of research problem
- b) Review of literature and bibliographical research
- c) Legislative materials including subordinate legislation notification and policy statements
- d) 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
- e) Juristic writings: A survey of juristic literature relevant to select problems in India and foreign periodicals
- f) Compilation of list of reports or special studies conducted relevant to the problem

#### **Unit 3 Preparation of the Research Design**

- a) Formulation of the research problem

- b) Devising tools and techniques for collection of data: Methodology
- c) Methods for the collection of statutory and case materials and juristic literature
- d) Use of historical and comparative research materials
- e) Use of observation studies
- f) Use of questionnaires/interview schedules
- g) Use of case studies
- h) Sampling procedures: Design of sample, types of sampling to be adopted
- i) Use of scaling techniques
- j) Jurimetrics

#### **Unit 4 Processing and classification of Data**

- a) Rules for tabulation
- b) Explanation of tabulated data
- c) Analysis of data

#### ***Bibliography:***

- High Brayal, Nigel Dunnean 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.
- Harvard Law Review Association, *Uniform System of Citations*.
- ILI Publication, *Legal Research and Methodology*.

**Course Code:LLM-E201****Comparative Substantive Criminal Law*****Objective of the course:***

The course has been designed with a specific consideration that criminal Justice system can be understood only after having a broad knowledge of the basic principles of substantive criminal laws. The particular emphasis shall be on such topics which are relevant for the contemporary socio-legal issues as well as research. The idea is to inculcate a wider vision among the students of LL.M. regarding the basic principles of substantive criminal laws.

**Unit 1: Concept and Development of Criminal**

- a) Historical Development of Indian Penal Code
- b) Extend and Operation of the Penal Code
- c) Development of Criminal Law in J&K State
- d) Significant reform areas and trends

**Unit 2: Elements or Conditions of Criminal Liability**

- a) Actus reus or the Harm Principle
- b) Mens rea or the Guilty mind or Blame worthiness principle
- c) Concurrence or the Concurrence Principle

**Unit 3: Complicit Criminality and Incomplete or Inchoate Crimes**

- a) Abetment
- b) Conspiracy
- c) Group or Joint Liability U/Ss 34 or 149 IPC
- d) Attempts under the Indian Penal Code

**Unit 4: General Exceptions or Conditions for Negating Liability**

- a) Defence of Mistake
- b) Defence of Insanity and Intoxication
- c) Defence of Necessity and bonafide action
- d) Private defence of body and property

**Selected Bibliography:**

- Sir H.S. Gour, *Commentaries on the Indian Penal Code*.
- Ratan Lal and Dhirajlal, *Indian Penal Code 33<sup>rd</sup> Edt* (2011)
- P.S.A. Pillia, *Criminal Law*, Revised by K.I.Vibhute, 2012 Edn., Lexis Nexis Butterworths
- Essays on the Indian penal Code*, Pub. By Indian Law Institute (1962)
- K. Chandrasheran Pillai (Ed), *Essays on the Indian Penal*, ILI (2005)
- Mehraj Uddin, *Crime and Criminal Justice System in India*.
- Andrew Ashworth, *Principles of Criminal Law* (2008)

- Nicola Lacey and Celia Wells (Ed.) *Reconstructing Criminal Law*, Butterworths, London (1998)

**Course Code: LLM-E202**

**COMPARATIVE PERSPECTIVES OF CRIMINAL PROCEDURAL LAW**

*Objective 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 renew and revise their laws to be in tune with developed systems. The paper is taught with reference to India, England, France and China.

**Unit 1: Diverse systems and Models of Criminal Proceedings**

- a) Adversarial / Accusatorial and Inquisitorial Systems
  - Core features of inquisitorial and adversarial systems
  - Trends of borrowing the best under both systems
- b) Crime Control Model and Due Process Model
  - Common elements
  - Differing points of emphasis
- c) Indian system of Justice Administration and its challenges

**Unit 2: Pre-trial Processes**

- a) Bringing information about crime incident before the formal system (Police or Magistrate) Ss 154 & 155 and 190 (complaint)
- b) Investigation of Crime- Ss 157 to 173
- c) Bail and Remand
- d) Rights of Accused and Victim
- e) Right to Counsel and Legal Aid

**Unit 3: Trial Processes**

- a) Taking Cognizance by courts and committal proceedings
- b) Hierarchy of Criminal Courts and types of trials



- c) Framing of Charge and Discharge Proceedings
- d) Acquittal or Conviction
- e) Revision, Appeal and transfer of case for trial

#### **Unit 4: Sentence Process**

- a) Pre-sentence hearing Ss 235(2) and 248(2)
- b) Reformatory Sentence
- c) Withdrawal from prosecution
- d) Plea Bargaining
- e) Compounding of Offences

#### **Select bibliography**

- Hebert L Pecker, Limits of Criminal Sanctions, Chs. 5, 8 & 9, Stanford Univ. Press (1968)
- K.N.Chandrasekharan Pillai(ed.), R.V. Kelkar's *Outlines of Criminal Procedure (2010)*, Eastern,Lucknow.
- Patric Devlin, *The Criminal Prosecution in England*
- American Series of Foreign Penal Codes Criminal Procedure Code of People's Republic of China.*
- Christina Van Den Wyngart, *Criminal Procedure Systems in European Community*
- Rene David, Comparison between English and French Criminal Justice System, Tygore Law Lectures (1981)
- Celia Hampton, *Criminal Procedure*
- 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.

**Course Code: LLM-E203**  
**JUVENILE JUSTICE SYSTEM**

*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.

**Unit 1: Rationale for Separate and Distinct System of Justicing in Cases Relating to Children**

- a) History and evolution of juvenile justice
- b) Jurisprudential foundations of Juvenile Justice
  - Aristotle
  - John Rawls
  - UN Declaration of the Rights of Children 1959 and finally UN Convention on Rights of the Child 1989 (ratified by the Government of India in 1992)
- c) Provincial Children Acts, the Children Act 1960 (Central), Juvenile Justice Act, 1986 and Juvenile Justice (Care and Protection of Children) Act 2000 (as amended in 2006) and the JJ (Model) Rules 2007

**Unit 2: Definitions of 'Child', Distinct Apprehensions, Adjudication and Custodial Agencies.**

- a) Two distinct categories, namely „juveniles in conflict with law“ and „child in need of care and protection. All persons (both sexes) below 18 years „child“
- b) Juvenile Police Unit to perform apprehending function-informal and social investigatory role
- c) „Juvenile Justice Board“ instead of Juvenile Court and „Child Welfare Committee“ to distinct categories of children
- d) Observation Homes, Children's Home instead of Prisons. „Fit Person Institutions“ and „Fit Person“ contemplated under the Juvenile Justice Act for pre-adjudication custody.

**Unit 3: Apprehension (instead of arrest) Bail, adjudication (instead of trial) and disposition (instead of Sentence)**

- a) Limited authority to apprehend Rule 11(7)
- b) Extensive Bail right both in Bailable and Non-bailable Offences- S.12 JJ Act.
- c) Informal, Summary Inquiry (instead of a formal adversarial trial) that requires only satisfaction of the Board (S. 15)
- d) Expeditious proceedings under Ss. 7A and 14 (four months time)

**Unit 4: Role of the Family Police, Role of the NGOs and Role of the Media in Juvenile Justice**

- a) Role of the family in delinquency prevention
- b) Dual role of police- as an agency of Criminal Judicial Administration and as protector of Juvenile interest
- c) NGO's role in custodial institutions and as a friend of everychild in need of care
- d) Media to expose instances of child exploitation and abuse in public domain as well as remain sensitive to privacy of children and their families

***Select bibliography:***

- Myron Weiner, *The Child and State in India* (1990)
- UN Convention on Right of the Child, 1989
- UN Standard Minimum Rules for Juvenile Justice (Beijing Rules) 1985
- Juvenile Justice (Care and Protection of Children) Act, 2000 (as amended in 2006)
- Juvenile Justice (Model) Rules, 2007
- Savitri Gunasakhare, *Children, Law and Justice*, Sage Publication, India

## **THIRD SEMESTER**

**Course Code: LLM-C301**

### **Judicial Process (Role of the Judiciary in Criminal Procedure)**

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

A lawyer, whether academic or professional, is expected to be competent to analyse 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 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 criminal justice.

#### **Unit 1: Role of Judiciary in Pre-Trial Process**

- a) Monitoring and Supervision of investigatory process
- b) Ensuring the collection of best evidence and presence of relevant witness
- c) Securing the rights and personal liberty of accused through bail and remand proceedings and through habeas Corpus petition before the constitutional courts
- d) Ensuring speedy disposal of matters at primary stages

#### **Unit 2: Role of Judiciary in Trial Process**

- a) Ensuring equal access to justice and legal aid to needy party
- b) Ensuring fair trial to accused and victims
- c) Arriving at impartial verdict of acquittal or conviction
- d) Allowing parties to exercise their legitimate rights of revision, appeal etc.
- e) According consent to reasoned withdrawal applications and plea of compounding permitted by law

#### **Unit 3: Role of the Judiciary in Sentencing Process**

- a) In the event of conviction provide the accused right to hearing before passing sentence
- b) Pass a reasoned sentencing order
- c) Explore possibilities of according plea Bargaining opportunity to the parties
- d) Ensuring „real“ justice to parties through sentencing decision

#### **Unit 4: Constitutional Court Special Obligation in Safeguarding Citizens Rights**

- a) Enforcing constitutional and Human Rights of Parties
- b) Evolving Public Interest Litigation Strategy to expand judicial remedial reach
- c) Developing new compensatory jurisprudence to protect citizen“s Constitutional Rights

**Selected Bibliography:**

1. Cordozo, *The Nature of Judicial Process* (1955), Universal Book, Delhi
2. Henry J. Abraham, *Judicial Process* (1998) Oxford
3. Upendra Baxi, *Indian Supreme Court and Politics* (1980) EBC
4. Rajeev Dhavan, *The Supreme Court of India- A Socio-legal Critique of its Juristic Techniques*, N.M.Tripathi, Bombay
5. Selected Supreme Court Readings.

**Course Code: LLM-C302****PROJECT WORK**

The Student shall have to select an important current issue with socio-legal dimensions and undertake field work. He shall also be required to submit a detailed report of his work and conclusions drawn and make a power point presentation in the School in presence of the experts.

*Every paper will comprise of 8 questions spread over four parts. Every part will comprise of two questions. A candidate shall have to attempt one question from each part.*

**Course Code: LLM-E301**

**Police and Criminal Justice System**

***Objectives of the Course:***

The course has been designed with a specific consideration that criminal Justice system can be understood only after having a broad knowledge of the basic principles concerning one of the important wings of the government. The particular emphasis shall be on such topics which are relevant for the contemporary socio-legal issues as well as research. The idea is to inculcate a wider vision among the students of LL.M. regarding the basic principles of police functions. Further due emphasis had been laid on investigation process, police powers and compliance with the constitutional and human rights guarantees. After giving a deep insight in working of the police functioning, the course is framed with an objective to inculcate investigative aptitude of policing among the students.

**Unit 1: The Police System**

- a) History and evolution of Modern Policing in India
- b) Structure and organization of Police
- c) Relationship of Police with CBI and other Para-Military Forces and Military
- d) Structure and Organization of Police in J&K State

**Unit 2: Powers and Functions of Police**

- a) Investigatory powers of Police
  - Collection of evidence
  - Forming an opinion
  - Filing a police report U/S 173
- b) Law and order maintenance function of Police
- c) VIP security and crime prevention function
- d) Police and prosecution relationship
- e) Police Community relationship

**Unit 3: Police and Compliance with constitutional and Human Rights Guarantees**

- a) Policing in a democratic society
- b) Policing as guarantor of protection of citizens
- c) Police and Victims

**Unit 4: Police Reforms**

- a) Dharmveera Committee Report
- b) Padmanabhayya Committee Report
- c) Malimath Committee Report and Police Reforms

**Selected Bibliography:**

- Chaturvedi, S.K., Role of Police in Criminal Justice System.
- Arvind Verma and K.S.Subraminiam, Documentation and Understanding the Police in India
- S. Verma Gopal Rao, Criminal Justice: Problems and Perspectives in India
- The Indian Police Act, 1861 and the Bombay Police Act, 1951

**Course Code: LLM-E302**

**Evidentiary Issues Relating to the Use of Modern Technology & Forensic in Criminal Trials**

***Objectives of the Course:***

In the era of technology it is inevitable that the students of LLM shall be kept abreast with various forms of crimes related to modern technologies. This subject has been incorporated with a view to impart to students knowledge of crimes and laws related to cyber world. Care has been taken to incorporate certain important topics related to forensic sciences and their evidentiary values in criminal jurisprudence.

**Unit 1: Crucial Role of Evidence in Criminal Trials**

- a) Need for violent and admissible evidence in terms of the Indian Evidence Act, 1872
- b) Admissibility of Expert Testimony in Criminal Trials
- c) Need for investigation and prosecution agencies to appreciate the special value of use of modern technology in collection and presentation of evidence

**Unit 2: Cyber Crimes and Modern Technology**

- a) Nature and Definition of Cyber Crime
- b) Offence and Penalties under the IT Act 2000
- c) Cyber Policing in India: Legal Status

**Unit3: Forensic Evidence and Criminal Trials**

- a) Kinds of Forensic Evidence

- Blood sample, saliva and other evidence from the person of victim and accused
  - Finger prints
  - Ballistic evidence
  - Post mortem report
  - DNA evidence
- b) Probative Value of Forensic Evidence
- c) Processes Involved in Collecting Forensic Evidence

#### **Unit 4: Technology as A Means of Better Crime Prevention**

- a) Intercepting potentially dangerous crime information
- b) Use of Technology Tools in Neutralizing and rendering harmless actual designs of infiltration and attack
- c) Preventing violation of Intellectual Property Rights by techniques of Passwords“, Firewalls“, Encryption, Digital Signature, Clipper Chip, Reuters and Gateways
- d) Ensuring Data Safety

#### **Selected Bibliography:**

- Dr. Jaishanker and Amin, *Forensic Science and Criminal Investigation*.
- Sharma, *Forensic Science in Criminal Investigation*.
- Harry Soderman & John O. Conell, *Modern Criminal Investigation*, Fung and Wangnalls Co. New York
- UN (1997) UN Mnaual on the Prevention and Control of Computer Related Crime, International Review of Criminal Policy NOs 43 & 44, UN, New York.
- Barkha and U Rammohan, *Cyber Law and Crimes*
- Albert J. Marcella & Robert S Greenfield (Eds), *Cyber Forensics, A Field Manual For Collecting, Examining and Preserving Evidence of Computer Crimes* (2002)
- Pease. K., “*Crime Futures and Foresight: Challenging Criminal Behaviour in Information Age*” in D.Wall (Ed.) *Crime and Internet*, Routledge:London (2001)
- McQuade, Samuel C, *Understanding and Managing Cyber Crime*, Allyn and Bacon, U.S.A (2005)



**FOURTH SEMESTER**

**Paper II TEACHING ASSIGNMENT**

**Paper III DISSERTATION**

## Statutes

1. LL.M programme shall comprise of four semesters which shall be spread over the two academic years.
2. Each semester shall have 16 credits. There shall be 64 credits in total for the entire LL.M course.
3. There shall be six foundation or core papers and seven optional papers to be taught in whole LL.M programme
4. First and Second Semesters shall comprise of four theory papers each, with two core papers and two optional papers. The student shall be required to take two compulsory papers and with the permission of the School shall have the choice to select two optional papers from any of the optional groups. Each theory paper carries 4 credits and 100 marks.
5. Third semester shall comprise of three theory papers with 4 credits and 100 marks each and the fourth paper shall be confined to a project work assigned to the student with the weightage of credits and marks similar to theory papers.
6. Fourth semester shall comprise two papers with 8 credits and 200 marks each. Paper I in fourth semester shall be based on Internship, i.e. teaching assignment and Paper II shall be based on writing a dissertation on a topic to be identified by the School in consultation with the teacher in charge and student concerned.
7. The duration of the examination in each paper shall be three hours.
8. The student must clear a course within the stipulated period. However, the University on the recommendation of the School may grant extension for a maximum period of one year, provided the student due to illness or any other justifiable cause is not in a position to complete the course within the stipulated period.
9. A student shall be continuously evaluated for his/her academic performance in a course through Continuous Internal Assessment (CIA) [*tutorials, practicals, home assignments, class assignments, term papers, field work, seminars, periodical tests etc.*] and End Semester Examination, as prescribed in the examination scheme of the respective course duly approved by the authority concerned. The distribution of marks for specialized papers like **Clinical Courses** and **Project Work** shall be prescribed by the concerned School Board.
10. The marks distribution for theory courses shall be as under:
 

End Semester Examination (ESE)	:	60 Marks
Continuous Internal Assessment (CIA)	:	35 Marks
Attendance	:	05 Marks

The breakup of Continuous Internal Assessment (CIA) shall be as follows: -

Best of 2 out of 3 presentations	:	20 marks
Group Discussion	:	10 marks
Assignment Test	:	05 marks
<b>Total</b>	<b>:</b>	<b>35 marks</b>

### 11. Dissertation

- Four copies of dissertation written under the guidance of a teacher of the School to be nominated by the Head shall be submitted to the Head of the School with a certificate that dissertation was written under the guidance of the supervisor and consists of original piece of work.
- The dissertation shall be submitted within the period of three months from the date of commencement of LL.M 4<sup>th</sup> semester.
- The dissertation shall be got evaluated by the external examiner to be appointed by the Vice-Chancellor from the panel of the examiners submitted by the supervisor and duly recommended by Head and Dean of the School.
- The viva-voce shall be conducted by the Board comprising of Dean of the School, Head of the School, Supervisor and External examiner.

### 12. Attendance

- a) A candidate to be eligible to appear in the Continuous Internal Assessment/End Semester Examination of a course or a complete semester shall have to put in a minimum of 75% attendance in that course/semester in addition to satisfying all other relevant conditions laid down in the Regulations.
- b) Provided in exceptional cases, the Dean of the School, on the recommendations of the HoD concerned, shall condone the shortage of attendance to a maximum of 5% if the claim is justified and supported by valid documents.
- c) Condonation of shortage of more than 5% & up to 10% may be recommended by the Dean of the School to the Vice Chancellor with full justification whose decision shall be final.
- d) Marks break-up for attendance:
 

Up to 75%	:	No marks
76% to 80%	:	1 mark
81% to 85%	:	2 marks
86% to 90%	:	3 marks
91% to 95%	:	4 marks
96% to 100%	:	5 marks