

BHAKTA KAVI NARSINH MEHTA UNIVERSITY - JUNAGADH



FACULTY OF LAW LL.M. Syllabus[cbcs] [SEMESTER-1] Effective From Nov.-2019

**Bhakta Kavi Narsinh Mehta University
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MONSOON SEMESTER

[SEMESTER – 1]

Faculty of Law

Name of Course	Semester	Core/Elective/Allied/Practical/Project	Course/Paper Code	Course/Paper Title	Credit	Internal Marks	External Marks	Practical / Viva Exam Marks	External Exam Time Duration
LL.M.	1	Core	1604010002010100	Law & Social Transformation in India	6	30	70	-	Two Hours Thirty Minutes

MODULE-1: LAW AND SOCIAL TRANSFORMATION IN INDIA. (Core Course)

Course Objectives:

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

Course Contents:

Unit - 1. Women, children and the law & Social Change.

- 1.1 Law as an instrument of social change.
- 1.2. Law as the product of traditions and culture. Criticism and evaluation of the introduction of common law system and institutions in India and its impact on further development of law and legal institutions in India.
- 1.3 Crimes against women.
- 1.4 Gender injustice and its various forms.
- 1.5 Women's Commission. Empowerment of women : Legal Provision apart from Constitutional.
- 1.6 Child labour.
- 1.7 Sexual exploitation.
- 1.8 Adoption and related problems.
- 1.9 Children and education.

Unit - 2. Language & Caste and the Law

- 2.1 Language as a divisive factor: formation of linguistic States.
- 2.2 Constitutional guarantees to linguistic minorities.
- 2.3 Language policy and the Constitution: Official language; Multi-language system.

- 2.4 Non-discrimination on the ground of language.
- 2.5 Caste as a divisive factor.
- 2.6 Non-discrimination on the ground of caste.
- 2.7 Acceptance of caste as a factor to undo past injustices.
- 2.8 Protective discrimination : Scheduled castes, tribes and backward classes.
- 2.9 Reservation; Statutory Commission, Statutory provisions.

Unit - 3. Regionalism & Religion and the Law

- 3.1 Regionalism as a divisive factor.
- 3.2 Concept of India as one unit,
- 3.3 Right of movement, residence and business; impermissibility of state or regional barriers.
- 3.4 Equality in matters of employment; the slogan “Sons of the soil” and its practice.
- 3.5 Admission to educational institutions : preference to residents of a State.
- 3.6 Religion as a divisive factor.
- 3.7 Secularism as a solution to the problems.
- 3.8 Reform of the law on secular lines: Problems.
- 3.9 Freedom of religion and non-discrimination on the basis of religion.
- 3.10 Religious minorities and the law.

Unit - 4. Modernization and the Law.

- 4.1 Modernization as a value : Constitutional perspectives reflected in the fundamental duties.
- 4.2 Modernization of social institutions through law.
- 4.3 Reform of family law.
- 4.4 Agrarian reform – Industrialization of agriculture.
- 4.5 Industrial reform : Free enterprise v. State regulation.
- 4.6 Industrialization v. environmental protection.
- 4.7 Reform of court processes.
- 4.8 Criminal law : Plea bargaining ; compounding and payment of compensation to victims.
- 4.9 Civil law :(ADR) Confrontation v. Consensus; mediation and conciliation; lok adalats.
- 4.10 Prison reforms.
- 4.11 Democratic decentralization and local self-government.

Unit - 5. Alternative approaches to Law.

- 5.1 The jurisprudence of Sarvodaya --- Gandhiji, Vinoba Bhave , Jayaprakash Narayan --- Surrender of dacoits; Concept of gram nyayalayas.
- 5.2 Socialist thought on law and justice :An enquiry. through constitutional debates on the right to property.
- 5.3 Indian Marxist critique of law and justice.
- 5.4 Naxalite movement : causes and cure.

Text Books:

1. U. Baxi(Ed.), Law and Poverty : Critical Essays (1988).
2. Indian Law Institute, Law and Social Change : Indo-American Reflections, Tripathi (1988).
3. Marc Galanter - Law and Society in Modern India (1997), Oxford
4. Robert Lingat- The Classical Law of India (1998), Oxford
5. Manushi- A Journal About Women and Society

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Faculty of Law

Name of Course	Semester	Core/Elective/Allied/Practical/Project	Course/Paper Code	Course/Paper Title	Credit	Internal Marks	External Marks	Practical / Viva Exam Marks	External Exam Time Duration
LL.M.	1	Core		Judicial Process	6	30	70	-	Two Hours Thirty Minutes

MODULE – 2 : JUDICIAL PROCESS. **(Core course)**

Course Objectives:

- A lawyer, whether academic or professional, is expected to be competent to analyse and evaluate the legal process from a broader juristic perspective.
- 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 justice.

Course Contents:

Unit-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.

Unit - 2. Special Dimensions of Judicial Process in Constitutional Adjudications.

- 2.1. Notion 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.

Unit - 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.

Unit - 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 theoretical bases of justice : The liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

Unit - 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.

Text Books:

1. Henry J. Abraham, The Judicial Process (1998), Oxford.
- 2 Julius stone, The province and function of law part-II chs 1,8 – 16 (2000), Universal, New Delhi
- 3 Cardozo, The Nature of Judicial Process (1995), Universal, New Delhi
- 4 Julius stone, Precedent and the Law: Dynamics of common Law Growth (1985), Butterworth
- 5 W. Friedmann, Legal Theory (1960), Stevens, London.
- 6 Bodenheimer Jurisprudence - The Philosophy & Method of the law (1997), Universal, New Delhi
- 7 Julius stone, Legal system and lawyers' Reasoning (1999) Universal New Delhi
- 8 Upendra 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, New Delhi
- 11 Edward H. Levi, an Introduction to Legal Reasoning (1970) University of Chicago

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Group - A - Criminal Law

Faculty of Law

Name of Course	Semester	Core/Elective/Allied/Practical/Project	Course/Paper Code	Course/Paper Title	Credit	Internal Marks	External Marks	Practical / Viva Exam Marks	External Exam Time Duration
LL.M.	1	Elective Course		Drug Addiction and Criminal Justice System	6	30	70	-	Two Hours Thirty Minutes

MODULE -3A : DRUG ADDICTION, CRIMINAL JUSTICE AND Elective Course HUMAN RIGHTS

Course Objectives:

- Almost all the major dilemmas of criminal policy surface rather acutely in combating drug addiction and trafficking through the legal order.
- The issue of interaction between drug abuse and criminality is quite complex.
- At least three important questions have been recently identified as crucial for comparative research. First, to what extent drug dependence contributes to criminal behaviour? Second, in what ways do criminal behaviour patterns determine drug abuse? Third, are there any common factors which contribute to the determination of both drug abuse and criminal behaviour?

Course Contents:

Unit - 1. Introductory

- 1.1. Basic conceptions
 - 1.1.1. Drugs „narcotics“ “psychotropic substances”
 - 1.1.2. “Dependence,” “addiction”
 - 1.1.3. “Crimes without victims”
 - 1.1.4. “Trafficking” in “drugs”
 - 1.1.5. “Primary drug abuse”.
 - 1.1.6 Self-reporting
 - 1.1.7 Victim-studies
 - 1.1.8 Problems of comparative studies.

Unit - 2. Anagraphic and Social characteristics of Drug Users

- 2.1. Gender
- 2.2. Age
- 2.3. Religiousness
- 2.4. Single individuals/cohabitation

- 2.5. Socio-economic level of family
- 2.6. Residence patterns (urban/rural/urban)
- 2.7. Educational levels
- 2.8. Occupation
- 2.9. Age at first use
- 2.10. Type of drug use
- 2.11. Reasons given as cause of first use
- 2.12. Method of Intake
- 2.13. Pattern of the Use
- 2.14. Average Quantity and Cost
- 2.15. Consequences on addict's health(physical/psychic)

Unit - 3. The International Legal Regime And HUMAN RIGHTS ASPECTS

- 3.1. Analysis of the background, text and operation of the Single Convention on Narcotic Drugs, 1961, 1972.
- 3.2. Analysis of the Convention on Psychotropic Substances, 1972.
- 3.3. International collaboration in combating drug addiction
- 3.4. The SAARC, and South-South Cooperation.
- 3.5. Profile of international market for psychotropic Substances.
- 3.6. Deployment of marginalized people as carrier of narcotics.
- 3.7. Deployment of marginalized people as carrier of narcotics.
- 3.8. The problem of juvenile drug use and legal approaches.
- 3.9. Possibilities of misuse and abuse of investigative prosecutory powers.
- 3.10. Bail
- 3.11. The Problem of differential application of the Ugal Regimes, especially in relation to the resource less.

Unit - 4. The Indian Regulatory System

- 4.1. Approaches to narcotic trafficking during colonial India.
- 4.2. Nationalist thought towards regulation of drug trafficking and usage.
- 4.3. The penal provisions (under the IPC and the Customs Act).
- 4.4. India's role in the evolution of the two international Conventions.
- 4.5. Judicial approaches to sentencing in drug trafficking and abuse.
- 4.6. The Narcotic Drugs and Psychotropic Substances Act, 1985.
- 4.7. Patterns of resource investment in India: policing adjudication, treatment, aftercare and rehabilitation.

Unit - 5. The Role of Community in Combating Drug Addiction

- 5.1. Profile of Community initiatives in inhibition of dependence and addiction (e.g. de addiction & aftercare)
- 5.2. The role of educational systems.
- 5.3. The role of medical profession.
- 5.4. The role of mass media.
- 5.5. Initiatives for compliance with regulatory systems.
- 5.6. Law reform initiatives.

Text Books:

1. J.A. Incard, C.D. Chambers, (eds.), Drugs and the Criminal Justice System (1974).
2. Social Defence Research Institute (UNSDRI) Combating Drug Abuse and Related Crimes (Rome, July 1984, Publication No.21)

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Group - A - Criminal Law

Faculty of Law

Name of Course	Semester	Core/Elective/Allied/Practical/Project	Course/Paper Code	Course/Paper Title	Credit	Internal Marks	External Marks	Practical / Viva Exam Marks	External Exam Time Duration
LL.M.	1	Elective		Principles of Criminal Law	6	30	70	-	Two Hours Thirty Minutes

MODULE – 2 : Principles of Criminal Law. (Elective course)

Course Objectives:

- A lawyer, whether academic or professional, is expected to be competent to analyse and evaluate the legal process from a broader juristic perspective.
- Hence a compulsory paper on Judicial Process is essential in the LL.M curriculum.
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Course Contents:

Unit-1. Historical Development.

- 1.1. Extent and Operation of the Code.
- 1.2. Definition of Crime
- 1.3. Distinction between Crime and Tort
- 1.4. Criminal Law & Morality.

Unit - 2. Fundamental Elements of Crime

- 2.1. Human Being.
- 2.2. Mensrea
- 2.3. Mensrea and statutory crimes
- 2.4. Mensrea and Indian Law
- 2.5. Words denoting Mens Rea in IPC
- 2.6. Fraudulently

- 2.7 Dishonestly
- 2.8 Difference between Fraudulently
- 2.9 Dishonestly
- 2.10 Voluntarily
- 2.11 Actusreus (Act or Omission)
- 2.12 Injury
- 2.11 Good faith

Unit - 3. Stages in Commission of a Crime

- 3.1. Intention or Contemplation
- 3.2 Preparation
- 3.3 Attempt
- 3.4 Essentials of the Attempt
- 3.5 Impossible Attempt
- 3.6 Illustrative cases
- 3.7 Attempt and preparation distinguished
- 3.8 Sections 511 and 307, IPC
- 3.9 Accomplishment.

Unit - 4. Constructive joint Criminality.

- 4.1. Common Intention
- 4.2 Common Object
- 4.3 Conviction of less than five persons
- 4.4 Charge under Section 149 and conviction under Section 34
- 4.5 Distinction between Sections 34 and 149

**Unit - 5. Abetment and Criminal Conspiracy
ABETMENT.**

- 5.1. ENGLISH LAW
 - 5.1.1 A principal in the first degree
 - 5.1.2 A principal in the second degree
 - 5.1.3 Accessory before the fact
 - 5.1.4 Accessory after the fact Indian Law
- 5.2. INDIAN LAW
 - 5.2.1 Abetment by instigation
 - 5.2.2 Abetment by conspiracy
 - 5.2.3 Abetment by intentional aiding
 - 5.2.3.1 Abetment in General
 - 5.2.1.2 Punishment for Abetment
 - 5.2.1.3 Sections 34 and 114
- 5.3. Criminal Conspiracy
 - Ingredients of criminal conspiracy
 - 5.3.1 Two or more persons
 - 5.3.2 Agreement
 - 5.3.3 Illegal act or legal act by illegal means

- 5.3.3.1 Single general conspiracy and separate conspiracies Punishment
- 5.3.3.2 Sections 34, 109 and 120-A
- 5.3.3.3 Proof of Conspiracy
- 5.3.3.4 Abetment and Conspiracy

Text Books:

1. Bentham - Principles of Penal Law
2. Blackstone's - Commentaries
3. Burdick - The Law of Crime, Vol. I
4. Friedmann - Law in the Changing Society
5. Gandhi, B.M. - Indian Penal Code (1996)
6. Gaur, H.S.- Penal Law of India, 9th Edn.
7. Gaur, K.D.- Criminal Law : Cases & Materials (1975)
8. Hall, Jerome - General Principles of Criminal Law (1960), 2nd Edn.
9. Halsbury's - Laws of England : 3rd Edn., Vols. X & XI; 4th Edn., Vol. XI
10. Huda, Shamshul - Principles of Law of Crime in British India (1902) (Reprint, 1993-
Eastem Book Co., Lucknow)
11. Kane, P.V. - History of Dharamshashtra, Vol. III
12. Kenny's - Outlines of Criminal Law, 19th Edn.
13. Mayne, J.D. - Criminal Law of India, 4th Edn.
14. Nelson - Indian Penal Code

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