

PAPER – III : INDIAN CONSTITUTIONAL LAW : THE NEW CHALLENGES.

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 Centre 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 liberalisation.
3. Right to equality: privatisation 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 to broadcast and telecast.
 - 5.2. Right to strikes, hartal and bandh.
6. Emerging regime of new rights and remedies
 - 6.1. Reading Directive Principles and Fundamental Duties into Fundamental Rights
 - 6.1.1. Compensation jurisprudence
 - 6.1.2. Right to education
 - 6.1.2.1. Commercialisation of education and its impact.
 - 6.1.2.2. Brain drain by foreign education market.
7. Right of 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.
 - 9.3.1. Appointment, transfer and removal of judges.
 - 9.4. Accountability: executive and judiciary.
 - 9.5. Tribunals
10. Democratic process
 - 10.1. Nexus of politics with criminals and the business.
 - 10.2. Election
 - 10.3. Election commission: status.
 - 10.4. Electoral Reforms
 - 10.5. Coalition government, 'stability, durability, corrupt practice'
 - 10.6. Grass root democracy.

Select Bibliography

No specific bibliography is suggested for this course since the course materials obviously depends upon the latest developments. These

developments in the areas specified in the course can be gathered from the recent materials such as case law, changes and amendments of laws, critical comments, studies and reports, articles and research papers and lastly contemporary emerging ethos impacting on constitutional values.

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

Select Bibliography

- S. Chhabra, The Quantum of Punishment in Criminal Law (1970),
- H.L.A. Hart, Punishment and Responsibility (1968)
- Herbert L. Packer, The Limits of Criminal Sanction (1968)
- Alf Ross, On Guilt, Responsibility and Punishment (1975)
- A. Siddique, Criminology (1984) Eastern, Lucknow.
- Law Commission of India, Forty-Second Report Ch. 3 (1971)
- K.S. Shukla, "Sociology of Deviant Behaviour" in 3 ICSSR Survey of Sociology and Social Anthropology 1969-179 (1986)
- Tapas Kumar Banerjee, Background to Indian Criminal Law (1990), R. Campray & Co., Calcutta.

PAPER - III : PRIVILEGED CLASS DEVIANCE

1. **Introduction**
 - 1.1. Conceptions of white collar crimes
 - 1.2. Indian approaches to socio-economic offences
 - 1.3. Notions of privileged class deviance as providing a wider categorization of understanding Indian development

- 1.4. Typical forms of such deviance
 - 1.4.1. Official deviance (deviance by legislators, judges, bureaucrats)
 - 1.4.2. Professional deviance: journalists, teachers, doctors, lawyers, engineers, architects and publishers
 - 1.4.3. Trade union deviance (including teachers, lawyers/urban property owners)
 - 1.4.4. Landlord deviance (class/caste based deviance)
 - 1.4.5. Police deviance
 - 1.4.6. Deviance on electoral process (rigging, booth capturing, impersonation, corrupt practices)
 - 1.4.7. Gender-based aggression by socially, economically and politically powerful

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

2. Official Deviance

- 2.1. Conception of official deviance - permissible limit of discretionary powers.
- 2.2. The Chambal valley dacoit Vinoba Mission and Jai Prakash Narain Mission - in 1959 and 1971
- 2.3. The Chagla Commission Report on LIC-Mundhra Affair
- 2.4. The Das Commission Report on Pratap Singh Kairon
- 2.5. The Grover Commission Report on 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 powers in India
- 3.2. Unconstitutionality of "third-degree" methods and use of fatal force by police
- 3.3. "Encounter" killings
- 3.4. Police atrocities

- 3.5. The plea of superior orders
- 3.6. Rape and related forms of gender-based aggression by police and paramilitary 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
The Antulay Case

Select Bibliography

- Upendra Baxi, *The Crisis of the Indian Legal System* (1982) Vikas Publishing House, New Delhi.
- Upendra Baxi (ed.), *Law and Poverty: Essays* (1988)
- Upendra Baxi, *Liberty and Corruption: The Antulay Case and Beyond* (1989)
- Surendranath Dwevedi and G.S. Bbargava, *Political Corruption in India* (1967)
- A.R. Desai (ed.) *Violation of democratic Rights in India* (1986)
- A.G. Noorani, *Minister's Misconduct* (1974)
- B.B. Pande, "The Nature and Dimensions of Privileged Class Deviance" in *The Other Side of Development* 136 (1987; K.S. Shukla ed.).
- Indira Rothermund, "Patterns of Trade Union Leadership in Dhanbad Coal fields" 23 *J.L.L.J* 522(1981)

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

- 1. Introductory**
 - 1.1. Basic conceptions
 - 1.1.1. Drugs 'narcotics' "psychotropic substances"
 - 1.1.2. "Dependence," "addiction"
 - 1.1.3. "Crimes without victims"
 - 1.1.4. "Trafficking" in "drugs"
 - 1.1.5. "Primary drug abuse"
 - 2. How Does One Study the Incidence of Drug Addiction and Abuse?**
 - 2.1. Self-reporting
 - 2.2. Victim-studies
 - 2.3. Problems of comparative studies
 - 3. Anagraphic and Social Characteristics of Drug Users**
 - 3.1. Gender
 - 3.2. Age
 - 3.3. Religiousness
 - 3.4. Single individuals/cohabitation
 - 3.5. Socio-economic level of family
 - 3.6. Residence patterns (urban/rural/urban)
 - 3.7. Educational levels
 - 3.8. Occupation
 - 3.9. Age at first use
 - 3.10. Type of drug use
 - 3.11. Reasons given as cause of first use
 - 3.12. Method of Intake
 - 3.13. Pattern of the -Use
 - 3.14. Average Quantity and Cost
 - 3.15. Consequences on addict's health (physical/psychic)

NOTE: Since no detailed empirical studies exist in India, the class should be in this topic sensitised 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-South Cooperation
- 4.5. Profile of international market for psychotropic substances

5. The Indian Regulatory System

- 5.1. Approaches to narcotic trafficking during colonial India
- 5.2. Nationalist thought towards regulation of drug trafficking and usage
- 5.3. The penal provisions (under the IPC 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 Substances Act, 1985
- 5.7. Patterns of resource-investment in India: policing adjudication, treatment, aftercare and rehabilitation

6. Human Rights Aspects

- 6.1. Deployment of marginalized people as carrier of narcotics
- 6.2. The problem of juvenile drug use and legal approaches
- 6.3. Possibilities of misuse and abuse of investigative prosecutory powers
- 6.4. Bail
- 6.5. The Problem of differential application of the Ugal Regimes, especially in relation to the resource less

7. The Role of Community In Combating Drug Addiction

- 7.1. Profile of Community initiatives in inhibition of dependence and addiction (e.g. de addiction and aftercare)
- 7.2. The role of educational systems
- 7.3. The role of medical profession
- 7.4. The role of mass media

- 7.5. Initiatives for compliance with regulatory systems
- 7.6. Law reform initiatives

Select Bibliography

- H.S. Becker, *Outsiders : The Studies in Sociology of Deviance* (1966)
- J.A. Incard, C.D. Chambers, (eds.), *Drugs and the Criminal Justice System* (1974)
- R. Cocken, *Drug Abuse and Personality in Young Offenders* (1971)
- G. Edwards Busch, (ed.) *Drug Problems in Britain : A Review of Ten Years* (1981)
- P. Kondanram and Y.N. Murthy, "Drug Abuse and Crime : A Preliminary Study" 7 *Indian Journal of Criminology*, 65-68 (1979)
- P.R. Rajgopat *Violence and Response: A Critique of the Indian Criminal System* (1988)
- United Nations, *Economic and Social Reports of the Commission on Narcotic Drugs, United Nations Social Defence, Research Institute (UNSDRI) Combating Drug Abuse and Related Crimes* (Rome, July 1984, Publication No. 21).
- Lok Sabha and Rajya Sabha Debates on 1986 Bill on Psychotropic Substances.
- Useful Journals in this area are:
- (i) *The Law and Society Review* (USA)
 - (ii) *Journal of Drug Issues* (Tallahassee Florida)
 - (iii) *International Journal of Addictions* (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, Ill)
 - (vii) *International Journal of Offender Therapy and Comparative Criminology* (London)
 - (viii) *Bulletin on Narcotics* (United Nations)

LL.M. I Year (II Semester)

Paper VIII- Practical Paper

There shall be a Practical Examination of 100 marks. Of these 100 marks, 25 marks shall be assigned to Class Room Teaching, 25 marks to Doctrinal Research, 25 marks to Non-Doctrinal Research, 15 marks for Class Room Seminars and 10 marks for attendance.