Penology: Treatment of Offenders

Objectives of the Course

This course offers a specialist understanding of criminal policies including theories of punishment, their supposed philosophically and sociologically 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 stage, the three ‘D’s will be explored as offering a range of alternative: decriminalization, demonetization, deinstitutionalization. Broadly, the course will concern itself with:

(a) Theories of punishment
(b) Approaches to sentences
(c) Alternatives to imprisonment
(d) The state of institutional incarceration in India: jail and others custodial institution
(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 semester.

Syllabus

1. Introductory
   Definition of Penology

2. Theories of Punishment

3. The Problematic of Capital Punishment
   Constitutionality of Capital Punishment, Judicial Attitudes towards Capital Punishment in India – An inquiry through the statute law and case law, Law Reform Proposals.

4. Approaches to Sentencing
Alternatives to imprisonment, Probation, Corrective Labour, Fines, Collective fines, Retraction by the offender/ by the court.

5. Sentencing

6. Imprisonment
   The state of India’s jails today, The disciplinary regime of Indian Prisons, Classification of prisoners, Rights of prisoner and duties of custodial staff, Deviance by custodial staff, Open prisons, Judicial surveillance - basis – development reforms

Select bibliography

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) Easten, Lucknow
Law Commission of India, Forty-Second Report Ch, 3 (1971)
Tapas Kumar Banerjee, Background to Indian Criminal Law (1990), R Cmpray & Co., Calcutta.
Objectives of the course

Industrialisation has played, and has to play, a very vital role in the economic development of India. In the post-independent era, industrial development is regarded, and hence employed, as principal means in the strategy for achieving the goal of economic and social justice envisioned in the Constitution. Corporations, both public and private, are viewed as a powerful instrument for development. In a developing society like India, enormous varieties of consumer goods are manufactured or produced. Obviously, the situation raises the issues of procuring, utilising and managing the finances. For this purpose a science of financial management techniques has been evolved. The faculties of commerce, business and management studies have since last decades started to impart instruction so as to turn out sufficiently well equipped and adequately trained financial personnel. However, the legal and juristic aspects of corporate finance have been more or less not effectively taken care of.

In view of the above perspectives the broad objectives of this course may be formulated as follows:

(i) To understand the economic and legal dimensions of corporate finance in the process of industrial development in establishing social order in the context of constitutional values

(ii) To acquaint the students with the normative, philosophical and economic contours of various statutory rules relating to corporate finance

(iii) To acquaint the students with the organisation, functions, lending, and recovery procedures, conditions of lending and accountability of international national and state financing institutions and also of commercial banks; and

(iv) To acquaint the students with the process of the flow and outflow of corporate finance. The following syllabus prepared with the above perspective will be spread over a period of one semester.
5.3 Rights in making company decisions affecting creditor interests
5.4 Creditor self-protection
5.5 Incorporation of favourable terms in lending contracts
5.6 Right to nominate directors
5.7 Control over corporate spending
6. Protection of Investors
6.1 Individual share holder right
6.2 Corporate membership right
6.3 Derivative actions
6.4 Qualified membership right
6.5 Conversion, consolidation and re-organisation of shares
6.6 Transfer, and transmission of securities
6.7 Dematerialisation of securities
7. Corporate Fund Raising
7.1 Depositories: IDR(Indian depository receipts), ADR(American depository receipts)
6.1 Global depository receipts
7.2 Public financing institutions: IDBI, ICICI, IFC and SFC
7.3 Mutual fund and other collective investment schemes
7.4 Institutional investments: LIC UTI and banks
7.5 FDI and NRI Investment: Foreign institutional investments (IMF and World bank)
8. Administrative Regulation on Corporate Finance
8.1 Inspection of accounts
8.2 SEBI
8.3 Central government control
8.4 RBI Control
COMPARATIVE ADMINISTRATIVE LAW

Objective of the course

Specialists in Administrative Law have to be in the position to assess the developments in Indian administrative law from a comparative angle. That the administrative law jurisprudence in the country owed major its growth from the English and Americal development is a recognised 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 focuses on the doctrine of separation of Powers, the scope of delegated legislation, the exercise of discretion, the doctrine of fairness struck by judicial process for administrative decision making and the liabilities of the administration.

This Paper shall comprise of about 42 units of one hour duration to be spread out a period of one semester.

Syllabus

   1.1 French System
   1.2 England and US
   1.3 Other Systems

2. Doctrine of Separation of Powers
   2.1 Comparative survey - common law and continental systems: English, US, French, German and Indian.

3. Delegated Legislation
   3.1 Comparative approaches: widening contours; classification, controls over delegated legislation.

4. Administrative Discretion
   4.1 Need for discretionary powers.
5. Processual Fairness

5.1 Evolution and significance of natural justice.


5.3 US: due process and judicial decisions: doctrine of fairness: Articles 14, 19 and 21.

5.4 Access to information.


6.1 Contractual liability

6.2 Tortsious liability

6.3 Federal Tort Claims Act, 1946.


6.5 Indian attempts at legislation.
Objectives of the course

We live in an era of scientific development. The alarming rate of development in biotechnology calls for drastic change 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

1. Interrelationship of Science, Technology and Human Rights
2. Implication of Development of Science and Technology on Human Rights
   2.1 Right to environment in the development of science and technology
   2.2 Right to environment in the advancement of science and technology
   2.3 Right to human health and impact of development in medical science
3. Medicine and the Law
   3.1 Organ transplantation
   3.2 Experimentation on human beings
   3.3 Euthanasia (mercy killing)
   3.4 Gene therapy
4. Issue of Human Rights Ethics in Scientific and Technological Development
   4.1 Sex determination test
   4.2 Induced abortion
   4.3 Reproductive technology
   4.4 Cloning
   4.5 In vitro fertilization
   4.6 Artificial insemination

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4.7 Surrogate motherhood

5. Development in Information Technology and Human Rights


6.1 Right to life
6.2 Right to Privacy
6.3 Right to physical integrity
6.4 Right to information
6.5 Right to benefit from scientific and technological progress
6.6 Right to adequate standard of living