

CONSTITUTIONAL FOUNDATIONS OF CRIMINAL LAW

Responsible Faculty Instructor:
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Assistant Professor

Credits: 4

Credits Type: Law

Cross-registration: No

Pre-requisites: Constitutional Law & Criminal Law

COURSE DESCRIPTION (COURSE VISION):

This course explores the constitutional underpinnings of Indian criminal law, examining how principles such as due process, equality, liberty, and proportionality shape substantive and procedural criminal jurisprudence. Students will engage critically with Supreme Court decisions that have constitutionalized criminal justice, reflecting on how the Constitution serves as both a source of restraint and empowerment for the State's penal power. The course situates Indian criminal law within the broader context of constitutional debates on fundamental rights, state power, and transformative justice.

INTENDED LEARNING OUTCOMES:

Course aims to ensure that students can:

1. Build an understanding of the constitutional principles that govern the interpretation and enforcement of criminal laws in India.
2. Critically evaluate the constitutional limits on legislative and executive powers.
3. Analyze judicial decisions that shaped the intersection of constitutional and criminal jurisprudence.
4. Compare Indian approaches with other jurisdictions in protecting rights within the criminal process.
5. Develop normative and policy-oriented arguments regarding constitutional reform and criminal justice.

READING LIST:

1. Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (Cambridge University Press 2012)
2. K.K. Nigam, 'Due Process of Law: A Comparative Study of Procedural Guarantees against Deprivations of Personal Liberty in the United States and India' (1962) 4 *Journal of the Indian Law Institute* 9
3. Mrinal Satish, 'Bad Characters, History Sheeters, Budding Goondas and Rowdies: Police Surveillance Files and Intelligence Databases in India' (2011) 23(1) *National Law School of India Review* 133
4. J Waldron, 'How Law Protects Dignity' (2012) 71 *Cambridge Law Journal* 200
5. Tarunabh Khaitan, 'Guarantor Institutions' (2021) 16(S1) *Asian Journal of Comparative Law* S40
6. Lon L. Fuller, 'The Forms and Limits of Adjudication' (1978) 92 *Harvard Law Review* 353

WEEKLY READING PLAN (WEEKLY OUTLINE):

A weekly plan is provided below:

Module	Week(s)	Module Title
Module 1	Week 1	Introduction to Constitutionalism and Criminal Law
Module 2	Weeks 2–3	Due Process and the Evolution of Fair Trial Rights
Module 3	Weeks 4–5	Equality and Non-Discrimination in Criminal Justice
Module 4	Weeks 6–7	Substantive Criminal Law and Constitutional Limits
Module 5	Weeks 8–9	Police Power, Rights of the Accused, and Investigative Constraints
Module 6	Weeks 10–11	Victimology, Restorative Justice, and Constitutional Remedies
Module 7	Weeks 12–13	Comparative Constitutional Perspectives and Guarantor Institutions
Revision Week	Week 14	Course Revision and Consolidation