

Course Description – Criminal Legal Theory (Elective)

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Criminal legal theory elective concerns itself with the fundamental questions underlying criminal law. Questions like ‘on what basis does the state claim the power to prohibit conduct and punish those who transgress’, ‘which acts or omissions ought to give rise to criminal liability’, ‘what conditions must be met for an offender to be held genuinely responsible, and whether punishment, including imprisonment, can be morally justified at all’. The elective course engages with the principal accounts of why we punish (i.e. retributive, deterrent, preventive, and rehabilitative theories). It also examines the moral dimensions of core doctrinal principles such as *actus reus*, *mens rea* and *defences*, to ask the most important question, i.e. ‘where the limits of criminalization properly lie?’, especially in the context of heterogenous social values and varied power structures.

Beyond the study of offences, procedures, and institutions, the course invites students to reflect on a fundamental question ‘how should a constitutional democracy respond to crime while preserving human dignity, due process, and the rule of law?’. While these questions may not admit definitive answers, the endeavor is to equip the learners with the conceptual tools, and doctrinal foundations necessary to engage with them thoughtfully. If by the end of the semester learners emerge with greater clarity about the promises and limitations of the criminal justice system, the course would have achieved one of its central objectives.

This course provides a thorough introduction to the institutional dimensions of criminal justice system in India. We will examine the legal principles that define criminal responsibility, the procedural safeguards that regulate the exercise of state power, and the institutional actors responsible for the investigation, prosecution, adjudication, and punishment of crime. Drawing insights from criminology, sociology, constitutional law, legal theory, and public policy, the course situates criminal justice within its broader social and institutional context.

The course begins with an exploration of the historical evolution of crime and punishment and the philosophical aspects of criminal law. It then introduces core concepts such as *actus reus*, *mens rea*, *burden and standard of proof*, *stages of crime*, *criminal liability*, and *general exceptions*. The idea is to engage with the fundamental principles that shape the law of crimes and their application through statutory interpretation and judicial decision-making.

It will also examine the structure and functioning of the criminal justice system through an analysis of the roles of the police, prosecutors, defence counsel, judiciary, prisons, victims, and accused persons. Attention is devoted to the procedural life cycle of a criminal case, including investigation, arrest, bail, cognizance, trial, sentencing, and appeal, alongside an introduction to key evidentiary principles governing admissions, confessions, witness testimony, and privileged communications.

Drawing upon the Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023, and Bharatiya Sakshya Adhinyam, 2023, as well as landmark judicial decisions, the course seeks to develop a nuanced understanding of the relationship between crime, punishment, due process, and constitutional rights. Particular emphasis will be placed on the constitutionalizing of criminal procedure through Articles 14, 20, 21, and 22 of the Constitution of India. The course engages contemporary challenges including custodial violence, prison overcrowding, wrongful convictions, digital evidence, surveillance technologies, bail jurisprudence, and criminal justice reform.

By situating doctrinal criminal law within its broader institutional and constitutional framework, the course equips the learner with a critical understanding of the criminal justice system and its role in a democratic society governed by the rule of law.