

SYNOPSIS

Criminal Justice and Human Rights

(2025–2026)

Faculty of Law

University of Delhi

LLM/MCL Course Material

CRIMINAL JUSTICE AND HUMAN RIGHTS

LL. M. 2YLM 113/3 YLM113

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INTRODUCTION

Crime, as Emile Durkheim famously stated, is a social fact and an inevitable feature of all societies. Criminal justice thus remains central to ensuring public order, justice, and protection of fundamental rights. A modern criminal justice system must navigate the competing interests of the state, the accused, the victims, and society at large.

This course offers a comprehensive and interdisciplinary approach to the study of criminal justice and human rights, with a primary focus on India while also incorporating comparative perspectives from other jurisdictions such as the UK, USA, South Africa, France, and Germany. It critically examines the criminal justice process from investigation to trial, sentencing, punishment, and rehabilitation, and interrogates how well these processes align with constitutional guarantees and international human rights standards.

The course is structured to cover theoretical foundations, institutional mechanisms, substantive and procedural legal issues, special laws, and access to justice. Particular attention is paid to recent reforms in Indian criminal law, including the *Bharatiya Nyaya Sanhita*, *Bharatiya Nagarik Suraksha Sanhita*, and *Bharatiya Sakshya Adhinyam* (2023). The paper also explores topics such as restorative justice, victim rights, alternatives to incarceration, and prison reforms.

The suggested readings and cases are not exhaustive. Students are encouraged to engage with additional scholarly writings, recent judgments, international instruments, and critical commentaries to deepen their understanding and broaden their perspectives.

CHAPTER 1: FACT SHEET: CRIME PROFILE IN INDIA

This chapter provides a statistical and sociological overview of crime in India. It introduces students to key indicators such as crime rates, types of offenses, and demographic profiles of offenders. Through a close reading of NCRB data and comparative global crime reports, learners will examine trends in investigation and conviction rates, systemic delays, and the socio-economic backdrop of criminal behavior. (1 day).

Suggested Readings:

- National Crime Records Bureau, *Crime in India 2022* (Ministry of Home Affairs, Govt. of India, Dec. 2023), available at <https://ncrb.gov.in>.
- Tata Trusts (2022), *India Justice Report 2022: Full Report*, India Justice Report. https://indiajusticereport.org/files/IJR%202022_Full_Report.pdf.
- Sameer Yasir, A Lifelong Nightmare: India's Judicial Backlog, *N.Y. Times* (Jan. 13, 2024), available at <https://www.nytimes.com/2024/01/13/world/asia/india-judicial-backlog.html>.

- United Nations Office on Drugs and Crime, *Global Study on Homicide 2023*, available at <https://www.unodc.org/unodc/en/data-and-analysis/global-study-on-homicide.html>.
- Comparative Analysis with Global Crime Trends like UNODC World Crime Reports, available at https://www.unodc.org/documents/data-and-analysis/statistics/crime/ccpj/World_crime_trends_emerging_issues_E.pdf.

CHAPTER 2: INTRODUCTION TO CRIMINAL JUSTICE

This chapter introduces students to the fundamental concepts and philosophies underpinning criminal justice. It examines how crime is defined and understood across time and cultures, why individuals may engage in criminal conduct, and how legal systems aim to respond to such behavior. Emphasis is placed on exploring the institutional structure and core objectives of criminal justice systems, particularly focusing on the contrast between adversarial and inquisitorial models. Though examples from select international jurisdictions may be referred, the primary lens remains Indian legal developments. (2 days).

Suggested Readings:

- H.M. Hart, Jr., The Aims of the Criminal Law, 23 *Law & Contemp. Probs.* 401 (1958), available at <https://scholarship.law.duke.edu/lcp/vol23/iss3/2>. of the Criminal Law, 23 *Law & Contemp. Probs.* Pg 401-441 (1958).
- Paranjape, N. V. (2023), *Criminology, Penology with Victimology* (22nd ed.), Central Law Publications.
- Bassiouni, M. C. (1993). *Human Rights in the context of Criminal Justice: Identifying International Procedural Protections and Equivalent Protections in National Constitutions*, *Duke Journal of Comparative & International Law*, 3(2), 235–298. available at <https://scholarship.law.duke.edu/djcil/vol3/iss2/1>

CHAPTER 3: INTERNATIONAL AND COMPARATIVE FRAMEWORKS

This chapter presents a global overview of criminal justice through the lens of human rights law. It introduces key international instruments and institutions, including the United Nations treaties, the Rome Statute of the International Criminal Court, and the European Convention on Human Rights. Students will explore how different legal traditions common law and civil law incorporate human rights protections within criminal procedures. (1 day).

Suggested Readings:

- Rome Statute of the International Criminal Court art. 5, July 17, 1998, 2187 U.N.T.S. 90, available at <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>.
- United Nations, *Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, U.N. Doc. A/RES/70/175 (Dec. 17, 2015), available at

https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf.

- U.N. Office on Drugs and Crime, *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, U.N. Doc. A/RES/65/229 (Mar. 16, 2011), available at https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf.
- Council of Europe, *European Convention on Human Rights* arts. 5–7, Nov. 4, 1950, 213 U.N.T.S. 221, available at https://www.echr.coe.int/documents/convention_eng.pdf.

CHAPTER 4: HUMAN RIGHTS IN INDIAN CRIMINAL LAW FRAMEWORK

This chapter focuses on constitutional protections within India’s criminal justice system, especially Articles 20 to 22, which address safeguards against arbitrary arrest and prosecution. The discussion includes a detailed examination of the human rights implications of the new criminal codes—Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam enacted in 2023. The chapter will try to draw a comparison between the Indian statutory and constitutional provisions with the existing international human rights benchmarks. (4 days).

Suggested Readings:

- Bharatiya Nyaya Sanhita, No. 45 of 2023 (India), available at <https://www.indiacode.nic.in/handle/123456789/59664>.
- Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023 (India), available at <https://www.indiacode.nic.in/handle/123456789/59665>.
- Bharatiya Sakshya Adhiniyam, No. 47 of 2023 (India), available at <https://www.indiacode.nic.in/handle/123456789/59666>.
- The Protection of Human Rights Act, No. 10 of 1993 (India), available at <https://www.indiacode.nic.in/handle/123456789/1997>.
- Vibhute, K. I. (2004), *Criminal Justice: A Human Rights Perspective of the Criminal Justice Process in India*, Eastern Book Company.

CHAPTER 5: SPECIAL LAWS & HUMAN RIGHTS

This chapter examines the operation of special criminal laws in India and their interaction with fundamental human rights principles. It covers legislations such as the Unlawful Activities (Prevention) Act, Narcotic Drugs and Psychotropic Substances Act, Protection of Children from Sexual Offences Act, and laws addressing trafficking and domestic violence. Attention is given to concerns around over-criminalization, preventive detention, and procedural safeguards. Students are expected to read and understand a comparative framework with a primary focus on these Indian statutory frameworks. (3 days).

Suggested Readings:

- Kalhan, A., Conroy, G. P., Kaushal, M., & Miller, S. S. (2006). Colonial continuities: Human rights, terrorism, and security laws in India. *Columbia Journal of Asian Law*, 20(1), pp 93–234, available at <https://journals.library.columbia.edu/index.php/cjal/article/view/3255/6947>.
- Gallagher, A. T. (2008), Using International Human Rights Law to better protect Victims of Trafficking: The Prohibitions on Slavery, Servitude, Forced Labour, and Debt Bondage, in L. N. Sadat & M. P. Scarf (Eds.), *The Theory and Practice of International Criminal Law: Essays in Honour of M. Cherif Bassiouni*, pp. 397–430, available at https://brill.com/display/book/edcoll/9789047431701/Bej.9789004166318.i-448_015.xml
- International Centre for Missing & Exploited Children, *India Child Protection Report* (2022), available at https://www.icmec.org/wp-content/uploads/2016/09/UNICEF-Child-Protection-Online-India-pub_doc115-1.pdf
- Global Counterterrorism Forum. (2015), *The Hague Memorandum on Good Practices for the Judiciary in Adjudicating Terrorism Offenses*, available at https://theij.org/wp-content/uploads/2021/09/14Sept19_GCTFTheHagueMemorandum.pdf

CHAPTER 6: ACCESS TO JUSTICE: INVESTIGATION PHASE

This chapter addresses procedural fairness and human rights concerns during the investigation stage of criminal proceedings. Topics include arrest, pre-trial detention, grant of bail, custodial safeguards, and the use of forensic and scientific techniques. It considers whether legal procedures adequately balance investigative needs with individual rights. In this chapter the students would be expected to make comparisons with other jurisdictions like the US and Germany. (2 days).

Suggested Readings:

- Government of India, Ministry of Home Affairs. (2003), *Committee on Reforms of Criminal Justice System (Justice V. S. Malimath Committee)*, Volume I, available at https://www.mha.gov.in/sites/default/files/2022-08/criminal_justice_system%5B1%5D.pdf
- *Miranda v. Arizona*, 384 U.S. 436 (1966).
- European Court of Human Rights. (2008), *Salduz v. Turkey*, App. No. 36391/02 available at <https://hudoc.echr.coe.int/eng?i=001-89893>
- European Court of Human Rights. (2010). *Gäfgen v. Germany*, App. No. 22978/05 available at <https://hudoc.echr.coe.int/eng?i=001-99015>
- State v. Disha A. Ravi, Bail Application No. 420/2021, Patiala House Courts, New Delhi (Feb. 23, 2021).

- DNA Technology (Use and Application) Regulation Bill, No. 34 of 2019 (India), available at <https://prsindia.org/billtrack/the-dna-technology-use-and-application-regulation-bill-2019>.

CHAPTER 7: TRIAL PHASE & HUMAN RIGHTS

This chapter explores the core components of a fair trial within the Indian legal system and evaluates how they uphold the human rights of the accused and victims. Key areas include the role and duties of the prosecution, the right to legal representation, plea bargaining mechanisms, and victim protection and compensation. Discussions and analysis on comparative aspects, such as prosecutorial roles in other systems has to be reflected in this chapter. (3 days).

Suggested Readings:

- Law Commission of India, Report No. 277, *Wrongful Prosecution* (2018), available at <https://static.pib.gov.in/WriteReadData/userfiles/Report%20No.%20277%20Wrongful%20Prosecution.pdf>
- *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369 available at <https://indiankanoon.org/doc/1193226/>
- *Lalita Kumari v. Government of Uttar Pradesh*, (2014) 2 SCC 1 available at <https://indiankanoon.org/doc/10239010/>
- European Court of Human Rights. (1993), *Imbrioscia v. Switzerland*, App. No. 13972/88, available at <https://hudoc.echr.coe.int/eng?i=001-57974>

CHAPTER 8: STATE RESPONSES TO CRIME: PUNISHMENT & HUMAN RIGHTS

This chapter delves into theories and forms of punishment and examines how different punitive measures align with or violate human rights principles. Topics include death penalty, imprisonment, prisoners' rights, and non-custodial alternatives such as probation and community service. The ongoing debate between abolitionist and retentionist approaches is critically assessed, especially in light of Indian legal practice. (4 days).

Suggested Readings:

- Law Commission of India (2015), *Report No. 262: The Death Penalty*, Government of India, available at <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081670.pdf>
- *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684.
- Chin, G. J. (2012). *The new civil death: Rethinking punishment* (UC Davis Legal Studies Research Paper No. 308) available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2072736.

- Klingele, C. (2013). Rethinking the use of community supervision. *Journal of Criminal Law & Criminology*, 103(4), 1015–1069, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2232078

CHAPTER 9: ALTERNATIVES TO FORMAL CRIMINAL JUSTICE SYSTEM

This chapter introduces students to non-traditional modes of dispute resolution and justice such as Lok Adalat, mediation, and restorative justice processes. It critically reflects on the potential of these methods to repair harm, ensure accountability, and reduce the burden on the formal criminal justice system. A comparative insight from jurisdictions like Canada and New Zealand are selectively included in this chapter. (1 day).

Suggested Readings:

- Menkel-Meadow, C. (2007). Restorative justice: What is it and does it work? *Annual Review of Law and Social Science*, 3, 161–187, available at <https://doi.org/10.1146/annurev.lawsocsci.2.081805.105740>
- Zehr, H. (2002), *The Little Book of Restorative Justice*, Good Books.
- Daly, K. (2006), Feminist Engagements with Restorative Justice, *Theoretical Criminology*, 10(1), 9–28, available at <https://doi.org/10.1177/1362480606059980>

CHAPTER 10: PRISON REFORMS AND HUMAN RIGHTS INITIATIVES

This final chapter evaluates the conditions and administration of prisons in India, with a focus on reformation, rehabilitation, and resocialization of inmates. It reviews models like open prisons and assesses the scope of current reforms through Indian policy documents and judicial interventions. Comparative references to Scandinavian prison models are a part of discussions to showcase alternative frameworks emphasizing dignity and reintegration. (2 days).

Suggested Readings:

- Ministry of Home Affairs (India), *Model Prison Manual* (2023), available at https://www.mha.gov.in/sites/default/files/advisory_10112023.pdf
- Prison Statistics India (PSI) – 2022, available at <https://www.data.gov.in/catalog/prison-statistics-india-psi-2022>.
- Centre for Research & Planning, Supreme Court of India. (2024, October), *Prisons in India: Mapping prison manuals and measures for reformation and decongestion* (ISBN 9788196828578), Supreme Court of India, available at <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2024/11/2024110677.pdf>.

- Pratt, J. (2008), Scandinavian exceptionalism in an era of penal excess, *British Journal of Criminology*, 48(3), 275–292, available at <https://doi.org/10.1093/bjc/azm072>
- U.N. Office on Drugs and Crime, *Handbook on the Classification of Prisoners* (2022), available at https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.
- *Sukanya Shantha v. Union of India & Ors.*, Writ Petition (Civil) No. 1404 of 2023, INSC 753.

Bibliography / References

1. Ashworth, A. (2015), *Sentencing and Criminal Justice* (6th ed.). Cambridge University Press, available at <https://doi.org/10.1017/CBO9781107415270>
2. Garland, D. (2001), *The Culture of Control: Crime and Social Order in Contemporary Society*, University of Chicago Press, available at <https://doi.org/10.1093/acprof:oso/9780199258024.001.0001>
3. Zedner, L. (2004), *Criminal Justice*, Oxford University Press.
4. Beccaria, C. (1764/1963), *On Crimes and Punishments* (H. Paolucci, Trans.) Prentice-Hall.
5. Cohen, S. (1985), *Visions of Social Control: Crime, Punishment and Classification*, Polity Press.
6. Simon, J. (2007), *Governing through Crime*, Oxford University Press.
7. Ashworth, A. (2015), *Sentencing and Criminal Justice* (6th ed.), Cambridge University Press.
8. Garland, D. (2001), *The Culture of Control: Crime and Social Order in Contemporary Society*, University of Chicago Press.
9. Baxi, U. (2012), *The Future of Human Rights* (3rd ed.), Oxford University Press.