

SEMESTER - III

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT

Bachelor of Commerce Bachelor of Law (Honours) [B.Com.LL.B.(Hons.)]

Semester - III

BCL – 201 Fundamentals of Entrepreneurship - I

Course Inputs.

- Unit I. Introduction : The entrepreneur; Definition; Emergence of entrepreneurial class; Factors into making of an entrepreneur, characteristics of an entrepreneur in small scale & large scale enterprise, Theories of entrepreneurship; Role of socio-economic environment ; Characteristics of entrepreneur ; entrepreneur functions ,Stages of entrepreneur Development ; Leadership ;Risk taking; Decision-making and business planning. **(35%)**
- Unit II. Promotion of a Venture; Opportunity analysis; External environmental analysis-economic, social, and technological; Competitive factors; Legal requirements for establishment of a new unit and raising of funds; Venture capital sources and documentation required , Venture Capital companies in India. **(30%)**
- Unit III. Entrepreneurial Behavior: Innovation and entrepreneur, Stages in Innovation process, elements in the Invention- Innovation Process, Left v/s Right hemisphere of the brain, people in technological innovation, windows & Corridors of opportunity, success mantras for entrepreneur, Mavericks & misfits about entrepreneurship, Entrepreneurial behavior and psycho Theories, Social responsibility. **(35%)**

Suggested Readings:

- 1 Tandon B.C: Environment and Entrepreneur; Chugh Publication, Allahabad.
- 2 Siner A David: Entrepreneurial Megabuks ; Johan Wiley and Sons, New York.
- 3 Srivastava S.B : A Practical Guide to Industrial Entrepreneurs ; Sultan Chand and Sons, New Delhi
- 4 Prasanna Chandra: Project Preparation, Appraisal, Implementation; Tata McGraw Hill, New Delhi.
- 5 Pandey I.M.Venture Capital – The Indian Experience; Prentice Hall Of India.
- 6 Holl: Entrepreneurship –New Venture Creation; Prentice Hall of India.

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Semester - III

BCL - 202 Principles of Business Management - I

Course Inputs.

Unit I. Introduction: Concept , nature , process and significance of management, Four orientations of mgmt. ,effective mgmt. ,Managerial roles (Mintzberg);An overview of functional areas of management; Development of management thought ; Classical and neo-classical systems; Contingency approaches. **(20%)**

Unit II. Planning: Concept, process and types, Decision making – Concept and process; Bounded rationality; Management by objectives; corporate planning; Environment analysis and diagnosis; Environmental factors; Strategy formulation.

(30%)

Unit III. Organizing: Concept, nature, process and significance; Authority and Responsibility relationships; Centralization and decentralization; Departmentation; Organization structure-forms and contingency factors. **(20%)**

Unit IV. Motivating and Leading People at Work; Motivation-Concept; Theories: Maslow, Herzberg, McGregor and Ouchi; McClellands need theory, Alderfer ERG's Theory, Financial and non-financial incentives. **(30%)**

Suggested Readings:

3. Drucker Peter F: Management Challenges for the 21st Century; Butterworth Heinemann, Oxford.
4. Weihrich and Koontz, et al: Essentials of Management; Tata McGraw Hill, New Delhi.
5. Fred Luthans : Organizational Behavior ; McGraw Hill, New York.
4. Louis A. Allen: Management and Organization; McGraw Hill, Tokyo.
6. Ansoff H I : Corporate Strategy ; McGraw Hill, New York.
7. Hampton, David R: Modern Management; McGraw Hill, New York.
8. Stoner and Freeman: Management; Prentice-Hall, New York.
9. Principles and Practices of Management - L.M.Prasad.

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Semester - III

BCL – 203 English - Law and Language - I

Object of study: The relation of English Language and literature is integrally related to the history and development of Common Law System in the world, commonly known as Anglo-Saxon Legal System. The System is transplanted in India during the early British rule along with English language and literature in the European Education introduced in India. Naturally today, one of the strength of Indian Students is the natural strength in English language and literature.

Words are bricks and grammar is the mortar of law and justice system that is how the relation is expressed in simple term. Indian Legal system heavily imbedded in English language and literature naturally calls for strong grounding in language and literature, the first skill that an Indian lawyer has to earn. These couple of courses in English language and literature tries to scientifically relate the Language and Literature as the means and methods of effective communication, reading; writing; and speaking.

Methodology of teaching-learning: The effective method of teaching-learning and developing language skill is, loving to read literature. However, the English language has nuances in legal expression, often mentioned as Legal English, though there is nothing like Legal and Illegal English. That is only a pedagogical exercise. The best way to learn such English is to read more and more English literature especially literatures created by Judges and Jurists in the name of Autobiography or biography or in special lecture-series. Indian students like students from any other continents have a distinct style of expression. So it is better to have an English Laboratory to understand various style of oral communication. Listen, speak and write – are three straight ways of teaching-learning language. The analytical skill is developed with critical interpretations and explanation. So the best way to learn language is to work in tutorials and peer group participation.

Evaluation system: Reading, speaking and writing are the only ways of testing and evaluation. Class presentation on Book Review, Fact analysis and interpretation, writing reports, précis, letters and short stories – these are some of the creative ways of testing the growth on interest of the students. Once the interest grows, learning would come automatically.

Section: 1	<i>Theoretical Considerations</i>
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Section: Introduction
Topic: Introduction to language and communication

Reference Text: Developing Communication skills by Krishna Mohan and Meera Banerji. 2002. Macmillan.

Approximate percentage of time to be devoted: 3%

Teaching method: Class activities and lectures

Section: 2	<i>Legal Writing skills</i>
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Topic/Chapter: Avoiding repetitions, Ch-21; Avoiding legalese in writing, Ch-26; Passive voice minimalization, Ch-30; Removing unnecessary words, Ch-39; Use of parallel constructions, Ch-41; Fixing remote relative pronouns, Ch-51; Symbols and abbreviations, Ch-54; Sexist language, Ch-56; Dashes, Ch-57; Quotation marks, Ch-60; Spelling out numbers one to ten, Ch-69

Reference Text: The Winning Brief: 100 Tips for Persuasive Briefing in Trial and Appellate Court (Hardcover) by Bryan A. Garner (2nd ed.)

Approximate percentage of time to be devoted: 6%

Teaching method: Class activities and exercises

Section: 3	<i>Legal writing and language</i>
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Chapter/pages: Fundamental principles of legal writing, p211-213; General guidelines relating to legal writing, p214-221; How to write a case comment, P 232-246; Legal maxims, p289-296; Legal terms, p371-393;

Reference Text: Legal Language by Madabhushi Sridhar, 2nd Edition
Chapter/ Topic: Ch1-Language and law-General study; Ch2-Problem of legal language in drafting; Ch3-Constitutional provisions relating to language.

Reference Text: Dr. Anirudh Prasad. Outlines of legal language in India. 4th edition. Central law publications. Allahabad. 2007.

Approximate percentage of time to be devoted: 10%

Teaching method: Lectures, and written exercises, Classroom Quiz. Test 1

Section: 4	<i>Legal Linguistics</i>
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Topic: Semantics; Morphology ; Phonetics ; Forensic linguistics
Reference Text: George Yule. 1997. The study of language. Cambridge; Akmajian, Demers, Farmer and Harmish. 2001. Linguistics: An introduction to language and communication. Prentice-Hall;

Approximate percentage of time to be devoted: 9%

Teaching method: Lectures and discussion.

Section: 5	<i>Literary Readings and Social Skills</i>
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Readings: The Benefit of Doubt, by Jack London; Ramesh v. Union of India, Equivalent citation: AIR1988 SC775, (1988) 90BOMLR116, JT1988(1)SC361, 1988(1) SCALE327, (1988) 1SCC668, [1988] 2SCR111, 1988 (2) UJ107(SC); "Before the Law", by Franz Kafka; Effective mediator-Firdosh Karachiwala; Francis E.W. Harper the slave auction; Mediation key to swift justice, SUMAN K. SHRIVASTAVA; Peter Tiersma, The Nature of Legal Language; The Merchant of Venice. Shakespeare, Act 4, 15; An Autobiography or The Story of my Experiments with Truth by Mohandas K. Gandhi, translated by Mahadev Desai

Topic: Etiquettes and Manners for law professionals;
Reference Text: Correct Etiquette & Manners for all occasions by Seema Gupta

Approximate percentage of time to be devoted: 24%

Teaching method: Role play, reading and discussion

Section: 6	<i>Grammar</i>
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Topics: Sentence ; Subject and predicate; Phrase and clause; Case; Number; Person; Gender ; Tense; Aspect; Active-passive; Modals ; Prepositions; Infinitives ; Gerunds ; Adjectives; Degrees of comparison ; Articles

Approximate percentage of time to be devoted: 23%

Teaching method: Lectures, classroom activities and exercises. Test 2

Section: 7	Research Project
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Topic: Research Project in Language and Linguistics

Approximate 26%

percentage of time

to be devoted:

Teaching method: Discussion and classroom presentation. Written project report has to be submitted, and a presentation has to be made by the student.

Further Reading:

1. A.S.Hornby, Guide to Patterns and Usage in English, OUP, Delhi, 1999.
2. Bansal, R.K. and J. B. Harrison. Spoken English for India: A Manual of Speech and Phonetics, Hyderabad: Orient Longman, 1983.
3. David Green, Contemporary English Grammar Structures and Composition, Macmillan, Chennai, 1999.
4. Forsyth, Sandy & Lesley Hutchison. Practical Composition. Edinburgh, Oliver & Boyd, 1981
5. Geoffrey Leech and Jan Svartvik, *A Communicative Grammar of English*, Longman, Delhi, 2001.
6. H.K.Mukherjee, *Legal Language, Legal writing and General English*, Law Point, Calcutta, 2004.
7. Herbert Brown, *A Selection of Legal Maxims*, Sweet and Maxwell, London, 1998.
8. Locker, Kitty O. Business and Administrative Communication, McGraw Hill Higher Education, 7th edition. 2006.
9. M.A. Yadugiri and Geeta Bhasker. English for Law. Foundation books. 2005
10. Maison, Margaret M. Examine Your English, Hyderabad: Orient Longman, 1980
11. N. Krishnaswamy, *Modern English*, Macmillan, Delhi, 2001.
12. Paul Rylance, *Legal Writing and Drafting*, Universal Law, New Delhi, 2000.
13. S. Pit Corder, *An Intermediate English Practice Book*, Orient Longman, Hyderabad, 1996.
14. S.C.Tripathi, *Legal Language, Legal Writing and General English*, Central Law Publications, New Delhi, 2005.
15. Thomson and Martinet, *A practical English Grammar*, OUP, Mumbai, 1970.
16. V.R.Narayanswami, *Strengthen Your Writing*, Orient Longman, Hyderabad, 2000.
17. Winning Advocacy: Preparation, Questions, Argument, Hugh Selby, Graeme Blank Oxford University Press Australia. 2nd Revised edition, ISBN: 9780195550955 Pages: 170, September 2004
18. Wren and Martin, *English Grammar and Composition*, S. Chand, Delhi, latest edition. Writer's Guide to Style and Usage, Macmillan, Delhi, 2000.

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Semester - III

BCL – 204 Law of Torts

OBJECT OF THE COURSE

Independent of criminal or contract law, Tort law provides individuals and groups with redress for injury to every dimension of life from physical injury, to property damage, to personal insult. Over past decades no area of law within the civil justice system has experienced greater ferment than the law of Tort and this has resulted in vital changes the thinking of the tortuous liability.

The object of the course is to familiarize the students with the nature and extent of liability of the private enterprises, multinationals and the government authorities for the wrongs committed against the individual and their property, and to develop sound knowledge, skills and disposition amongst students of B.A.LL.B, B.B.A.LL.B and B.Sc.LL.B on some of the contemporary issues of Specific Torts, Cyber Tort, Family Tort, and Economic Tort, Product Liability etc.

COURSE SUMMARY

TOPICS AND READINGS

Module 1:- Definition and Nature of the Law of Tort

Definition, nature and history of the law of torts. “Law of Tort” or “Law of Torts.” Difference between Tort & Crime, Tort & Contract. Basis of the tortuous liability; Basic legal maxims for Determination of liability; viz

Ubi jus Ibi remedium, Injuria Sine Damnum and Damnum Sine Injuria.

[Cases: *Ashby v. White* (1703)2 LR 938;*Rudal Shah v. State of Bihar*, AIR 1983 SC 1086 *Saheli v. Commissioner of Police, Delhi* AIR 1990 SC 513;*Gloucester Grammer School case* (14190 V.B. Hill 11.;*Mayor of Bradford Corporation v. Pickles* (1895) AC 587;*Bhim Singh v. State of Jammu & Kashmir* AIR 1986 SC 494;*Usha Ben v. Bhagya Laxmi Chitra Mandir*, AIR 1978 Guj.]

Module 2: - Liability for the Wrong Committed by Other Person

A. Principle of Vicarious Liability and its

basis. ○ Master and Servants,

○ Principle and Agent

○ Partners of a firm

○ State's Liability: Doctrine of Sovereign Immunity in reference to the Crown Proceedings Act 1947, Federal Torts Claims Act 1946 and Article 300 of the Indian Constitution.

B. Joint Tort Feasors, joint and several liabilities in payment of damages.

[Cases:] *Lucknow Development Authority v M.K. Gupta* AIR 1994 1 SC 243; *State of Rajasthan v. Vidyawati Devi* AIR 1962 SC 933; *Donoghue v. Stevenson*, 1932, AC 562; *Kasturi Lal v. State of U.P.* AIR 1965 SC 1039; *Nicholes v. Marshland* (1876) 2 Ex.D. 1; *Smith v. London and South Western Railway Co.* (1870) LR 6; *Peninsular and Steam Navigation Co. Secretary of State for India* (1861) 5 Bom. H.C.R. App. 2; *Loyd v. Grame Smith & Co.* (1912) AC 716]

Module 3:- Negligence, Contributory Negligence and Nuisance

Negligence as a tort and its various dimensions in the present world viz. Professional Negligence, psychiatric damage; economic loss; Foresight of harm as test of the existence of negligence, Proximate Cause and Intervening cause, concurring negligence of the third person Contributory Negligence, Last Opportunity Rule, Res Ipsa Loquitur Injury Caused by Plaintiff's negligence, Injury Caused by Defendant's negligence, Concurring Contributory negligence, Representation in Contributory Negligence and Imputed Negligence. History of Nuisance, Nuisance and interference with real rights, Remedy for Nuisance, Nuisance in conduct of Business, Public Nuisance.

[Cases:] *Jay Laxmi Salt Works (P) Ltd. V. State of Gujarat* 1994(4) SCC 1; *Dr.Laxman V. Dr. Trimbak* AIR 1969 SC 128; *Davis v. Redcliffe*, (1990)2 AER 536; *F V. Birkshire Health Authority* (1989) 2 All ER 545 (HL); *Maynard V. Midlands Health Authority* (1985) 1 All ER 635 (HL); *Achutrao Haribhau Khodwa V. State of Maharashtra* AIR 1996 SC 2377 ; *M.P. State Road Transport Corp. v. Basanti bai* (1971) MPLJ 706 (DB); *Indian Air Lines v. Madhuri Chaudhri* AIR 1964 Cal. 252; *Glasgow Corporation v. Muir* (1943) AC 448; *Municipal Corporation of Delhi v. Subhagwati* AIR 1966 SC 1750; *Ratlam Municipality v. Vardhichand* (1980) 4SCC 162]

Module 4: - General Defenses for the Tortious Liability

- Volenti non fit injuria*
- Vis Major (Act of God)*
- Inevitable Accident
- Necessity
- Statutory Authority, Judicial and Quasi Judicial, Parental and Quasi- Parental Authorities.

- Act of Third Parties
- Plaintiff's Default
- Mistake

[Cases; Hall v. Brookland Auto Racing Club ; Smith v. Backer (1981) AC 325; Stanley v. Powell (1891)11 Q.B. 86; Heynes v. Harwood (1935) 1 KB 146]

Module 5:- Torts Against Human Being and Property

Assault, Battery, Emotional Distress, Malicious Prosecution and abuse of legal proceedings, Conspiracy, False Imprisonment

Defamation: Freedom of Speech and Expression and liability for Defamation in the civil and criminal law, different branches of Defamation: Libel, Slander and hybrid types of the Defamation; Defamation in Blogs & Cyberage; Privilege, fair Comment and Criticism, malice and right of privacy.

Trespass to land, trespass to goods, conversion, Passing off, Injury to trademark, patent & copyrights.

[Cases: Leta Fay Ford V. Revlon, Inc. Supreme Court of Arizona (153 Ariz. 38, 734 P.2d 580) 1987; Noor Mohd. v, Mohd Jiauddin AIR 1992 MP 244; Hayward v. Thompson (1981)3All E R 450; M.C. Verhese v. T.J. Poonam, AIR 1970 SC1876; T.S. Bhatt v. A. K. Bhatt AIR 1978 Ker 111; Girija Prasad Sharma v. Uma Shankar Pathak AIR 1973 MP 79; Quinn v. Leathem,(1901)AC 495; Municipal Board of Kanauj v. Mohanlal AIR 1951 All 867 State v. Gangadhar AIR 1967 Raj 199; Rajalingam v. Lingaiah (1964) 1ALT 391; Sobha Ram v. Tika Ram(1936) ILR 58 All 903]

Module 6: - Liabilities based on fault:

No fault Liability, Strict Liability and Absolute Liability

The central idea in tort law is that liability is based not so much on acting badly or *wrongfully*, but on committing a *wrong*. At the same time, a victim's claim to recover for harm to her depends on the wrong the injurer has committed being a wrong *to her*. It is not enough that the injurer has committed a wrong and that she (the victim) has suffered as a consequence. The defendant's liability to the victim and the victim's claim against the defendant depend on the defendants having breached a duty of care to the victim.

Principle of Strict Liability as laid down by Justice Blackburn in the famous case of *Reyland's Fletcher* and the exceptions thereof. The application of this doctrine in the India and the changes occurred after the M.C. Mehta's case (*The Principle of Absolute Liability*).

[Cases: Reyland v. Fletcher (1868) L.R. 3 H.L. 30; M.C. Mehta v. Union of India (1987)1 SCC395]

Module 7: - Remoteness of Damage

Various principles for fixing the liability and to ascertain the damages for the wrong committed viz “But for Test”, “Directness Test” (*In Re Polemise Case*) and the “Doctrine of Reasonable foresight” (*The Wagon Mound Case*).

[Cases: *In Re Polemise Case* (1921)3 KB 560 CA; *Wagon Mound Case* (1961)AC 388 *Leisbosch Dredger v. Edison*, (1933) AC 449 HL.]

Module 8: Emerging areas of Tort: Cyber Tort

Emerging Trends in the law of tort for example, wrongs relating to Domestic Rights, viz marital rights, parental rights, domestic violence, seduction of female child etc Rights in Cyberspace, Cybertrespass, Cyberstalking, Spamming, Invasion of Privacy in Cyberspace, Cyberlibel, Cybersquatting, .Product liability in a hi-tech environment Jurisdiction in Cybertort

Communication Decency Act 1996 USA

Electronic Communication and Privacy Act 1986 USA

USAPA 2001(United States Patriot Act)

Information Technology Act 2000 (India)

Nano-technology and Liability Issues

[Cases: *Barrett v. Fonorow*, 799 N.E.2d 916 (Ill. App. 2003). *Barrett v. Rosnethal*, 112 Cal. App. 4th 749 (2003). *Bill Mc Laren, Jr. V. Microsoft Corporation, Court of Appeals of Texas, Dallas* (1999) WL 339015.; *CompuServe Inc. v. Cyber Promotions, Inc.*, 962 F.Supp 1015 (SD Ohio 1997). *Doe v. AOL, Inc.*, 783 So. 2d 1010 (Fl 2001). *EBAY, Inc., Plaintiff, V. BIDDER’S EDGE, Inc., Defendant. United States District Court for the Northern District of California* . 100 F.Supp. 2d 1058(2000). *Hotmail Corp. v. Van\$ Money Pie Inc.*, WL 388389 (1998). *Kremen v. Cohen*, 337 F.3d 1024 (9th Cir 2003). *School of Visual Arts v. Kuprewicz*, 771 N.Y.S.2d 804 (2003). *United States of America V. Hambrick U.S District Court, W.D. Virginia* 55F. Supp. 2d 504, (1999)]

Module 9: Statutory Tort

1. Motor Vehicles Act, 1988

- a. Chapter-X Liability without Fault (Ss.140-144)
- b. Chapter-XI Insurance of Motor Vehicles (Ss.145-164)
- c. Chapter- XII Claims Tribunal (Ss. 165-173)

Module 10 Product Liability and Protection of Consumers' Interest:

Product Liability – theories of causation, defectiveness and proximate reason, tortious misrepresentation and negligence, The Consumers' Protection Act and its applications.

Readings:

Wienfield and Zolowicz, Torts, 17th Edi., Sweet & Maxwell 2006
Salmond, J W, Salmond's Law of Torts (8th edition, Sweet & Maxwell, London, 1934) Fleming, J G, The Law of Torts (9th edition, LBC Information Services, Sydney, 1998) Ratan Lal and Dhiraj Lal on Law of Torts, A Lakshminath M Sridhar, Ramaswamy Iyer's, The Law of Torts, Lexis Nexis, Tenth Edi 2007 Tony Weir, An Introduction to Tort Law, 2nd Edi Oxford University Press 2006. John Murphy, Street on Torts ,Eleventh Edi Oxford University Press 2006. Tabrez Ahmad "Cyberlaw, E-Commerce & M-Commerce". APH Pub.Corp. NewDelhi 2003. Lee B. Burgunder, Legal Aspects of Managing Technology 2nd Edition West 2001. Ramaswamy Iyer Law of Tort Bangia's Law of Torts Madden & Owen, On Product Liability, West Grou

Examples of Suggested Term Paper preparation & Presentation

1. Product Liability
2. Polluter Pays
3. Medical Negligence
4. Hospital Waste Management
5. MV Accident Compensation calculation
6. Industrial Negligence
7. Public nuisance
8. Medical termination of Pregnancy
9. Constitutional Tort
10. Class Action
11. Deficiency of professional Service
12. Common Employment
13. Public Utilities

14. *Remoteness*
15. Sound Pollution
16. Industrial effluence
17. Privacy of the public men
18. Process liability
19. Third Party Liability
20. Domestic violence
21. Doctrine of Heavy Purse
22. Neighbours' liability 23. Ganga Pollution
24. Present Position of people suffering in Bhupal Tragedy
25. Coastal Pollution
26. Vicarious Liability in Contract for Service and Contract of service
27. Air accident Compensation
28. Popularity of Tort cases in India
29. Time study for MVA cases
- Mental element in Defamation

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Semester - III

BCL – 205 Law of Crime - I

Object of the Course

Crime and Punishment has been the one of the most important task of rule of law of the State. This course is designed with a prime object to familiarize students with the principles of criminal liability and other concepts of substantive criminal law

Learning Objectives of the Course

The learning -objectives of the course would be as follows:

- ❖ To examine the historical evolution of criminal law maxims, doctrines, and principles.
- ❖ To introduce you briefly the historical background to the codification of Indian law and its implication on the criminal justice administration.
- ❖ To analyze the sentencing policy of the penal law of the land.
- ❖ To know the elements of crimes against person, property, order, and state.
- ❖ To articulate the differences between Indian Law on one hand which is codified and non-codified British law?
- ❖ To comprehend key cases, legal terms, clauses, and chronologies in criminal law.
- ❖ To analyze both early and contemporary judicial thinking and legal reasoning.
- ❖ To articulate informed opinion over important, controversial issues in criminal law.
- ❖ To recognize which issues are critical to the decision in a case.
- ❖ To recognize important considerations dealing with the rights of criminal defendants.

Course Outline

PART ONE

General Principles of Penal Law have been divided in the following 8 modules:-

Module I. Historical Development of Penal Law in India

- (i) Early Hindu law
- (ii) Muslim Law

Historical background to Indian Penal Law: Why penal code? First law commission and the

role of Lord Macaulay. Benthamite ideas and their influence. Napoleonic code and its influence. Advantages and disadvantages of codification. Characteristics of the Indian Penal code. Need for revision as seen by Macaulay. Interpretation of codified penal law.

References: Read *Criminal Law Forum* (Patric Fitzgerald, Codes and Codification: interpretation, Structure and Arrangement of Codes And Martin L.Friedland's Codification in the Common Wealth: Earlier Efforts); Rankin: Background to Indian Law (Chapter IX, Codification or development, p.135); Cowell: Court and Legislative Authorities (lecture VIII, p.127); Stephen: History of English Law Vol. III (Last chapter on Indian Penal Code); W.H. Morley: Administration of Justice in British India; Setelvad: Common Law in India (Chapter III, Criminal Law, p. 124-176); J.D. Mayne: Indian Penal Code (Ed. II 1901,p.242-249); Dharkar: Lord Macaulay legislative minutes (p. 59, 66, 137,140,214,239); Tapas Kumar Banerjee: Background to Indian Criminal Law.

Crime – Nature and definition social & legal context –

Crime and sin
Criminal law and morality
Law & Ethics
Crime and Offence

Why do we criminalize an act or omission? Beccarria and Bentham. Hart H.L.A and modern views. Outline of the Aims and Functions of the Criminal law.

Read; Text Book of Criminal Law: Glanville Williams (Universal Law Publishing Co.; p. 3-36). J W Cecil Turner: Kenny's Outlines of Criminal Law (Universal Law Publishing Co. Ltd.; p. 1-5).

Module II. Essentials of offences

- A. Human being
- B. Guilty intention
- C. Prohibited act
- D. Harm/ Punishment

Stages of an offence

- A. Intention
- E. Preparation
- F. Attempt
- G. Commission of offence

Read; Text Book on Criminal Law: Michael J. Allen (chapter 2 & 3-p. 17- 80); Book of Criminal Law: Glanville Williams (Universal Law Publishing Co.; p. 70-84). Criminal Law: Smith and Hogan (Oxford University Press; p. 42-123). Mike Molan: Cases and Materials on Criminal Law (Routledge Cavendish; p. 54-132). General Principles of

Criminal Law: Jerome Hall (The Bobbs-Merrin Comp. New York, p. 70-93).

Module III. A. Principles of Penal Law
NILLA POENA SINE LEGE

NLILLUM CRIMEN SINE LEGE

Retroactivity of criminal law, Narrow construction of criminal law, rule against judicial creation of offences and vagueness of criminal statutes.

Read Two rules of Legality in Criminal Law: Peter K. Weston (Journal of Law and Philosophy Vol. 26 May 2007 University of Michigan, p.229-305). General Principles of Criminal Law: Jerome Hall (The Bobbs-Merrin Comp. New York, p. 27-64).

B. MENS REA AND Actus Reus

Meaning origin & development Means rea & Intention, Motive Knowledge, intention recklessness and Negligence

C. Mens rea and Criminal liability

General Principles of liability
Principles of mela in se, mela prohibita
Joint liability
Vicarious liability
Strict liability
Absolute liability

Means rea and

- (1) Socio-welfare offences
- (2) Socio-Economic offences

References: Read Criminal Law Cases and Materials: K D Gaur (Butterworths; p. 207-229).
The Indian Penal Code: Ratanlal & Dhirajlal (Wadhwa & Company Nagpur; p. 32-56).

We will discuss *State of Maharastra vs Mayor Hans George AIR 1965 SC 722, Srinivasmal Barolia vs. Emperor AIR 1947 PC, Nathulal vs State of M.P. AIR 1966 SC 43, Commissioner of Income Tax, Patiala vs. Patram Das AIR 1982 P & H 1, DPP vs Colloins (2006) AER 602 (HL).*
Barendra Kumar Ghosh v. Emperor, (1924) 52 IA 40, Cal. (PC), Mehboob Shah v. Emperor, (1945), 47 Com LR 941(PC), Mukund Murari Pal v. Emperor, Nitya sen v. State of West Bengal, 1978 Cr LJ 481, Vasudevan v. State of Kerala, (1994) 2 Cr LJ 1522, J.M. Desai v. State of Maharastra, AIR 1960 SC 889, Srikantia v. State of Bombay, K.C. Mathew v. State of Travancore, Allauddin v. State, Kabil Cazee v. State; Abdul Waheed

Khan v. State of Andhra Pradesh (2002)7SCC 175; Idrish Bhai Daud Bhai v. State of Gujrat (2005)3 SCC 277; Vijayanti v. State of Maharastra (2005)13 SCC

Module IV. Inchoate offences

- H. Abetment
- I. Conspiracy
- J. Attempt

Read Principles of Criminal Law: Andrew Ashworth (Clarendon Law Series, chapter 11, p. 442 -468); Text Book on Criminal Law: Michael J. Allen (chapter 8-p. 228- 271); Text Book of Criminal Law: Glanville Williams (Universal Law Publishing Co.; p. 402-445). Criminal Law: Smith and Hogan (Oxford University Press; p. 379-464). Criminal Law: Clarkson and Keating (Thomson: Sweet & Maxwell; p. 471-538).

Module V. A. Jurisdiction of Indian Penal Code
(Sec 1 to Sec 5) Chapter I

Read; Text Book of Criminal Law: Glanville Williams (Universal Law Publishing Co.; p. 164-170). Indian Penal Code: R.A. Nelson's (Butterworth's; Volume I; p.1-70). The Indian Penal Code: Ratanlal & Dhirajlal (Wadhwa & Company Nagpur; p. 2-10).

B. General explanations of the Indian Penal Code Chapter II

Module VI. Crime and punishment/ Chapter-III

Necessity and objectives of punishment
Different theories of punishment
Modern theory of punishment

Read; Text Book of Criminal Law: Glanville Williams (Universal Law Publishing Co.; p. 36-41). Criminal Law: Smith and Hogan (Oxford University Press; p. 3-9). Criminal Law: Clarkson and Keating (Thomson: Sweet & Maxwell; p. 26-70).

Module VII. General Exceptions to Crimes under Indian Penal code – General
importance and purpose of basis these exception
K. Absence of Mens rea
L. For the ends of justice

A. Absence of Means rea

1. Mistake of fact, not mistake of law
2. Accident
3. To cause lesser harm, to save greater harm & compulsion
4. Infancy , doly incapex & doly capex principle
5. Act in good faith and for the benefit of victim
6. Acts done under compulsion

Cases for reference & Study. *R. v. Prince* (1875)LR 2 CCR 154; *R v. Tolson* (1889) 23 QBD 168, *Sherras v. De Rutzen* [1895] Q B 918, *R v. Williams* (1987)3 All ER 411, *Hobbs v. Winchester Corporation*, *Warner v. Metropolitan Police Commissinor*, *State of Maharastra v. M. H. George* AIR 1965 SC 722, *Nathumal v. State of M.P.*, *Jogeswar v. Emperor* , *R. v. Clarck*

(1972)1 All ER 219, *Bhupendra Singh A Chaudasma v. State of Gujrat* AIR 1997 SC 3790, *Southwark London Borougn Council v. Williams* (11971)2 All ER 175,*R. v. Duddley and*

Stephen (1884)14 QBD 273, *Dhaniya Daji v. State*, (1868) 5 BHC (Cr C) 59, *Bishwambhar v. Roomal*, *Makhulshah* (1886) 1 Weir 470, *Mussamut Aimona*, (1864)1 WR (Cr) 43, *Ulla Mahapatra*,(1950) Cut 293, *Krishna Bhagwan v. State of Bihar* AIR 1989 Pat. 217, *M'Naughton's Case* (1843)4 St. Tr. (NS) 847, *Laxman Dagdu, Ashiruddin v. Emperor*, 50 Cr.LJ 225 Cal., *Niman Sha v. M. P.*, 1996 Cr LJ 3395 MP, *Director of Public Prosecutions v. Beard* (1920)AC 479, *Basdev v. State of Pepsu*, 1956 Cr LJ 919, AIR 1956 SC 488, *R. v. Lipman*, (1969) 3 All ER, *R. v. Kingston*, (1994) 3 All ER 353 HL, *Baboolan Hijrah*, (1866)5 WR, *Poonai Fattemah*,(1869)12 W.R., *Williams*, (1923) 1 KB 340, *Munney Khan v. State*, AIR 1971 SC 1491, *Biran Singh*, AIR 1975 SC 87,

B. For the ends of justice

1. Judicial acts
2. Acts done under consent
3. Trivial offences

Module VIII. . Right of Private Defence

- a. Right of private defence of body
- b. Right of private defence of property

Cases for reference & Study: *Jaidev v. State of Punjab*, AIR 1963 SC 612, *Yogendra Morarji*, AIR 1980 SC 660, *Mathre v. State of Kerala*, 1993 Cr LJ 213 Ker.; *Rizwan v. State of Chhattisgarh* (2003)2 SCC 661; *Sucha Singh v. State of Punjab* (2003)7 SCC 693

References: Read Criminal Law: Clarkson and Keating (Thomson: Sweet & Maxwell; p. 265 onwards). Criminal Law: Smith and Hogan (Oxford University Press; p. 321-378). J W Cecil Turner: *Kenny's Outlines of Criminal Law* (Universal Law Publishing Co. Ltd.; p. 57-98).