

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT.

F.Y. LL.B.

SEMESTER – II

PAPER-5 CONSTITUTIONAL LAW OF INDIA

The Constitution of India
Prescribed Cases

85 Marks
15 Marks

Prescribed Cases :

- (1) Indian Federalism
 - State of West Bengal Vs. Union of India AIR 1963 SC 1241
- (2) Council of Ministers at Center is Indispensable
 - U.N. Rao Vs. Indira Gandhi AIR 1971 SC 1002
- (3) Privileges of Legislative Assembly
 - In Re, Keshav Singh AIR 1965 SC 745
- (4) Fundamental Features (Basic Structure) Theory
 - Keshvanab Bharti Vs. State of Kerala AIR 1973 SC 1461
- (5) Parliamentary Democracy
- (6) Legislative Process : Responsible Government
 - Ram Jawaya Kapur Vs. State of Punjab AIR 1955 SC 4549
- (7) Inter State Trade, Commerce and Inter course:Federalism
 - Automobile Transport Ltd Vs. State of Rajasthan AIR 1962 SC 1405
- (8) Suspension of Fundamental Right during Emergency
 - Mohd. Yakub Vs. State of J & K AIR 1968 SC 765
- (9) Doctrine of Equality: Discriminatory Classification: Justified
 - Ramkrishna Dalamia Vs. Justice Tendolkar AIR 1958 SC 538
- (10) Freedom of Press
 - Bennet Colemann & Co. Vs. Union of India AIR 1973 SC 106
- (11) Due Process Clause Vs. Procedure Established by Law
 - A.K. Gopalan Vs. State of Madras AIR 1950 SC 27
- (12) Fundamental Rights of the minority to established and administer the Educational institute: Secularism
 - St. Xavier's College Society Vs. State of Gujarat AIR 1974 SC 1989
- (13) Constitutional Protection to Public Servant: Extent of
 - Union of India Vs. Tulsiram Patel AIR 1985 SC 1416
- (14) Fundamental Rights to Religion : Secularism
 - Dr. M. Ismail Farooqui Vs. Union of India (Demolition of Babri Mosque Structure Case)
- (15) Reservation Policy Mandel Commission
 - Indira Sawhney Vs. Union of India AIR 1993 SC 477
 - Romesh Tapar Vs. State of Madras 1950 SCR 594
- (16) Freedom of Movement
 - Maneka Gandhi Vs. Union AIR 1978 SC 598
- (17) Independence of Judiciary
 - Supreme Court Advocate on Record Association Ors. Vs. Union of India AIR 1994 SC 268
- (18) Federal Structure : Act-359 : Secularism
 - Keshvannd Bharti Vs. State of Kerala AIR 1973 SC 1461

(19) Basic Structure Theory

- *Minerwa Mills Vs. Union of India*

AIR 1980 SC 1718

(20) Habeas Corpus Case

- *A.D.M. Jabalpur Vs. Shivkant Shukla*

AIR 1976 SC 1207

The Paper includes the following UGC Model Curriculum Details :

(1) Historical Perspective

- 1.1 Constitutional Developments since 1858 to 1947.
- 1.2 Gandhi Era – 1919 to 1947 Social, political economic, spiritual influence
- 1.3 Manking of Indian Constitution
- 1.4 Nature and special features of the Constitution.

(2) Parliamentary Government

- 2.1 Westminster model – choice of parliamentary government at the Centre and States
- 2.2 President of India
 - 2.2.1 Election, qualification, salary and impeachment
 - 2.2.2 Powers : legislative, executive and discretionary powers
- 2.3 Council of Ministers
- 2.4 Governor and state government – constitutional relationship.
- 2.5 Legislative process
 - 2.5.1 Practice of law-making
 - 2.5.2 Legislative privileges and fundamental rights
- 2.6 Prime Minister – cabinet system – collective responsibility – individual responsibility.
- 2.7 Coalition Government Anti-defection Law.

(3) Federalism

- 3.1 Federalism – principles: comparative study.
- 3.2 Indian Federalism : identification of federal features
 - 3.2.1 Legislative relations
 - 3.2.2 Administrative relations
 - 3.2.3 Financial relations.
- 3.3 Governor's role
- 3.4 Centre's power over the states – emergency
- 3.5 J & K – special status
- 3.6 Challenges to Indian federalism

(4) Constitutional Processes of Adaptation and Alteration

- 4.1 Methods of constitutional amendment

- 4.2 Limitations upon constituent power
- 4.3 Development of the basic Structure : Doctrine judicial activism and restraint
- (5) Secularism**
 - 5.1 Concept of secularism : historical perspective
 - 5.2 Indian constitutional provision
 - 5.3 Freedom of religion – scope
 - 5.4 Religion and the state : the limits
 - 5.5 Minority rights
- (6) Equality and Social Justice**
 - 6.1 Equality before the law and equal protection of laws.
 - 6.2 Classification for differential treatment :
 - 6.3 Gender justice
 - 6.4 Justice to the weaker sections of society : scheduled castes, scheduled tribes and other backwards classes
 - 6.5 Strategies for ameliorative justice
- (7) Freedoms and Social Control**
 - 7.1 Speech and expression
 - 7.1.1 Media, press and information
 - 7.2 Freedom of speech and contempt of court
 - 7.3 Freedom of assembly
 - 7.4 Freedom of association
 - 7.5 Freedom of movement
 - 7.6 Freedom to reside and settle
 - 7.7 Freedom of profession/business
 - 7.8 Property : from fundamental right to constitutional right
- (8) Personal Liberty**
 - 8.1 Rights of an accused – double jeopardy – self-incrimination retroactive punishment
 - 8.2 Right to life and personal liberty : meaning, scope and limitations
 - 8.3 Preventive detention – constitutional policy
- (9) Fundamental Rights and Directive Principles**
 - 9.1 Directive Principles – directions for social change – A new social order
 - 9.2 Fundamental Rights and Directive Principles – inter-relationship-judicial balancing
 - 9.3 Constitutional amendments – to strengthen Directive Principles.
 - 9.4 Reading Directive Principles into Fundamental Rights
- (10) Fundamental duties**
 - 10.1 The need and status in constitutional set up

10.2 Interrelationship with fundamental rights and directive principles

(11) Emergency

11.1 Emergency meaning and scope

11.2 Proclamation of emergency – conditions – effect of emergency on Centre-State relations.

11.3 Emergency and suspension of fundamental rights

(12) Judiciary under the Constitution

12.1 Judicial process

12.1.1 Court system

12.1.2 The Supreme Court

12.1.3 High Courts

12.1.4 Subordinate judiciary

12.1.5 Judges : appointment, removal, transfer and condition of service : judicial independence.

12.2 Judicial review : nature and scope

(13) Services under the Constitution

13.1 Doctrine of pleasure (Art. 310)

13.2 Protection against arbitrary dismissal, removal, or reduction in rank (Art.311)

13.3 Exceptions to Art.311

Select bibliography

G. Austin : History of Democratic Constitution : The Indian Expenditure (2000) Oxford.

D.D. Basu : Shorter Constitution of India, (1996), Prentice Hall of India, Delhi.

Introduction to Constitution of India.

Constituent Assembly debates Vol. 1 to 12 (1989)

H.M. Seervai : Constitution of India, Vol. 1-3(1992), Tripathi, Bombay

M.P.Singh(ed), V.N. Shukla : Constitutional Law of India (2000)' Oxford

G. Austin Indian Constitution : Comestone of a Nation (1972)

M. Galanter, Competing Equalitie : Law and the Backward Classes in India (1984) Oxford

B. Sivaramayya : Inequalities and the Law (1984) Eastern, Lucknow

S.C. Kashyap : Human Rights and Parliament (1978) Metropolitan, New Delhi

M.P. Jain : Constitutional Law of India

H.R. Khanna : Making of India's Constitution

T.K. Tope : Constitutional Law of India

M.Hidayatullah : Constitutional Law of India (Vol. 1 to 3)

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F.Y. LL.B.

SEMESTER – II

PAPER-6 ADMINISTRATIVE LAW

Administrative Law
Prescribed Cases

85 Marks
15 Marks

Prescribed Cases :

(1) Doctrine of Separation of Powers

- Indira Gandhi Vs. Raj Narain AIR 1975 SC 2299

(2) Doctrine of Delegated Legislation

- Gwalior Rayon Silk Mfg. (weaving) Co.Ltd.,
Vs. Asst. Commissioner, Sales Tax AIR 1974 SC 1660

(3) Scope of Judicial Review/Principles of Natural Justice –

Fair Hearing- Duty to act fairly

- A.K. Kraipak Vs. Union of India AIR 1970 SC 150
- Maneka Gandhi Vs. Union of India AIR 1978 SC 597

(4) Judicial Review of Contractual Liability of State –

Definition of "State"

- R.D. Shetty Vs. International Airport Authority 1979 SSC 489

(5) Torts Liability of the State

- Shyam Sunder Vs. State of Rajasthan AIR 1974 SC 890

The Paper includes the following UGC Model Curriculum Details :

(1) **Evolution, Nature and Scope of Administrative Law**

1.1 From a laissez-faire to a social welfare state

1.1.1 State as regulator of private interest

1.1.2 State as provider of services

1.1.3 Other functions of modern state : relief, welfare

1.2 Evolution of administration as the fourth branch of government – necessity for delegation of powers on administration.

1.3 Evolution of agencies and procedures for settlement of disputes between individual and administration.

1.3.1 Regulatory agencies on the United States

1.3.2 Conseil d'Etat

1.3.3 Tribunalization in England and India

1.4 Definition and scope of administrative law

- 1.5 Relationship between constitutional law and administrative law
- 1.6 Separation of powers
- 1.7 Rule of law

(2) Civil Service in India

- 2.1 Nature and organization of civil service : from colonial relics to democratic aspiration
- 2.2 Powers and functions
- 2.3 Accountability and responsiveness : problems and perspectives
- 2.4 Administrative deviance – corruption, nepotism, mal-administration.

(3) Legislative Powers of Administration

- 3.1 Necessity for delegation of legislative power
- 3.2 Constitutionality of delegated legislation – powers of exclusion and inclusion and power to modify statute.
- 3.3 Requirements for the validity of delegated legislation
 - 3.3.1 Consultation of affected interests and public participation in rule-making
 - 3.3.2 Publication of delegated legislation
- 3.4 Administrative directions, circulars and policy statements
- 3.5 Legislative control of delegated legislation.
 - 3.5.1 Laying procedures and their efficacy.
 - 3.5.2 Committees on delegated legislation – their constitution, function and effectiveness
 - 3.5.3 Hearings before legislative committees
- 3.6 Judicial control of delegated legislation
- 3.7 Sub-delegation of legislative powers

(4) Judicial Powers of Administration.

- 4.1 Need for devolution of adjudicatory authority on administration
- 4.2 Administrative tribunals and other adjudicating authorities : their ad-hoc character
- 4.3 Tribunals – need, nature, constitution, jurisdiction and procedure
- 4.4 Jurisdiction of administrative tribunals and other authorities
- 4.5 Distinction between quasi-judicial and administrative functions.
- 4.6 The right to hearing – essentials of hearing process
 - 4.6.1 No man shall be judge in his own cause
 - 4.6.2 No man shall be condemned unheard
- 4.7 Rules of evidence – no evidence, some evidence and substantial evidence rules
- 4.8 Reasoned decisions
- 4.9 The right to counsel
- 4.10 Institutional decisions

4.11 Administrative appeals

(5) Judicial Control of Administrative Action.

5.1 Exhaustion of administrative remedies

5.2 Standing : standing for Public interest litigation (social action litigation) collusion, bias.

5.3 Laches

5.4 Res Judicate

5.5 Grounds

5.5.1 Jurisdictional error/ultra viers

5.5.2 Abuse and non exercise of jurisdiction

5.5.3 Error apparent on the face of the record

5.5.4 Violation of principles of natural justice

5.5.5 Violation of public policy

5.5.6 Unreasonableness

5.5.7 Legitimate expectation

5.6 Remedies in judicial Review :

5.6.1 Statutory appeals

5.6.2 Mandamus

5.6.3 Certiorari

5.6.4 Prohibition

5.6.5 Quo-Warranto

5.6.6 Habeas Corpus

5.6.7 Declaratory judgment and injunctions

5.6.8 Specific performance and civil suits for compensation

(6) Administrative Discretion

6.1 Need for administrative discretion

6.2 Administrative discretion and rule of law

6.3 Limitations on exercise of discretion

6.3.1 Malafide exercise of discretion

6.3.2 Constitutional imperatives and use of discretionary authority

6.3.3 Irrelevant considerations

6.3.4 Non-exercise of discretionary power

(7) Liability for Wrongs (Tortious and Contractual)

7.1 Tortious liability : sovereign and non-sovereign functions

7.2 Statutory immunity

7.3 Act of state

- 7.4 Contractual liability of government
- 7.5 Government privilege in legal proceedings – state secrets, public interest
- 7.6 Transparency and right to information
- 7.7 Estoppel and waiver

(8) Corporations and Public Undertakings

- 8.1 State monopoly-remedies against arbitrary action for acting against public
- 8.2 Liability of public and private corporation – departmental undertaking
- 8.3 Legislative and government control
- 8.4 Legal remedies
- 8.5 Accountability-Committee on Public Undertakings Estimate Committee, etc.

(9) Informal Methods of Settlement of Disputed and Grievance Redressal Procedures

- 9.1 Conciliation and mediation through social action groups
- 9.2 Use of media, lobbying and public participation
- 9.3 Public inquiries and commissions of inquiry
- 9.4 Ombudsman: Lok Pal, Lok Ayukta
- 9.5 Vigilance Commission
- 9.6 Congressional and Parliamentary Committees

Select Bibliography

- C.K. Allen : Law & Orders (1985)
- D.D. Basu : Comparative Administrative Law(1998)
- M.A. Fazal : Judicial Control of Administrative Action in India, Pakistan and Bangladesh(2000), Butterworths, India
- Franks: Report of the Committee on Administrative Tribunals and Inquiries, HMSO, 1959
- Cane: An Introduction to Administrative Law(1996) Oxford
- H.M.R. Wade: Administrative Law(Seventh Edit. Indian print 1997), Universal, Delhi.
- C.Garner: Administrative Law(1989), Butterworths(ed. B.L. Jones)
- M.P. Jain: Cases and Materials on Indian Administrative Law Vol. I and II(1996) Universal, Delhi
- Jain & Jain: Principles of Administrative Law(1997), Universal, Delhi
- S.P. Sathe: Administrative Law(1998), Butterworths, Delhi
- De.Smith: Judicial Review of Administrative Action(1995) Swest & Maxwell with Supplement
- Shwartz: An Introduction to American Administrative Law
- Indian Law Institute: Cases & Materials on Administrative Law In India Vol. I (1006), Delhi
- I.P. Massey: Administrative Law(6th Edit.) Eastern, Lucknow.
- C.K. Thakker: Administrative Law
- C.K. Takwani: Lectures on Administrative Law (3rd Edit.1979)

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SEMESTER – II

PAPER-7 LAW OF ENVIRONMENT

Environment Law

85 Marks

Prescribed Cases

15 Marks

Environment & Constitution

Constitution law of India(Art. 21,48A, 51A)

Industrial Development & Regulation Act-1951(Relevant Provision)

New Licensing & Environment Clearance Act,(Relevant Provision)

Provision Relating to Nuisance in IPC & Cr.P.C. (Relevant Provision)

Provisions on Public Health & Hygiene(Relevant Provision)

(I) Bengal Smoking Nuisance Act, (Relevant Provision)

(II) Environment & Labour Laws (Relevant Provision)

(III) Environment & Criminal Laws (Relevant Provision)

(IV) Environment & Wild Life Conservation Laws (Relevant Provision)

(V) Environment & Forest Laws (Relevant Provision)

The course demands an interdisciplinary approach looking at Socio-economic structure ecological knowledge.

- (1) The meaning of environment defined in environment Protection Act, 1986 and definition of pollution in the same act and in the water (Prevention & Control of Pollution) Act,1974. Forests-defined in Indian Forest Act, 1927 & Forest Conservation Act, 1980. Constitution of India- Articles 15(2)(b),24,39(a)(b)(c)(e)(f), 47, 48A, 49.
- (2) Ecological cycles and Interdependence of Eco-system in nature, Laws concerning, forestry, irrigation, town-planning, water resources utilization, use of energy resources, interface with laws of nature. Laws regulating nature and its consistency with man's social system.
- (3) Development, Economic Policies, National resources and its utilization alternative energy, generation etc. alternative housing technologies.
- (4) Types of Environment Laws:
 - 4.1 Laws for Acquisition: Land acquisition Laws, Forest Laws Ores and Fuel Resources acquisition laws.
 - 4.2 Law for Production and Planning: Tenancy laws, Land Development and Reform Laws. Industrial and Factory Laws, atomic energy Law.
 - 4.3 Laws for Distribution: Essential Commodities Laws, Wildlife, fuel, fodder and cahleuse Laws, Land and Forest use laws.
 - 4.4 Laws for Conservation: Conservation of forest, wildlife, energy's laws, Protection against pollution Laws, Protection against hazardous substances Laws.
- (5) Function of Environmental Laws: Primary Protective Laws, Secondary Laws, Territory Laws.
 - 5.1 Primary Protective Laws:
 - (I) For human beings: (a)Water (b)Air (c)noise (d)Nuclear Radiation (e)Toxic Substances
 - (II) For Non Human beings: (a)Wild Life (b)Marine Life (c)Forests (d)Restriction of Trade (e)Minor Forests.

5.2 Primary Planning Laws:

- (I) For Production : and use, irrigation, industrial mining, grazing land, catchment areas, wetlands estuaries.
- (II) For Distribution: Land ceiling Town planning, Slums, Housing, Parks, Sanctuaries Parks, Recreational Areas, Biospheres.

(6) Secondary Law :

Pertaining to administrative and functioning of pollution control Boards. Water Boards, Forest Departments, Wasteland development under the Factories Act, Forest Act, Land Reform and Development Acts, Industries Act, etc.

(7) Territory Laws:

Constitutional provisions concerning inter state relations concerning acquisition, regulation and distribution of Natural.

Resources (Water, Forests, Oil Mines)

Constitutions :

Articles : 14,19,31A, 31B, 31C, 39(b) and C

Union List : 6, 52, 56, 52

Concurrent List : 17, 17A, 17B, 18, 20 (9th schedule)

(8) Issues of Distributive Justice :

Basic principles of distributive justice applicable to utilization of Natural resources.

- (I) Constitutional Principles (Art.-39)
- (II) International Convention and Treaties.
- (III) Conventions or laws applicable to agencies funding ecologically sensitive projects e.g. World Bank.
- (IV) Principles of compensations and rehabilitation.

(9) Legal Strategies Regulation :

Basic of regulation on management of agencies likely to cause damage to the environment or the people.

- (I) Deterrence through Criminal Liability, Strict liability Vicarious liability.
- (II) Multi national Corporate liabilities.
- (III) Scope and limits of Public interest litigation in Environment issues.
- (IV) Rights in Common Law
- (V) Principles of Tortuous liability etc.
- (VI) Nature Rights Theories.

Prescribed Cases :

- (1) M.C. Mehta Vs. Union of India AIR 1987 SC 695
- (2) Rural Litigation and entitlement Kendra Vs. State of UP AIR 1985 SC 652
- (3) Union of India Vs. Union Carbide Corporation
(Bhopal Gas tragedy and its legal implications)

- | | | |
|-----|---|------------------|
| (4) | Municipal Council, Ratlam Vs. Vardhichand | AIR 1980 SC 1622 |
| (5) | Banwasi Sevashram Vs, State of UP | AIR 1987 SC 374 |
| (6) | L.K. Kulwal Vs. State of Rajasthan | AIR 1988 Raj. 24 |

Statutory Materials :

- (1) The Constitution of India(Articles: 14,15,15(2)(b), 19(c) 21, 31C, 32, 38, 39, 42, 47, 48A, 49, 51, 51A(9))
- (2) Water (Prevention and control of Pollution)Act, 1974
- (3) Air (Prevention and Control of Pollution) Act-1974
- (4) Environment (Protection) Act-1986
- (5) The Indian Penal Code-1960 (SS – 188, 268, 269, 272, 277, 288, 290, 430)
- (6) Criminal Procedure Code – 1974 (SS – 133, 141)
- (7) Indian Easement Act – 1882 (SS – 2, 7, 15, 28(d))
- (8) The Factories Act – 1948 (SS – 12, 92)
- (9) The Indian Forests Act – 1927 (SS – 26, 32(F))
(The Indian Forest [Gujarat Unification and Amendment] Act – 1960 (Private Forests [Acquisition] Act – 1972)
- (10) The Gujarat Municipalities Act – 1972
- (11) Conservation Act, 1980
- (12) Wildlife Protection Act, 1972 (Amended in 1984)
- (13) Cattle Trespass Act, 1971
- (14) Wastelands (claims) Act, 1983.

The Paper includes following UGC Model Curriculum Details :

(1) Concept of environment and Pollution

- 1.1 Environment
 - 1.1.1 Meaning and contents
- 1.2 Pollution
 - 1.2.1 Meaning
 - 1.2.2 Kinds of pollution
 - 1.2.3 Effects of pollution

(2) Legal control : historical perspectives

- 2.1 Indian tradition : dharma of environment
- 2.2 British Raj – industrial development and exploitation of nature
 - 2.2.1 Nuisance : penal code and procedural codes
- 2.3 Free India – continuance of British influence
 - 2.3.1 Old laws and new interpretations.

(3) Constitutional Perspectives

- 3.1 Constitution making – development and property oriented approach
- 3.2 Directive principles
 - 3.2.1 Status, role and interrelationship with fundamental rights and fundamental duties.
- 3.3 Fundamental Duty
 - 3.3.1 Judicial approach
- 3.4 Fundamental Rights
 - 3.4.1 Rights to clean and healthy environment
 - 3.4.2 Right to education
 - 3.4.3 Right to information
 - 3.4.4 Environment v. Development
- 3.5 Enforcing agencies and remedies
 - 3.5.1 Courts
 - 3.5.2 Tribunal
 - 3.5.3 Constitutional, statutory and judicial remedies
- 3.6 Emerging principles
 - 3.6.1 Polluter pays : public liability insurance
 - 3.6.2 Precautionary principle
 - 3.6.3 Public trust doctrine
 - 3.6.4 Sustainable development

(4) Water and Air Pollution

- 4.1 Meaning and standards
- 4.2 Culprits and victims
- 4.3 Offences and penalties
- 4.4 Judicial approach

(5) Noise Pollution

- 5.1 Legal control
- 5.2 Court's of balancing permissible and impermissible noise

(6) Environment Protection

- 6.1 Protection agencies : power and functions
- 6.2 Protection : means and sanctions
- 6.3 Emerging protection through delegated legislation
 - 6.3.1 Hazardous waste
 - 6.3.2 Bio-medical waste
 - 6.3.3 Genetic engineering

- 6.3.4 Disaster emergency preparedness
- 6.3.5 Environment impact assessment
- 6.3.6 Coastal zone management
- 6.3.7 Environment audit and eco mark
- 6.4 Judiciary : complex problems in administration of environmental justice
- (7) Town and country planning**
 - 7.1 Law : enforcement and constrain
 - 7.2 Planning – management policies
- (8) Forest and greenery**
 - 8.1 Greenery conservation laws
 - 8.1.1 Forest conservation
 - 8.1.2 Conservation agencies
 - 8.1.3 Prior approval and non-forest purpose
 - 8.1.4 Symbiotic relationship and tribal people
 - 8.1.5 Denudation of forest : judicial approach
 - 8.2 Wild life
 - 8.2.1 Sanctuaries and national parks
 - 8.2.2 Licensing of zoos and parks
 - 8.2.3 State monopoly in the sale of wild life articles
 - 8.2.4 Offences against wild life.
- (9) Bio-diversity**
 - 9.1 Legal control
 - 9.2 Control of eco-unfriendly experimentation on animals, plants, seeds and micro organism.
- (10) International regime**
 - 10.1 Stockhoim conference
 - 10.2 Green house effect and ozone depletion
 - 10.3 Rio conference
 - 10.4 Bio-diversity
 - 10.5 U.N. declaration on right to development
 - 10.6 Wetlands

Select bibliography :

Chhatrapati Singh : Common Property and Common Poverty, 1985

Aarmin Flosencranz, et al., (eds.) Environmental Law and Policy in India (2000), Oxford

R.B. Singh & Suresh Misra : Environment Law in India (1996), Concept Publishing Co., New Delhi.

S.N. Jain (ed.), : Pollution Control and the Law (1978)

Kailash Thakur : Environment Protection Law and Policy in India (1997), Deep & Deep publications, New Delhi.

Richard L. Rivesz, et.al.(eds.) : Environment Law, the Economy and Sustainable Development (2000), Cambridge.

Christopher D. Stone, Should Trees Have Standing and other Essays on Law, Morals and the Environment (1996), Oceana.

Leelakrishnan, P et.al.(eds.), Law and Environment (1990), Eastern, Lucknow

Leelakrishnan, P, The Environmental Law in India (1999), Butterworths-India.

Department of Science and Technology, Government of India, Report of the Committee for Recommending Legislative Measures and Administrative Machinery for Machinery for Ensuring Environmental Protection (1980) (Tiwari Committee Report)

Indian Journal of Public Administration, Special Number on Environment and Administration, July-September 1988, Vol. XXXV, No.3, pp.353-801

Centre for Science and Environment, The State of India's Environment 1982, The State of India's Environment 1984-85 and The State of Indian Environment 1999-2000.

World Commission on Environment and Development, Our Common Future (1987), Oxford.

Indian Law Institute : Environment Protection : An Agenda for Implementation.

Prithvish Nag : Essays on Environment and Resources, Some Regional Issues, 1991.

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SEMESTER – II

PAPER-8 LAW OF PROPERTY & EASEMENT ACT.

Transfer of Property Act.	50 Marks
Indian Easement Act.	15 Marks
Intellectual Property Law	20 Marks
Prescribed Cases	15 Marks

Prescribed Cases :

(1) Jayaram Mudliar Vs. Ayyaswamin & Ors.	AIR 1973 SC 569
(2) Prakash Cand Khurana Vs. Harman Singh & Bros.	AIR 1973 SC 2065
(3) M/s. Sachlmal Parasram Vs. Mst. Ratnbai & Ors.	AIR 1972 SC 637
(4) Ahmed Bin Saleh & Ors. Vs. Mohd. Basha	AIR 1972 SC 806
(5) Jegatram Sethi Vs. Rai Bahadur D.D. Jain & Ors.	AIR 1972 SC 1927
(6) Chhogmal Bhandari & Ors. Vs. Dy. Commercial Tax Officer	AIR 1976 SC 656

The Paper includes the following UGC Model Curriculum Details :

(1) Jurisprudential Controls of Property

- 1.1 Concept and meaning of property - new property – governmental largesse.
- 1.2 Kinds : property movable and immovable property – tangible and intangible property – intellectual property – copyright – patents and designs – trade – marks.
- 1.3 The concept of common property resource
- 1.4 Possession and ownership as – man – property relationship – finder of lost goods.

(2) Resources Use Pallerns and Concepts in India : Who owns land? Sovereign or the subject?

- 2.1 Pre-colonial position.
 - 2.1.1 Hindu theory
 - 2.1.2 Muslim theory
 - 2.1.3 Tribal approaches
- 2.2 Position under colonial administration
 - 2.2.1 Introduction of permanent settlement
 - 2.2.2 Ryotwari settlements
 - 2.2.3 Evaluation of eminent domain under company administration
- 2.3 Effects of colonial revenue administration.
 - 2.3.1 Intermediaries
 - 2.3.2 Tenancies
 - 2.3.3 "Land going to the market"
 - 2.3.4 Inequalities in landholding

- 2.4 Requisitioning and acquisitioning of immovable property.
 - 2.4.1 Land Acquisition : inquiry – notice and hearing – should ecological moves be examined?
 - 2.4.1.1 Concept of public purpose
 - 2.4.2 Requisitioning : powers, right, exemption and release
 - 2.4.3 Inadequacies
- (3) Forms of Control Urban Property
 - 3.1 Right to Housing and Shelter
 - 3.1.1 Slum Clearance or slum improvement?
 - 3.1.2 Housing Policy
 - 3.2 Rent Control
 - 3.2.1 Protection against eviction and fixation of fair rent.
 - 3.3 Urban development authority
 - 3.3.1 Master plan
 - 3.3.2 Zonal development plan
 - 3.3.3 Declaration of development areas
 - 3.3.4 Powers of the authority
- (4) Post-constitutional Development with Respect to Agricultural Land.
 - 4.1 "Land to the tiller"
 - 4.2 Land ceiling legislation
 - 4.3 State enactments prohibiting alienation of land by tribals to non-tribals.
- (5) **Law Relating to Transfer of Property**
 - 5.1 General principles of transfer of property
 - 5.2 Specific transfers
 - 5.2.1 Sales
 - 5.2.2 Mortgages
 - 5.2.2.1 Under the provision of the Transfer of Property Act, 1882
 - 5.2.2.2 To a land mortgage bank, land development bank, powers and functions.
 - 5.3 Charges
 - 5.4 Leases
 - 5.5 Exchanges
 - 5.6 Gifts
 - 5.7 Actionable claims
- (6) **Trusts**
 - 6.1 Definition and classification

6.2 Trust distinguished from agency, bailment and a wakf.

6.3 Charitable trusts, Resulting and constructive trusts.

(7) Law Relating to Certain Intangible Properties

7.1 Goodwill

7.2 Trademarks

7.3 Patents and designs

7.4 Copyright

7.5 Video piracy

7.6 Software

(8) Easements

8.1 Nature, characteristics and extinction

8.2 Creat of easements

8.3 Ripanan rights

8.4 Licenses

(9) Recordation of Property Rights

9.1. Law relating to registration of documents affecting property relations – Exemptions of leases and mortgages in favour of land development bank from registration.

9.2. Recordation of rights in agricultural and with special reference to respective states.

9.3. Investigating of title to property

9.4. Law relating to stamp duties

9.4.1. Of the liability of instrument to duty.

9.4.2. Duties by whom payable

9.4.3. Effect of not duly stamping instruments : Examinbation and impounding of instructions; inadmissibility on evidence; impounding of instruments.

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VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT.

F.Y. LL.B.

SEMESTER – II

PAPER-9 WOMEN AND LAW AND LAW RELATING TO CHILD

Law relating to Woman & Child
Prescribed Cases

85 Marks
15 Marks

- (1) **Status of Woman in Pre-independence and Post-Independence India :**
Social and legal inequality : Social Reform Movement : Freedom Struggle and Role of Women :
Views of National leaders like Gandhi and Nehru on Women : Constitutional provisions : Fundamental Rights : Directive Principles : Fundamental duties : Uniform Civil and gender Justice.
Constitution of India : Articles – 14, 15, 16, 21 22, 24, 39, 39A, 226
(Reservation for women in legislature Proposed amendment)
- (2) **Woman and Family :**
Sex inequality in inheritance rights, discriminatory provisions in Family Laws in Matters relating to marriage, divorce, guardianship, maintenance, adoption etc.
- Statutory Provisions :**
- Hindu Marriage Act – 1955
 - Hindu Succession Act – 1955
 - Hindu Minority and Guardianship Act – 1956
 - Hindu Adoption and maintenance Act – 1956
 - The Muslim Women (Protection of Rights on Divorce) Act – 1986
 - The Dissolution of Muslim Marriage Act – 1939
 - The Indian Divorce Act – 1869
 - The Parsi Marriage and Divorce Act
 - Guardianship and Wards Act – 1890
 - The Family Courts Act – 1984
- (3) **Women and Property :**
Matrimonial property, Stridhan, Women's right to property, The Hindu Women's Right to Property Act – 1937.
- (4) **Women and Employment :**
Labor Harassment of Women at work place, Laws to protect women and her labor
- Statutory Provisions :**
- Maternity Benefit Act – 1961
 - Equal Remuneration Act – 1976
 - Medical Termination of Pregnancy Act – 1971
 - Factories Act – 1948
 - Contract Labour (Regulation and Abolition) Act – 1970

(5) Social Legislation :

- The Dowry Prohibition Act – 1961
(Later on Amendments in 1984, 1986)
- Pre-Natal Diagnostic Techniques Act – 1994
(Regulation, Prevention and Prohibition of Misuse)
State Laws Banning amniocentesis female infanticide
- The Commission of Sati (Prevention) Act – 1987
- The Child Marriage Restrain Act – 1929
- The Indecent Representation of women (Prohibition) Act – 1986
- Domestic Violence Act, 2006.

(6) Offences against Women :

Violence against women committed within family and outside Battering dowry deaths, Forced prostitution etc. custodial violence.

Statutory Provisions :

Indian Penal Code (relevant provisions relating to dowry death, cruelty, kidnapping, abduction, sexual offences, forced labour, offences relating to marriage)

- Immoral traffic (Prevention) Act – 1956
- Prohibition of Devdasi System (Andhra Pradesh Devdasi Prohibition of Dedication) Act – 1988

(7) Formation of National Commission for Women under the National Commission for Women Act – 1990. its Constitution, Powers and Function.

- The Human Right Act – 1993.
- International Concern regarding status of Women
- International Year of the Women – 1975
- Convention of Elimination all forms of Discrimination against women.

Prescribed Cases :

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|--|---|
| (1) Air India Vs. Nargish Mirza & Ors. | 1981 4 SC(3) AIR 1981 SC 1829 |
| (2) C.B.Muthamma Vs. Union of India | 1978 4 SC 260 AIR 1979 SC 1868 |
| (3) Adultery – right to husband – Sec. 497 IPC
Smt. Sowmithri Vishnu Vs. Union of India | 1985 SC 1681(1985) Cr.L.J.1302 SC
(42nd Report of Law) |
| Commission with dissenting note by Anna Chandy on provision of adultery p.366 | |
| (4) Pratibha Rani Vs. Surajkumar
non return of dowry Articles by husband amounts to criminal beach of trust. | AIR 1985 SC 628 |
| (5) Shobha Rani Vs. Madhukar Reddy
Andra Pradesh Demand for dowry amounts to cruelty. | AIR 1988 SC 121 |
| (6) Smt. Lichhamadevi Vs. State of Rajasthan
Murder of daughter in law (issue of dowry) imprisonment for life. | AIR 1988 SC 1975 |
| (7) Swaraj Garg Vs. V.K.M. Garg – Choise of matrimonial home | AIR 1978 SC 296 |
| (8) Abdul Rahim Undre Vs. Padma Undre
Partition of Matrimonial Home | AIR 1982 Bom. 341 |
| (9) Bai Tahera Vs. Ali Hussain | AIR 1979 SC 362 |
| (10) Mohmad Ahmed Khan Vs. Shabanu Begam
Maintenance of Muslim wife payment of sum under personal law does not absolve a husband form his obligation under - Sec. 125 Cr.P.C. | |

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|---|---|
| (11) Dr. N.G. Dastane Vs. Mrs. S. Dastane
Mental cruelty as a ground for divorce | AIR 1975 SCC 1534 |
| (12) Smt. Sarla Mudgal, President Kaluani & Ors.
Vs. Union of India & Ors. | 1995 3 SCC 635 (653)
AIR 1995 SC 1531 (Uniform Civil Code) |

Recommended Books :

- (1) Towards Equality – Report of the committee on the status of women (Govt. of India)
- (2) The Law Commission of India – 1988 (By : Lokita Sarkar)
- (3) Protection of women under the law (By : Anwal Yaquin & Badar Anwal)
- (4) Women's Rights (By : M.J. Antony)
- (5) Women and the Law (By : Anjani Kant)
- (6) Relevant Articles Published in,
 - The Annual Survey of the Indian Law
 - The Journal of Indian Law Institute
 - The Central India Law Quarterly
 - The Lawyer's Collective, Manushi etc.

LAW RELATING TO CHILD :

(1) Constitutional and International Legal Status of Child :

- Constitutional Law of India Arts. 15(3), 23, 24, 39(e) & (f), 45, 46, 47
- List-II – Entry 4, List III – Entry 5, 30, 41
- National Policy for Children – 1974
- National Policy for Children – 1987
- U.N. Declaration of the Rights of the Child – 1924, 1959
- U.N. Convention on the Rights of the Child – 1989
- International year of the child-1979
- Saare year of the girl child
- Rights of the girl child
- I.L.O. Conventions and Recommendation.

(2) Family Relations and The Child :

The status of the child matters of marriage, legitimacy, Guardianship, Adoption, maintenance and custody statutory provisions :

- Hindu Marriage Act-1955
- The Child Marriage Restraint (Aonend) Act-1973
- The Guardianship and Wards Act-1956
- Adoption Prill-1976
- Code of Criminal Procedure – 1973 (Sec.125)
- Hindu Succession Act-1859
- The Indian Divorce Act-1869
- Indian Succession Act-1925
- Corresponding law for Muslims
- Christian, Parsi and other Communities

(3) Legal Control of the Child Labour :

Regulation of the employment of children in various occupations and the protection of the health and well being of the children. International conventions, Recommendations of the ILO Recommendations of the National Commission of Labour.

Statutory Provisions:

- Child Labour (Prohibition and Regulation) Act-1986
- Child Labour (repealed) (Regulation & Prohibition) Act-1938
- The children (Pleading of Labour) Act-1933 (Amendment 1970)
- Factories Act-1948 (Ss-23, 92, 67, 68, 69, 70, 71, 72, 73, 75, 76, 78)
- Apprentices Act-1961 (Sec.3)
- Mines Act-1952 (Sec.40)
- Beedi and Cigar Workers (Conditions of Employment Act-1966) (SS. 14, 24)
- Plantation Labour Act-1952 (Ss. 25,26)

(4) Criminal Law and The Child:

Substantive Criminal Law relating to children and Judicial proceeding in Criminal cases relating to Children.

Statutory Provisions:

- Children Act-1960 (Ss. 86, 92,(23), 98, 100 to 104, 107, 108)
- Child Marriage Restraint Act-1929 (Ss. 89 to 91)
- Code of Criminal Procedure-1973 (Ss. 93, 98 to 100, 103, 105 to 108)
- Indian Penal Code-1960 (Ss. 82, 83, 299 (Exp. 3) 363A, 372, 376)
- Probation of Offenders Act-1958 (Ss. 94, 106 to 109)
- Young Persons Harmful Publication Act-1980
- Immoral Traffic Prevention in Women and Girls Act-1956, 1987
- Juvenile Delinquency Act-1986
- Juvenile Justice Act-1986

(5) Contract and Torts:

Minors Agreements, Torts and Children.

Statutory Provisions:

- Indian Contract Act-1872 (Ss.11)
- Indian Majority Act-1975 (Sec.3)
- Specific Relief Act-1963 (Sec.33(2))
- Transfer of Property Act-1882 (Sec.173)

(6) Testimony and Suits :

Testimony of children, Suits by and against minors.

Statutory Provisions:

- Civil Procedure Code-1980 (o.32)
- Indian Evidence Act-1972
- Indian Penal Code-1860
- Code of Criminal Procedure-1973 (Ss. 360, 361)

(7) Child Welfare:

Child education, health & Vaccination prevention of begging, vagrancy in state laws, discrimination against girl child.

Amniocentesis, deferred infanticide, Rights of the girls child: Right to institutional care and protection outside the family.

Statutory Provisions:

- The Women and Children Institution (Licensing) Act-1956 (Amend-1960)
- The Orphanages and other Charitable Home (Supervision and Control) Act-1960
- Gujarat Compulsory Primary Education Act-1961
- Reformatory School Act-1897 etc.
- Juvenile Justice Act-1986 (Juvenile Boards, Juvenile Courts)
- Probation of Offender Act-1956

The Paper includes the following UGC Model Curriculum Details:

(1) International Concerns and conventions**(2) Women in India**

2.1 Pre-Independence Period

2.1.1 Social and Legal inequality

2.1.2 Social reform Movement in India

2.1.3 Karachi Congress – Fundamental Rights Resolution, Equality of Sexes

(3) Women in post independence India

3.1 Preamble of the Constitution: Equality provisions in Fundamental Rights and Directive Principles of State Policy.

3.2 Personal laws – unequal position of women.

3.3 Uniform Civil Code towards gender justice.

(4) Sex Inequality in Inheritance Rights:

4.1 Feudal institution of joint family-women's inheritance position

4.2 Hindu Law

4.3 Muslim Law

4.4 Matrimonial property

4.5 Movement Towards Uniform Civil Code

(5) Guardianship

5.1 Right of Women to adopt a child

5.2 Problems of Women Guardianing

(6) Divorce

6.1 Indian Divorce Act

6.2 Christian Law

6.3 Muslim Law

(7) Criminal Law

7.1 Adultery

7.2 Rape

(8) Social Legislation

8.1 Dowry prohibition

8.2 Prevention of Immoral Traffic

- (9) Women Participation in democratic government.**
 - 9.1 Parliament
 - 9.2 State Legislation
 - 9.3 Local bodies
- (10) Women and employment**
 - 10.1 Labour force
 - 10.2 Protective Laws
 - 10.3 Exploitation and harassment in workplaces
- (11) Protection and enforcement agencies**
 - 11.1 Courts
 - 11.2 Family courts
 - 11.3 Commission for Women
 - 11.4 NGOs.
- (12) Social Constitutional and International Legal Status of Child**
 - 12.1 Magnitude of the problem
 - 12.2 Special status of Child-national polices
 - 12.3 Constitutional concern – Article 15(3), Article 24 and Article 45
 - 12.4 International concern and endeavour for the welfare of the children:
 - 12.4.1 Minimum Age conventions
 - 12.4.2 Child rights conventions
 - 12.4.3 U.N. Declaration of the rights of the child, 1924, 1959
- (13) Problems of conception, birth and nuourishment and health of the child**
 - 13.1 Legal status of child in work
 - 13.2 Tortious liability against injuries to unborn children
 - 13.3 Coparcenary and property rights of the unborn children.
 - 13.4 Law relating to maternity benefit and relief
 - 13.5 Lack of legal protection of children of impoverished parentage
- (14) State responsibility for the education of children**
 - 14.1 Evaluation of the efforts of the State towards the provision of education to children
 - 14.2 Pre-primary and nursery education-elementary education.
 - 14.3 Contributions-international Organizations for elementary education – UNESCO, UNICEF.
- (15) Legal Control of Child Labour**
 - 15.1 Regulation of the employment : protection of the heath and well-being
 - 15.2 International conventions and recommendations of the ILO.

- 15.3 Recommendations of the National Commission of Labour
 - 15.4 Legislation relating to factories, plantation labour, mines, merchant shipping, motor transport workers, apprentices, shop & establishments and child labour.
- (16) Family Relations and Child**
- 16.1 The status of a child in matters of marriage, legitimacy, guardianship, adoption, maintenance and custody.
 - 16.2 Provisions in the statutes relating to Hindu marriages, restraint on child marriage, guardians and wards, Hindu minority and guardianship, Hindu adoptions and maintenance and in the Indian Evidence Act 1872.
- (17) Child and Contractual Liability**
- 17.1 Minor's agreements
 - 17.2 Testimony of children
 - 17.3 Suits by and against minors
- (18) Child and Criminal Liability**
- 18.1 Crimes committed by child, crimes committed by others in relation to children.
 - 18.2 Implementation of social policy through criminal sanctions in relation to child
 - 18.3 Variation of procedure in case of child offender
 - 18.4 Judicio proceedings in criminal cases relating to children
 - 18.5 Statutory provisions – Sections 82, 83, 299, Exp.3, 363A, 372 and 376 of IPC – Suppression of Immoral Traffic Act 1956 (SITA) – penal provisions contained in Child Marriage Restraint Act 1929 as amended in 1978 – Young Persons Harmful Publications Act 1956 – The Children Act 1960 – Section.
 - 18.6 27 of the Cr. P. C. – Reformatory Schools Act 1897 – Juvenile Delinquency Act, 1986.
- (19) Law and Offences Against Child**
- 19.1 Protection of neglected children
 - 19.2 Institutions for the protection of neglected children
 - 19.3 Juvenile Justice Act.
 - 19.4 Juvenile delinquency : law and offences against child
 - 19.5 Contribution by parents; licensing
 - 19.6 Protection of girls form immoral traffic.
 - 19.7 Prevention of vagrancy and beggary
- (20) Discrimination Against Female Children**
- 20.1 Amniocentesis,
 - 20.2 Deferred infanticide through based nutritional discrimination
 - 20.3 Termination of pregnancy.

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Students should be encouraged to look at the distinctive legal problems of children in the area where instructions is imparted. The literature on children's plights is vast and varied. But it is important that the focus of the course be on understanding of the distinctively legal. Problems in the region and ways in which we can contribute to change.