

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT.

S.Y. LL.B.

SEMESTER – III

PAPER-10 FAMILY LAW - I

Law relating to marriage & kinship;
customary practices and State Regulation;
conversion and its effect on Family;
Matrimonial remedies;
Alimony and Maintenance;
Family and its changing patterns;
Settlement of spousal property;
Uniform Civil Code

85 Marks

Prescribed Cases

15 Marks

(1) Marriage and kinship :

1. Evolution of the institution of marriage and family
2. Role of religious rituals and practices in moulding the regulating to marital relations.
3. Types of Family based upon.
4. Lineage - patrilineal matrilineal.
5. Authority structure - patriarchal and matriarchal
6. Location - patrilocal and matrilocal
7. Number of conjugal units - nuclear, extended, joint and composite.
8. Emerging concepts : maitri sambandh and divided home.

(2) Customary practices and state regulation :

- (1) Polygamy (2) Concubinage (3) Child Marriage
(4) Sati (5) Dowry

(3) Conversion and its effect on family :

- (1) Marriage (2) Adoption (3) Guardianship (4) Succession

(4) Matrimonial Remedies :

1. Non-Judicial resolution
2. Customary desolution of marriage, unnatural divorce, divorce by mutual consent and other modes of dissolution.
3. Divorce under Muslim Personal Law - talaq and talaq-c-tafweez.
4. Judicial resolution of marital conflicts : the family court.
5. Nullity of marriage

6. Option of puberty.
7. Restitution of Conjugal rights
8. Judicial separation
9. Desertion : a ground for matrimonial relief.
10. Cruelty : a ground for matrimonial relief.
11. Adultery : a ground for matrimonial relief.
12. Others : ground for matrimonial relief
13. Divorce by mutual consent under : Special Marriage Act, 1954: Hindu Marriage Act, 1955; Muslim Law (Khula and Mubaraat)
14. Bar to matrimonial relief
15. Doctrine of strict proof.
16. Taking advantage of one's own wrong of disability
17. Accessory
18. Connivance
19. Collusion
20. Condonation
21. Improper or unnecessary delay.
22. Residuary clause - no other legal ground exists for refusing the matrimonial relief.

(5) Alimony and Maintenance :

1. Maintenance of neglected wives, divorced wives, minor children, disabled children and parents.
2. who are unable to support themselves : provisions under the Code of Criminal Procedure, 1973.
3. Alimony and maintenance as in dependent remedy : a review under different personal law - need for reforming the law.
4. Alimony and maintenance as a relief
5. maintenance of divorced muslim women under the Muslim Women (Protection of Rights on Divorce) Act, 1986 a critical review.

(6) Family and its changing patterns :

1. New emerging trends
2. Attenuation of family ties
3. Working women and their impact on spousal relationship : Composition of family, status and role of women.
4. New property concepts, such as skill and job as new forms of property.
5. Factors affecting the family : demographic environmental, religious and legislative.
6. Processes of social change in India : Sanskritization, Westernization, secularization, universalization, parochialization, modernization, industrialization and urbanization.

(7) Settlement of spousal property :

1. Need for development of law

(8) Uniform Civil Code - need for :

1. Religious pluralism and its implications.
2. Connotations of the directive contained in Article 44 of the Constitution.
3. Impediments to the formulation of the Uniform Civil Code
4. The idea of optional Uniform Civil Code.

Cash Law :

- | | |
|---|--|
| (1) Smt. Sarojrani Vs. Sudarshankumar Chadha | AIR 1984 SC 1759
(Restitution of Conjugal Rights) |
| (2) Kalpana Shrivastave Vs. Surendranath Shivastava | (Cruelty)AIR 1985 All 253 |
| (3) Bhagat Vs. Bhagat | AIR 1994 SC 121 |
| (4) Dastane Vs. Dastane | AIR 1975 SC 1534 |
| (5) Hamirabibi Vs. Zubedabibi | (Mahr) AIR 1916 43 IA 294 |
| (6) Modh. Ahmedkhan Vs. Shahuabanu Begum | AIR 1985 SC 556
(Maintenance) |
| (7) Smt. Sarla Mudgal Vs. Union of India | (UCC) AIR 1995 SC 1931 |
| (8) Bai Taahira Vs. Ali Hussain Fissali | AIR 1979 SC 362 |
| (9) Smt. Mohinidevi Vs. Virendrakumar | AIR 1975 SC 1539 |

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S.Y. LL.B.

SEMESTER – III

PAPER-11 FAMILY LAW - II

Law relating to joint family; inheritance;
child and the family; family courts;

85 Marks

Prescribed Cases

15 Marks

(1) Joint Family :

1. Mitakshara joint family
2. 'Mitakshara coparcenary' - formation and incidents.
3. Property under Mitakshara law - separate property and coparcenaries property.
4. Dayabhaga coparcenary - formation and incident.
5. Property under Dayabhaga law.
6. Karta of the joint family - his position, powers, privileges and obligations.
7. Alienation of property - separate and conparcenary.
8. Debts - doctrines of pious obligations and antecedent debt.
9. Partition and re-union.
10. Joint Hindu family as a social security institution and impact of Hindu Gains of Learning Act and various tax laws on it.
11. Matrilineal joint family

(2) Inheritance :

1. Hindus
2. Historical perspective of traditional Hindu law as a background to the study of Hindu Succession Act, 1956.
3. Succession to property of a Hindu male dying intestate under the provisions of Hindu Succession Act, 1956.
4. Devolution of interest in Mitakshara coparcenary with reference to the provision of Hindu Succession Act, 1956.
5. Succession property of a Hindu female dying the testate under the provision of Hindu Succession Act, 1956.
6. Disqualification relating to succession.
7. General rules of succession.
8. Marum akkatayam and Aliyasantana laws governing people living in Travancore-Cochin and the districts of Malabar and South Kanara.
9. Muslims

10. General rules of Succession and exclusion from succession.
11. Classification of heirs under Hanafi and Ashira schools and their shares and distribution of property.
12. Christians, Parsis and Jews.
13. Heirs and their shares and distribution of property under the Indian Succession Act, 1925.

(3) Child and Family :

- (1) Legitimacy (2) Adoption (3) Custody, maintenance and education.
- (4) Guardianship and parental rights - welfare of the child - Principle.

(4) Establishment of Family Courts :

1. Constitution, power and functions.
2. Administration of gender justice

Cash Law :

- | | |
|--|-----------------------|
| (1) Arunachala Mudliar Vs. Mruganatha | AIR 1954 SCR 243 |
| (2) Raman Nadar Vs. Snehapoo | AIR 1970 SC 1759 |
| (3) M. Shanmugha Udayar Vs. Sivanandam | AIR 1994 Mad. 123 |
| (4) Smt. Kasturidevi Vs. Dy. Director of Consolidation | AIR 1976 SCC 674 |
| (5) Ddhanraj Vs. Smt. Surajbai | AIR 1975 SC 1103 |
| (6) Hunooman Persoud Vs. Musummat Babooee | 1856 6 MIA 393 |
| (7) Nawab Alikhan Vs. Mohamada Begum | 1867 75 IA 62 |
| (8) Sardar Nawazish Alikhan Vs. Sardar Ali Razakhan | 1948 75 IA 62, 77, 79 |
| (9) Seethalakshmi Ammal Vs. Ponnuswamy Nadar | ILR 1966 Mad. 373 |
| (10) Bhagirathibai Vs. Advocate General | 39 (1937) Bom. LR 497 |
| (11) Chunilal Vs. Bai Samarath | 16 Bom. LR 366 PC 380 |

Select Bibliography (For Family Law - I & II)

- Paras Diwan : Law of in testate and Testam entary Succession (1998) Universal
- Paras Diwan : Hindu Law (1985)
- Paras Diwan : Family Laaw : Law of Marriage and Divorce in India (1985)
- Paras Diwan : Law of Adoption , Maintenance, Guardianship and Custody (2000), Univeersal, Delhi.
- Basu N.D. : Law of Succession (2000) Universal.
- Kusum : Marriage and Divorce Law Munual (2000) Universal.
- Machanda : S.C. Law and Practice of Divorce in India (2000) Univeersal.
- P.V. Kane, History of Dhamastra Vol. pt.1 at 624-632 (1974)
- A. Kuppuswami (ed.) Mayaen's Hindu Law and Usage Ch. 4 (1986)
- B. Sivaramayys, Inequalities and the Law (1985)
- K.C. Daiya "Population control though family planning in India, "Indian journal of Legal Studies 85 (1979)
- J.D.M. Derrett, Hindu Law : past and Present
- J.D.M. Derrett, Death of Marriage Law.
- A.A.A. Fyzee, Outline of Mohammedan Law (1998)
- Alladi Kuppuswami (ed.) Mayne's Hindu Law and Usage (1986)
- J.D.M. Derrett, A Critique of Modern Hindu Law (1970)
- S.T. Desai (ed.) Mulla's Principles of Hindu Law (1998) Butterorths - India
- A.M. Bhattachargee, Muslim Law and the Constitution (1994) Eastern Law House, Calcutta.
- A.M. Bhattachargee, Hindu Law and the Constitution (1994) Eastern Law House, Calcutta.

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SEMESTER – III

PAPER-12 JURISPRUDENCE (LEGAL THEORY)

Jurisprudence

100 Marks

The Paper includes the following UGC Model Curriculum Details :

(1) Introduction

- 1.1 Meaning of the terms Jurisprudence
- 1.2 Norms and normative system
 - 1.2.1 Different types of normative systems, such as of games, languages, religious orders, unions, clubs and customary practice.
 - 1.2.2 Legal system as a normative order : similarities and differences of the legal system with other normative systems.
- 1.3 Nature of definition of law

(2) Schools of Jurisprudence

- 2.1 Analytical positivism
- 2.2 Natural Law
- 2.3 Historical school
- 2.4 Sociological school
- 2.5 Economic interpretation of law
- 2.6 The Bharat jurisprudence
 - 2.6.1 The Ancient : the concept of 'Dharma'
 - 2.6.2 The Modern : PIL, social justice, compensatory jurisprudence

(3) Purpose of Law

- 3.1 Justice
 - 3.1.1 Meaning and kinds
 - 3.1.2 Justice and law : approaches of different schools
 - 3.1.3 Power of the Supreme Court of India to do complete justice in a case : Article 42
 - 3.1.4 Critical studies
 - 3.1.5 Feminist jurisprudence

(4) Sources of Law

- 4.1 Legislation
- 4.2 Precedents : concept of stare decisis

- 4.3 Customs
- 4.4 Juristic writings
- (5) Legal Rights : the Concept**
 - 5.1 Rights : kinds
 - 5.2 Right duty correlation
- (6) Persons**
 - 6.1 Nature of personality
 - 6.2 Status of the unborn, minor, lunatic, drunken and dead persons
 - 6.3 Corporate personality
 - 6.4 Dimensions of the modern legal personality : Legal personality of non-human beings
- (7) Possession : the Concept**
 - 7.1 Kinds of possession
- (8) Ownership : the Concept**
 - 8.1 Kinds of ownership
 - 8.2 Difference between possession and ownership
- (9) Title**
- (10) Property : the concept**
 - 10.1 Kinds of property
- (11) Liability**
 - 11.1 Conditions for imposing liability
 - 11.1.1 Wrongful act
 - 11.1.2 Damnum sine injuria
 - 11.1.3 Causation
 - 11.1.4 Means rea
 - 11.1.5 Intention
 - 11.1.6 Malice
 - 11.1.7 Negligence and recklessness
 - 11.1.8 Strict liability
 - 11.1.9 Vicarious liability
- (12) Obligation : Nature and kinds**
 - 12.1 Sources of obligation
- (13) Procedure**
 - 13.1 Substantive and procedural laws : difference
 - 13.2 Evidence : Nature and kinds

Select Bibliography

Bodenheimer Jurisprudence - The Philosophy and Method of Law (1996), Universal, Delhi

Fitzgerald, (ed.) Salmond on Jurisprudence (1999) Tripathi, Bombay

W. Friedmann, Legal Theory (1999) Universal, Delhi

V.D.Mahajan, Jurisprudence and Legal Theory (1996 re-print), Eastern, Lucknow

M.D.A. Freeman (ed.), Lloyd's Introduction Jurisprudence, (1994), Sweet & Maxwell

Paton G.W., Jurisprudence (1972) Oxford, ELBS

H.L.A. Hart, The Concepts of Law (1972) Oxford, ELBS

Roscoe Pond, Introduction to the Philosophy of Law (1998 Re-print) Universal, Delhi

Das, Jurisprudence (1994 First Indian re-print), Adithya Books, New Delhi

Dhyani S.N., Jurisprudence : A study of Indian Legal Theory (1985), Metropolitan, New Delhi.

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SEMESTER – III

PAPER-13 INTERPRETATION OF STATUTES

Interpretation of Statutes

100 Marks

- (1) Introduction
- (2) General Rules of Construction
- (3) Presumptions
- (4) Internal Aids
- (5) External Aids
- (6) Retro spective effect of Statutes
- (7) Repleas & Temparary Statutes
- (8) Taking Statutes
- (9) Penal & Remedial Statutes
- (10) Subordinate and Conditional Legislation in Re Delhi Laws
- (11) Interpretation of the Constitution
- (12) Miscellaneous
- (13) Legislative Drafting
(General Clauses Act, 1897)

The Paper includes the following UGC Model Curriculum Details :

1. Principles of Legislation

- 1.1 Law making - the legislature, executive and the judiciary
- 1.2 Principle of Utility
- 1.3 Relevance of John Rawls and Robert Nozick-individual interest to community interest.
- 1.4 Operation of these principles upon legislation
- 1.5 Distinction between morals and legislation

2. Interpretation of Statutes

- 2.1 Meaning of the term "statutes".
- 2.2 Commencement, operation and repeal of statutes
- 2.3 Purpose of interpretation of statutes

3. Aids to Interpretation

- 3.1 Internal aids
 - 3.1.1 Title
 - 3.1.2 Preamble
 - 3.1.3 Headings and marginal notes
 - 3.1.4 Sections and sub-sections
 - 3.1.5 Punctuation marks
 - 3.1.6 Illustrations, exceptions, provisos and saving clauses
 - 3.1.7 Schedules
 - 3.1.8 Non-obstante clause
- 3.2 External aids
 - 3.2.1 Dictionaries
 - 3.2.2 Translations
 - 3.2.3 Travaux Preparatoires
 - 3.2.4 Statutes in pari material
 - 3.2.5 Contemporanea Exposito
 - 3.2.6 Debates, inquiry commission reports and Law Commission reports

4. Rules of Statutory Interpretation

- 4.1 Primary Rules
 - 4.1.1 Literal rule
 - 4.1.2 Golden rule
 - 4.1.3 Mischief rule (rule in the Heydon's case)
 - 4.1.4 Rule of harmonious construction
- 4.2 Secondary Rules
 - 4.2.1 Noscitur a sociis
 - 4.2.2 Eiusdem generic
 - 4.2.3 Reddendo singular singulis

5. Presumptions in statutory interpretation

- 5.1 Statutes are valid
- 5.2 Statutes are territorial in operation
- 5.3 Presumption as to jurisdiction
- 5.4 Presumption against what is inconvenient or absurd
- 5.5 Presumption against intending injustice
- 5.6 Presumption against impairing obligations or permitting advantage form one's own wrong.
- 5.7 Prospective operation of statutes

- 6. Maxims of Statutory Interpretation**
 - 6.1 Delegatus non potest delegare
 - 6.2 Expressio unius exclusion alterius
 - 6.3 Generalia specialibus non derogant
 - 6.4 In pari delicto potior est conditio possidentis
 - 6.5 Utres valet potior quam pareat
 - 6.6 Expressum facit cessare tacitum
 - 6.7 In bonam partem
- 7. Interpretation with reference to the subject matter and purpose**
 - 7.1 Restrictive and beneficial construction
 - 7.1.1 Taxing statutes
 - 7.1.2 Penal statutes
 - 7.1.3 Welfare legislation
 - 7.2 Interpretation of substantive and adjunctival statutes
 - 7.3 Interpretation of directory and mandatory provisions
 - 7.4 Interpretation of enabling statutes
 - 7.5 Interpretation of codifying and consolidating statutes
 - 7.6 Interpretation of statutes conferring rights
 - 7.7 Interpretation of statutes conferring powers.
- 8. Principles of Constitutional Interpretation**
 - 8.1 Harmonious construction
 - 8.2 Doctrine of pith and substance
 - 8.3 Colourable legislation
 - 8.4 Ancillary powers
 - 8.5 "Occupied field"
 - 8.6 Residuary power
 - 8.7 Doctrine of repugnancy

Select Bibliography

- G.P.Singh : Principles of Statutory Interpretation, (7th Edition) 1999, Wadhwa, Nagpur
- Maxwell on the Interpretation of Statutes (1976) N.M. Tripathi, Bombay.
- N.S. Bindras's Interpretation of Statutes (1997) The Law Book Co., Allahabad.
- V.Sarathi : Interpretation of Statutes (1984) Eastern, Lucknow
- M.P. Jain : Constitutional Law of India (1994) Wadhwa & Co.,
- M.P. Jain, V.N. Shukla's : Constitution of India, (1994) Eastern, Lucknow
- U.Baxi : Introduction of Justice K.K.Mathew's, Democracy Equality and Freedom (1978) Eastern, Lucknow
- P.K. Tripathi : Spotlight on Constitutional Interpretation
- H.M. Seervai : Constitutional Law of India (1st chapter)
- M.P. Tandon : Interpretation of Statutes
- Relevant issue of the Journal of Indian Law Institute.

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SEMESTER – IV

PAPER-14 LABOUR LAW

Industrial Disputes Act - 1947	25 Marks
Factory Act - 1948	25 Marks
Trade Union Act - 1926	10 Marks
Workmen Compensation Act - 1923	20 Marks
Employees Provident Fund Act - 1952	10 Marks
Prescribed Cases	10 Marks

Prescribed Cases :

(1) Industrial Dispute Act - 1947

- Bangalore Water Supply Vs. Rajappa AIR 1978 SC (Pg.-548)
- Uptron India Ltd. Vs. Shammi Bhan & Others (SC) 1998 (I) CLR (Pg.-1043)
- The Rajasthan State Road Transport Corporation Vs. Krishna Kant AIR 1995 SC (Pg.-335)
- Palghat BPL & RSP Thzilati Union Vs. BPL India Ltd. (SC) 1996 (II) LCJ (Pg.-335)
- M/s. Gamon India Vs. Shri Niranjana Das (SC) 1984 (I) LCJ (Pg.-233)
- Excel Wear Vs. Union of India AIR 1979 SC 25
- M/s. Glaxo Laboratory Vs. Presiding Officer Labour Court, Meerut AIR 1975 SC (Pg.-50)

(2) Trade Union Act - 1926

- State Bank of India Staff Association Vs. State Bank of India 1996 II LCJ (Pg.-288)
- Blue Star Ltd. Vs. Blue Star's Union and Ors. 1996 II FLR (Pg.-866)

(3) Employees Provident Act - 1952

- P.M. Patel & Sons. Vs. Union of India 1986 (I) LCJ (Pg.-88) SC
- Organo Chemical Vs. Union of India 1979 (II) LCJ (Pg.-416)

(1) Workmen Compensation Act-1923

- Ved Prakash Garg Vs. Premidevi 1998 (I) ACJ (Pg.-I) SC
- Fransic De Costa Vs. E.S.I. Corporation 1996 (6) SCC (Pg.-I) SC

(2) Factory Act - 1948

- J.K. Industries Ltd. And Others Vs. Chief Inspector of Factories and Boilers and Ors. 1998 (I) ACJ (Pg.-722) SC
- The Clothing Factory National Workers' Union Vs. Union of India 1996(II) LCJ (Pg.-201)SC

The Paper includes the following UGC Model Curriculum details :

(1) Historical Perspectives on Labour

- 1.1 Labour through the ages – slave labour – guild system division on caste basis – labour during feudal days.

- 1.2 Colonial labour law and policy
 - 1.3 Labour – Capital conflicts : exploitation of labour, profit motive, poor bargaining power, poor working conditions unorganized labour, bonded labour, surplus labour, division of labour and super specialization – lack of alternative employment :
 - 1.4 Theories of labour and surplus value
 - 1.5 From laissez faire to welfarism and to globalisation : transition from exploitation to protection and from contract to status : changing perspectives on labour.
- (2) Trade unionism :**
- 2.1 Labour movement as a counter measure to exploitation – history of trade union movement in India.
 - 2.2 Right to trade union as part of human right to freedom of association-international norms and the Indian Constitution.
 - 2.3 Legal control and protection of trade union : registration, amalgamation, rights immunities, liabilities and dissolution.
 - 2.4 Problems : multiplicity of unions, over politicization – intra-union and inter-union rivalry, outside leadership, closed shop and union-shop, recognition of unions.
- (3) Collective bargaining :**
- 3.1 The concept
 - 3.2 International norms – conditions precedent – merits and demerits.
 - 3.3 Bargaining process
 - 3.3.1 Negotiation
 - 3.3.2 Techniques of pressurization : strike and lockout, go-slow, work to rule, gherao, bundh.
 - 3.4 Structure of bargaining : plant, industry and national levels
 - 3.5 Durations and enforcement of bipartite agreement
 - 3.6 Reforms in law
- (4) State Regulation of Industrial Relations :**
- 4.1 Theoretical foundations : social justice, labour welfare, public interest, productivity, industrial peace and development and price control.
 - 4.2 Methods of regulation.
 - 4.2.1 Recognition mutual arrangements.
 - 4.2.2 Assistance to bipartite settlement : conciliation, voluntary arbitration, formulation of standing orders.
 - 4.2.3 State prescription of machinery : reference for adjudication (the political overtones), the adjudicatory mechanisms (How do they differ from courts?), award and its binding nature, judicial review of awards.
 - 4.2.4 State prescription of standards in lay off, strike, lockout, retrenchment, closure and transfer of undertakings.
 - 4.3 The conceptual conundrum : industry, industrial dispute, workmen.
 - 4.4 Unfair labour practices.

(5) Discipline in industry :

- 5.1 Doctrine of hire and fire – history of management's prerogative.
- 5.2 Fairness in disciplinary process :
 - 5.2.1 Punishment for misconduct – meaning of misconduct
 - 5.2.2 The right to know : the charge sheet
 - 5.2.3 The right to defend : domestic enquiry, notice, evidence, cross-examination, representation, unbiased inquiry officer and reasoned decision.
 - 5.2.4 Prenatal (permission) and postnatal (approval) control during pendency of proceedings (S.33 of the I.D. Act.)
- 5.3 Role of management and labour.

(6) Remuneration for Labour

- 6.1 Theories of wages : marginal productivity, subsistence, wages fund, supply
- 6.2 Concepts of wages (minimum wages, fair wages, living wages, need-based minimum wages)
- 6.3 Components of wages : dearness allowance, principle of fixation.
- 6.4 Disparity in wages in different sectors – need for retionlisation and national approach.
- 6.5 Wage determining process – modes and modalities.
 - 6.5.1 Unilateral fixation by employer
 - 6.5.2 Bilateral fixation
 - 6.5.3 Conciliation, arbitration and adjudication
 - 6.5.4 Wage Board and Pay Commission
 - 6.5.5 Principles of wage fixation
- 6.6 Concept of bonus – computation of bonus
- 6.7 Protection of wages : non-payment, delayed payment, unauthorized deductions-remedial measures.

(7) Health and Safety :

- 7.1 Obligations for health and safety of workmen – legislative controls : factory, mines and plantations.
- 7.2 Employer's liability
 - 7.2.1 Workmen's compensation
 - 7.2.2 Employee's State Insurance
 - 7.2.3 Liability for hazardous and inherently dangerous industries – environmental protection.

(8) Labour Welfare :

- 8.1 Welfare provided by the employers and through bipartite agreements and by statutory prescription.

- 8.2 Provident fund and family pension.
- 8.3 Gratuity
- 8.4 Insurance
- 8.5 Inter-state migrant workmen – regulation of employment and conditions of service.
- 8.6 Employment of young persons : prohibition of employment of children, regulation of employment of young persons.
- 8.7 Woman and labour force
 - 8.7.1 Equal remuneration law, maternity benefits, protective provisions for women under factories, plantations and mines laws.

(9) Protection of the weaker sectors of labour :

- 9.1 Tribal labour : need for regulation
- 9.2 Unorganized labour like domestic servants : problems and perspectives
- 9.3 Bonded labour : socio-economic programmes for rehabilitation.
- 9.4 Contract labour – regulation
- 9.5 Daily wage workers.

Select bibliography

- John Bowers and Simon Honeyball : Tax Book on Labour Law (1996), Blackstone, London
- Srivastava K.D. : Commentaries on Payment of Wages Act 1936 (1998), Eastern, Lucknow.
- Srivastava K.D. : Commentaries on Minimum Wages Act 1948 (1995), Eastern, Lucknow
- Rao S.B. : Law and practice on Minimum Wages (1999), Law Publishing House, Allahabad.
- Seth D.D. : Commentaries on Industrial Disputes Act 1947 (1998), Law Publishing House, Allahabad.
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- Srivastava K.D. : Commentaries on Factories Act 1948 (2000), Eastern, Lucknow.
- R.C. Saxena : Labour Problems and Social Welfare Chapters 1, 5 and 6 (1974)
- V.V. Giri : Labour Problems in Indian Industry Chs. 1 and 15, (1972)
- Indian Law Institute : Labour Law and Labour Relations (1987)
- (1982) Cochin University Law Review, Vol. 6 pp. 153-210.
- Report of the National Commission on Labour, Ch. 14-17, 22, 23 and 24.
- O.P. Malhotra : The Law of Industrial Dispute (1998), Universal, Delhi.
- S.C. Srivastava : Social Security and Labour Law Pts. 5 and 6 (1985), Universal, Delhi.
- S.C. Srivastava : Commentary on the Factories Act 1948 (1999) Universal, Delhi.

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SEMESTER – IV

PAPER-15 LAW OF TAXATION

Income Tax Act	50 Marks
Gujarat (VAT) Act.	25 Marks
Central Sales Tax Act.	25 Marks

Statutory Material Prescribed :

- (1) Income Tax Act - 1961
- (2) Income Tax Rules – 1962
- (3) Constitution of India Act – 265 & 289

The Paper includes the following UGC Model curriculum Details :

(1) General Perspective :

- 1.1 History of tax law in India.
- 1.2 Fundamental principles relating to tax laws
- 1.3 Governmental financial policy, tax structure and their in the national economy.
- 1.4 Concept of tax
 - 1.4.1 Nature and characteristics of taxes
 - 1.4.2 Distinction between
 - 1.4.2.1 Tax and fee
 - 1.4.2.2 Tax and cess
 - 1.4.2.3 Direct and indirect taxes
 - 1.4.2.4 Tax evasion and tax avoidance.
- 1.5 Scope of taxing powers of Parliament, state Legislature and local bodies.

(2) Income Tax

- 2.1 Basic Concepts
 - 2.1.1 Income
 - 2.1.2 Total Income
 - 2.1.3 Income not included in total Income
 - 2.1.4 Deemed income
 - 2.1.5 Clubbing of income
- 2.2 Assessee
- 2.3 Person
- 2.4 Tax Planning

- 2.5 Chargeable income
 - 2.5.1 Heads of Income
 - 2.5.1.1 Salaries
 - 2.5.1.2 Income from house property
 - 2.5.1.3 Income from business or profession
 - 2.5.1.4 Capital gains.
 - 2.5.1.5 Income form other sources
 - 2.5.2 Deductions, relief and exemptions
 - 2.5.3 Rate of income tax
- 2.6 Income Tax Authorities
 - 2.6.1 Power and functions
- 2.7 Offences and penal sanctions
- 2.8 Settlement of grievances
 - 2.8.1 Authorities, powers and functions

(3) Other Tax Laws :

- 3.1 Wealth Tax
 - 3.1.1 Taxable wealth, determination of value of assets, exemptions and rate of wealth tax
 - 3.1.2 Wealth tax authorities
 - 3.1.3 Offences and penalties
- 3.2 Central Sales Tax and or State Sales Tax
 - 3.2.1 Sale or purchases of goods
 - 3.2.1.1 Meaning of sale
 - 3.2.1.2 Sale in the course of inter-state trade and commerce
 - 3.2.1.3 Sale to take place outside a state
 - 3.2.1.4 Sale in the course of export of import
 - 3.2.2 Charge of tax
 - 3.2.3 Exemption and rebate
 - 3.2.4 Sales tax authorities
 - 3.2.5 Offences and penalties
- 3.3 Service Tax
 - 3.3.1 Taxable service
 - 3.3.1.1 Meaning and importance of service tax
 - 3.3.1.2 Constitutional perspective
 - 3.3.1.3 Salient provisions of the service tax law
 - 3.3.1.4 Valuation of taxable service

3.3.1.5 Offence and penalties

Select bibliography :

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Diwan B.K. and Sanjay Mehtani : Formation, Taxation and Assessment Charitable and Religious Trusts (1999), Bharath Law House, New Delhi.

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V. Ramachandran & T.A. Ramakrishnan (eds.) A.N. Aiyer's Indian Tax Laws (2000) Company Law Institute of India Pvt.Ltd. Chennai.

S. Bhattacharya ^ H.R. Garg : Handbook of Direct Taxes (1990), Eastern Law House, Calcutta.

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SEMESTER – IV

PAPER-16 HUMAN RIGHTS AND INTERNATIONAL LAW

Human Rights 50 Marks

International Law 50 Marks

Human Rights :

- (1) Human Rights – Concept – Origin – Development – Importance – Classification.
- (2) Civil and Political Rights & Part-III of Indian Constitution.
- (3) Economic, Social and Cultural Right and Part-IV of Indian Constitution
- (4) Human Rights and Vulnerable Groups, Women, Children, Disabled, Tribals Minorities, War victims, Refugees, Tortures etc in Treatment and Punishment offenders and Prisoners
- (5) Enforcement of Human Rights :
 - International Mechanism (U.N.O.)
 - National Mechanism (Legislative, Executive, Judicial)
 - National Human Rights Commission (Protection of Human Rights Act-1993)
- (6) Human Rights, Legal Aid and Access to Justice – Problems and Perspectives role by N.G.O. (PUCL, PUOR, Citizen for Legal Aid to Democracy, Common Cause)
 - International Organizations (Amnesty International, Asia Watch, Law Asia)
 - International Bar Association
 - National Commissions on Minorities Women, Scheduled Cast and scheduled Tribe.

International Law :

- (1) Historical Background
- (2) Basic Principles of International Law
 - Sovereignty of States and Equality of States.
 - Non intervention into internal and external affairs of State
 - International Co-operation
 - Non use of force
 - Peaceful settlement of Disputes.
- (3) Sources of International Law
 - Treaties
 - Custodians
 - General Principles of International Law

- U.N. Statistic Assembly Resolutions as source of International Law
 - Non Statistic Sources of International Law
- (4) Relationship Between National Law and International Law
- (5) Subjects of International Law :
- State (Recognition of States and Government & State Succession)
 - Internal Organization
 - Individuals/People
 - In NCS and other Private Entities
- (6) Jurisdiction of State
- Territorial
 - Personal
 - Protective
 - Universal (terrorism, high seas, narcotics, War crimes & Crimes against Peace)
 - Diplomatic immunities and Privileges
 - State Immunities
 - Law of Sea
 - Law of Air & Outer Space
- (7) Law of State Responsibility : Permanent Sovereignty over National Resources.
- (8) Permanent Settlements of Disputes (Art.33 of U.N. Chapter)
- (9) International Economic Law – GATT/WTO Regime
- International Fiscal Institutions
 - International Regime of Intellectual Property rights
 - Foreign Investment

The Paper includes the following UGC Model Curriculum Details :

- (1) **Theoretical Foundations of Human Rights and International Law**
- 1.1 Basic principles : Sovereign equality of states, non-intervention, non use of force, international co-operation, peaceful settlement of disputes.
 - 1.2 Individuals as subjects of international law
 - 1.3 State jurisdiction on terrorism, hijacking, narcotics, war crimes and crimes against peace.
 - 1.4 Treatment of aliens.
- (2) **Historical development of the concept of Human Rights.**
- 2.1 Human Rights in Indian tradition : ancient, medieval and modern.
 - 2.2 Human Rights in western tradition.
 - 2.2.1 Concept of natural law

2.2.2 Concept of natural right

2.3 Human Rights legal tradition : International and National Law.

(3) UN and Human Rights

3.1 Universal Declaration of Human Rights (1948) – individual and group rights

3.2 Covenant on Political and Civil Rights (1966)

3.3 Covenant on Economic, Social and Cultural Rights (1966)

3.4 I.L.O. and other Conventions and Protocols dealing with human rights.

3.5 Solidarity rights

3.6 Disarmament : threat to human rights.

3.7 International HR Commission

3.7.1 Mandates of States

3.8 Right to development

(4) Role of Regional Organizations :

4.1 European Convention on Human Rights

4.2 American Convention on Human Rights

4.3 African Convention on Human Rights

4.4 SAARC

(5) Protection agencies and mechanisms

5.1 International Commission of Human Rights

5.1.1 Amnesty International

5.1.2 Non-Government Organizations (NGOs)

5.2 European Commission on Human Rights/Court of Human Rights.

5.3 U.N. Division of Human Rights

5.4 International Labour Organization

5.5 UNESCO

5.6 UNCEF

(6) Impact and implementation of International human rights norms in India.

6.1 Human Rights norms reflected in fundamental rights in the Constitution.

6.2 Directive Principles : legislative and administrative implementation of international human rights norms

6.3 Implementation of international human rights norms through judicial process

(7) Enforcement of Human Rights in India

7.1 Role of Courts : the Supreme Court, High Courts and other courts.

7.2 Statutory commissions – human rights, women's minority and backward class.

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- S.K. Avesti and R.P. Kataria : Law Relating to Human Rights, Chh. IV, V, VIII, XIV, XXIX and XXXIX, (2000) Orient, New Delhi.
- S.K. Varma : Public International Law (1998), Prentice-Hall, New Delhi.
- Peter J. Van Krieken (ed.) : The Exclusion on Clause (1999), Kluwer.
- Human Rights Watch Women's Rights Project, The Human Rights Watch Global Report on Women's Human Rights (2000), Oxford.
- Ermacara, Nowak and Tretter : International Human Rights (1993), Sweet & Maxwell.
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- Muntarhorn : The Status of Refugees in Asia (1992), Oxford.
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- Mumal C.J. (ed.) : Human Rights in India (2000), Oxford
- Mamal B.C. : The Right to Self determination in International Law (1995), Deep & Deep.
- Batra T.S. : Human Rights – A critique
- P.R. Gandhi : International Human Rights Documents (1999) Universal, Delhi.
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Journals of Indian Society of International Law
- M.P. Tandon : Public International Law
- Paras Diwan : Human Rights and Law
- P.R.P. Journal of Human Rights.

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SEMESTER – IV

PAPER-17 COMPANY LAW

Companies Act, 1956
Prescribed Cases

85 Marks
15 Marks

Prescribed Cases :

- | | | |
|------|--|----------------------------|
| (1) | Saloman Vs. Saloman & Co. Ltd. | 1891 A.C. 22 |
| (2) | Damlar Co. Ltd. Vs. Continental Tier & Rubber Co. | (1916) 2 C. 307 |
| (3) | Bacha F. Guzdar Vs. Comm. of Income Tax (Bombay) | AIR (1955) SC 74 |
| (4) | Ashbury Railway Carriage and Iro Co.Ltd. Vs. Riche | (1875) 44 L.J.Exch.185 |
| (5) | Dr. A. Lakshman Swami Mudaliar Vs. L.I.C. | AIR (1963) SC 1185 |
| (6) | Royal British Bank Vs. Turquand | (1856) 118 ER 886 |
| (7) | Derry Vs. Peek | (1889) 14 AC 337 |
| (8) | Foss Vs. Harbottle | 67 ER 189-1843, 2 Hare 461 |
| (9) | State Trading Co. of India Ltd. Vs. C.T.O. | (1963) SCI 705 |
| (10) | Heavy Engineering Mazdoor Union Vs. Sate of Bihar | AIR (1970) SC 82 |
| (11) | In Kingston Cotton Mill Co. No.2 | (1896) Ch.D. 228-229 |

The Paper includes the following UGC Model Curriculum Details :

(1) Meaning of Corporation

- 1.1 Theories of Corporate Personality
- 1.2 Creation and extinction of corporations

(2) Forms Corporate and Non-Corporate organisations

- 2.1 Corporations, partnerships and other association of persons, state corporations, government companies small scale, co-operative, corporate and joint sectors.

(3) Law relating to companies – Public and Private – Companies Act, 1956.

- 3.1 Need of company for development, formation of a company registration and incorporation.
- 3.2 Memorandum of association – various clauses, alteration therein – doctrine of Ultra Vires.
- 3.3 Articles of association – binding force – alteration – its relation with memorandum of association – doctrine of constructive notice and indoor management - exceptions.
 - 3.3.1 Prospectus – issue – contents – liability for misstatements – statement in lieu of prospectus.
- 3.4 Promoters – position – duties and liabilities.
 - 3.4.1 Shares – general principles of allotment statutory restrictions – share certificate its objects and effects – transfer of shares – restrictions on transfer – procedure for transfer – refusal of transfer – role of public

finance institutions – relationship between transferor and transferee – issue of shares at premium and discount – depository receipts – dematerialized shares (DEMAT)

- 3.4.2 Shareholder – who can be and who cannot be a shareholder – modes of becoming a shareholder – calls on shares – forfeiture and surrender of shares – lien on shares.
- 3.4.3 Share capital – kinds – alteration and reduction of share capital – further issue of capital – conversion of loans and debentures into capital – duties of courts to protect the interests of creditors and share holders.
- 3.5 Directors – position – appointment – qualifications – vacation of office – removal – resignation – powers and duties of directors – meeting, register, loans – remuneration of directors – role of nominee directors – compensation for loss of office – managing directors – compensation for loss of office – managing directors and other managerial personnel.
 - 3.5.1 Meetings – kinds – procedure – voting.
 - 3.5.2 Dividends – payment – capitalisation – profit.
- 3.6 Audit and accounts
- 3.7 Borrowing powers – effect of unauthorized borrowing – charges and mortgages – loans to other companies – investments – contracts by companies.
- 3.8 Debentures – meaning – fixed and floating charge – kinds of debentures – shareholder and debenture holder – remedies of debenture holders.
- 3.9 Protection of minority rights
- 3.10 Protection of oppression and mismanagement – who can apply? – powers of the company – court and of the central government.
- 3.11 Investigation – powers
- 3.12 Private companies – nature and advantages – government companies – holding and subsidiary companies.
- 3.13 Regulation and amalgamation.
- 3.14 Winding up – types – by court – reasons – grounds – who can apply – procedure – powers of liquidator – powers of court – consequences of winding up other – voluntary winding up by members and creditors – winding up subject to supervision of courts, liability of past members – payment of liabilities – preferential payment, unclaimed dividends – winding up of unregistered company.

(4) Law and Multinational Companies

- 4.1 International norms for control
- 4.2 National Law FEMA (Foreign Exchange Management Act, 1999) controls joint ventures – investment in India – repatriation of project.
- 4.3 Collaboration agreements for technology transfer.

(5) Corporate Liability

- 5.1 Legal liability of companies – civil and criminal
- 5.2 Remedies against them civil, criminal and tortuous – Specific Relief Act, writs, liability under special statutes.

Select bibliography :

Avtar Singh : Indian Company Law (1999), Eastern, Lucknow.

L.C.B. Gower : Principles of Modern Company Law (1997) Sweet and Maxwell, London.

Palmer : Palmers Company Law (1987), Stevens, London.

R.R. Pennington : Company Law (1990), Butterworths.

A. Ramaiya : Guide to the Companies Act, (1998), Wadha.

S.M. Shah Lectures on Company Law (1988), Tripathi, Bombay.

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SEMESTER – IV

PAPER-18 LAND LAWS INCLUDING CEILING AND OTHER LOCAL LAWS

- (1) Historical Background
- (2) Revenue Code and Revenue Rules
 - (I) Revenue officers and Courts Jurisdiction, Power and Functions
 - (II) Survey and Settlement
 - (III) Assessment of Land Revenue
 - (IV) Tenure Holder – His rights and obligations
 - (V) Lease – Tenant
 - (VI) Devolution of Rights in Land 60 Marks
- (3) Ceiling Act – Agricultural and land Ceiling 20 Marks
- (4) Consolidation 20 Marks

Statutory Legislations :

- (1) Gujarat State Revenue Code and Gujarat Land Revenue Rules-1879 40 Marks
- (2) Land Acquisition Act-1894 (1984 – Amended) 15 Marks
- (3) The Bombay Prevention of Fragmentation and Consolidation of Holding Act-1947 & Rules 10 Marks
- (4) The Bombay Tenancy and Agricultural Land Act-1948 15 Marks
- (5) The Mamalatdar Courts Act. 10 Marks
- (6) Agricultural coiffing 10 Marks

Recommended Books :

- (1) Annual Survey of Indian Law – Volume Relevant Section on "Law and Agarian Reforms".
- (2) Land Tenure in India Vol.-3 (By : B.H. Eodenpowell)

The Paper includes following UGC Model Curriculum Details :

- (1) **Constitutional Provisions :**
 - 1.1 Fundamental Rights
 - 1.2 Agricultural Reform
 - 1.3 Legislative Powers
 - 1.3.1 The Union
 - 1.3.2 States
 - 1.3.3 Local bodies