

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT.

T.Y. LL.B.

SEMESTER – V

PAPER-19 CODE OF CIVIL PROCEDURE AND LAW OF LIMITATION

Code of Civil Procedure
Indian Limitation Act

75 Marks
25 Marks

The Paper includes the following UGC Model Curriculum Details :

1. Introduction :

1.1 Concepts

1.1.1 Affidavit, Order, Judgment decree, Plaintiff, restitution, execution, decree-holder
Judgment –debtor, mesne profits, Written Statement.

1.1.2 Distinction between decree and judgment and between decree and order.

2. Jurisdiction

2.1 Kinds

2.1.1 Hierarchy of courts

2.2 Suit of Civil nature-scope and limits

2.3 Res-subjudice and Resjudicata

2.4 Foreign judgment –enforcement

2.5 Place of suing

2.6 Institution of suit

2.6.1 Parties to suit: joinder, mis-joinder or non-joinder of parties: representative
suit.

2.6.1.1 Frame of suit: cause of action

2.6.2 Alternative disputes resolution (ADR)

2.6.3 Summons

3. Pleadings

3.1 Rules of pleading, signing and verification.

3.1.1. Alternative pleading

3.1.2. Construction of pleadings

3.2 Plaintiff: particulars

3.2.1 Admission, return and rejection

3.3 Written statement: particulars, rules of evidence

3.3.1 Set off and counter claim : distinction

3.4 Discovery, inspection and production of documents.

- 3.4.1 Interrogatories
- 3.4.2 Privileged documents
- 3.4.3 Affidavits

4. Appearance, examination and trial

- 4.1 Appearance
- 4.2 Ex-prate procedure
- 4.3 Summary and attendance of witnesses
- 4.4 Trial
- 4.5 Adjournments
- 4.6 Interim orders: commission, arrest or attachment before judgment, injunction and appointment of receiver
- 4.7 Interests and costs

5. Execution

- 5.1 The concept
- 5.2 general principles
- 5.3 Power for execution of decrees
- 5.4 Procedure for execution (Ss.52-54)
- 5.5 Enforcement, arrest and detection(Ss.55,59)
- 5.6 Attachment (Ss.60-64)
- 5.7 Sale (Ss.65-97)
- 5.8 Delivery of property
- 5.9 Stay of execution

6. Suit in particular cases

- 6.1 By or against government (Ss.79-82)
- 6.2 By aliens and by or against foreign rulers or ambassadors (Ss.83-87A)
- 6.3 Public nuisance (Ss.91-93)
- 6.4 Suits by or against firm
- 6.5 Suits in forma paupers
- 6.6 Mortgages
- 6.7 Interpleaded suits
- 6.8 Suits relating to public charities

7. Appeals

- 7.1 Appeals from original decree
- 7.2 Appeals from appellate decree
- 7.3 Appeals from orders
- 7.4 General provisions relating to appeal

7.5 Appeal to the Supreme Court

8. Review, reference and revision

9. Miscellaneous

9.1 Transfer of cases

9.2 Restitution

9.3 Caveat

9.4 Inherent powers of courts

10. Law reform : Law Commission on Civil Procedure- amendments

11. Law of Limitation

11.1 The concept-the law assists the vigilant and not those who sleep over the rights.

11.2. Objet.

11.3. Distinction with laches, acquiescence, prescription.

11.4. Extension and suspension of limitation

11.5. Sufficient causes for not filing the proceedings

11.5.1 Illness

11.5.2 Mistaken legal advise

11.5.3 Mistaken view of law

11.5.4 Poverty, minority and Purdha

11.5.5 Imprisonment

11.5.6 Defective vakalatnama

11.6 Legal liabilities

11.7 Foreign rule of limitation : contract entered into under a foreign law

11.8 Acknowledgement – essential requisites

11.9 Continuing tort and continuing breach of contract.

Select bibliography

Mulla Code of Civil Procedure(1999), Universal, Delhi

C.K. Thaker: Code of Civil Procedure(2000), Universal, Delhi

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SEMESTER – V

PAPER-20 CRIMINAL PROCEDURE CODE JUVENILE JUSTICE ACT AND PROBATION OF OFFENDERS ACT.

Code of Criminal Procedure-1973	70 Marks
Juvenile Justice Act, 2000	15 Marks
Probation of Offenders Act, 1958	15 Marks

The Paper includes the following UGC Model Curriculum Details :

1. Introductory :

- 1.1 The rationale of Criminal Procedure : the importance of fair trial
- 1.2 Constitutional Perspectives
- 1.3 The variety of Criminal Procedure(the class should examine in particular the procedure of trial for Specific offences especially, offences under the Prevention of Corruption Act and the Narcotic Drugs and Psychotropic Substances Act)
- 1.4 The organization of Police, Prosecutor, defense counsel and prison authorities and their duties, functions and powers.

2. Pre-trial process : arrest

- 2.1 The distinction between cognizable and non-cognizable offences: relevance and adequacy problem
- 2.2 Steps to ensure accused's presence at trial: warrant and summons.
- 2.3 Arrest with and without warrant(Section 70-73 and 41)
- 2.4 The absconder status (Section 82, 83, 84 and 85)
- 2.5 Right of the arrested person
- 2.6 Right to know grounds of arrest (Section 50(1),55,75)
- 2.7 Right to be taken to magistrate without delay(Section 56, 57)
- 2.8 Right of not being detained for more than twenty-hours (Section 57):2.9. Article 22(2) of the Constitution of India
- 2.9 Right to consult legal practitioner, legal aid and the right to be told of rights to tall
- 2.10 Right to be examined by a medical practitioner (Section 54)

3. Pre-trial process : Search and Seizure

- 3.1 Search warrant (Section 83, 94, 97, 98) and searches without warrant (Section 103)
- 3.2 Police search during investigation (Section 165, 166, 153)
- 3.3 General principles of search (Section 100)
- 3.4 Seizure (Section 102)
- 3.5 Constitutional aspects of validity of search and seizure proceeding

- 4. Pre-trial Process; FIR**
 - 4.1 F.I.R. (Section 154)
 - 4.2 Evidentiary value of F.I.R (See Sections 145 and 157 of Evidence Act)
- 5. Pre-trial Process: Magisterial Powers to take Cognizance**
- 6. Trial process**
 - 6.1.1 Commencement of proceedings : (Section 200,201,202)
 - 6.1.2 Dismissal of complaints (Section 203,204)
 - 6.1.3 Bail: concept, purpose: constitutional overtones
 - 6.1.3.1 Bailable and Non-Bailable offences (Section 436,437,439)
 - 6.1.3.2 Cancellation of bail (Section 437(5))
 - 6.1.3.3 Anticipatory bail (Section 438)
 - 6.1.3.4 Appellate bail powers (Section 389(1), 395(1), 437(5))
 - 6.1.3.5 General principles concerning bond (Section 441-450)
- 7. Fair Trial**
 - 7.1 Conception of fair trial
 - 7.2 Presumption of innocence.
 - 7.3 Venue of trial
 - 7.4 Right of the accused to know the accusation (Section 221-24)
 - 7.5 The right must generally be held in the accused's presence (Section 221-224)
 - 7.6 Right of cross examination and offering evidence in defence: the accused's statement.
 - 7.7 Right to speedy trial
- 8. Charge**
 - 8.1 Palming of charge
 - 8.2 Form and content of charge (Section 211, 212, 216)
 - 8.3 Separate charges for distinct offence (Section 218, 219, 220, 221, 223)
 - 8.4 Discharge- pre-charge evidence
- 9. Preliminary pleas to bar the trial**
 - 9.1 Jurisdiction (Section 26, 177-188, 461, 462, 479)
 - 9.2 time limitations: rationale and scope (Section 468-473)
 - 9.3 Pleas of autrefois acquit and autrefois convict (Section 300, 22D)
 - 9.4 Issue-Estoppel
 - 9.5 Compounding of offences
- 10. Trial Before a Court of Sessions: Procedural Steps and Substantive Rights.**
- 11. Judgment**
 - 11.1 Form and content (Section 354)

- 11.2 Summary trial
- 11.3 Post-conviction orders in lieu of punishment: emerging penal policy
(Section 360, 361, 31)
- 11.4 Compensation and cost (Section 357, 358)
- 11.5 Modes of providing judgement (Section 353, 362, 363)
- 12. Appeal, Review, Revision**
 - 12.1 No appeal in certain cases (Section 372, 375, 375)
 - 12.2 The rationale of appeals, review, revision.
 - 12.3 The multiple range of appellate remedies:
 - 12.3.1 Supreme Court of India (Section 374, 379, Artic. 31, 132, 134, 136)
 - 12.3.2 High Court (Section 374)
 - 12.3.3 Sessions court (Section 374)
 - 12.3.4 Special right to appeal (Section 380)
 - 12.3.5 Government appeal against sentencing (Section 377-378)
 - 12.3.6 Judicial power in disposal of appeals (Section 368)
 - 12.3.7 Legal aid in appeals.
 - 1.24 Revisional Jurisdiction (Section 397-405)
 - 1.25 Transfer of cases (Section 406,407)
- 13. Juvenile delinquency**
 - 1.3.1 Nature and magnitude of the problem
 - 13.2 Causes
 - 13.3 Juvenile court system
 - 13.4 Treatment and rehabilitation of Juveniles
 - 13.5 Juveniles and adult crime
 - 13.6 Legislative and judicial protection of juvenile offender
 - 13.7 Juvenile Justice Act 19
- 14. Probation**
 - 14.1 Probation of offenders law
 - 14.2 The judicial attitude
 - 14.3 Mechanism of probation : standards of probation services
 - 14.4 Problems and prospects of probation
 - 14.5 The suspended sentence
- 15. Reform of Criminal Procedure.**

Select Bibliography :

Ratanlal – Dhirajlal: Criminal Procedure Code(1999) Universal, Delhi

K. Chandrashekhan Pillai (ed.) Kelkar Lectures on Criminal Procedure(1998), Eastern, Lucknow

Principe: Commentaries on the Code of Criminal Procedure, 2 vol.(2000) Universal, Delhi.

Woodroff: Commentaries on Code of Criminal Procedure, 2 vol(2000), Universal, Delhi.

K. Chandrashakhan Pillai: Kelkar;s Outlines of Criminal Procedure(2001), Easern, Lucknow.

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SEMESTER – V

PAPER-21 LAW OF EVIDENCE

Indian Evidence Act

100 Marks

The Paper includes the following UGC Model Curriculum Details :

1. Introductory :

- 1.1 The main features of the Indian Evidence Act, 1861.
- 1.2 Other acts which deal with evidence (special reference to CPC, Cr. P.C)
- 1.3 Problem of applicability of Evidence At
 - 1.3.1 Administrative
 - 1.3.2 Administrative Tribunals
 - 1.3.3 Industrial Tribunals
 - 1.3.4 Commissions of Enquiry
 - 1.3.5 Court Martial
- 1.4 Disciplinary authorities in educational institutions.

2. Central Conceptions in Law of Evidence

- 2.1 Facts: Section 3 definition : distinction relevant facts / facts in issue
- 2.2 Evidence : Oral and documentary
- 2.3 Circumstantial evidence and direct evidence
- 2.4 Presumption (section 4)
- 2.5 "Proving", "not providing" and "disproving"
- 2.6 Witness
- 2.7 Appreciation of evidence

3. Facts : relevancy

- 3.1 The Doctrine of res gestae (Section 6,7,8,10)
- 3.2 Evidence of common intention (Section 10)
- 3.3 The problems of relevancy of "Otherwise" irrelevant facts (Section 11)
- 3.4 Relevant facts for proof of custom (Section 13)
- 3.5 Facts concerning bodies & mental state (Section 14,15)

4. Admissions and confessions

- 4.1 General principles concerning admission (Section 17, 23)
- 4.2 Differences between "admission" and "confession"

- 4.3 The problems of non-admissibility of confessions caused by "any inducement, threat of promise' (Section 24)
- 4.4 Inadmissibility of custodial made before a police officer (Section 25)
- 4.5 Admissibility of custodial confessions (Section 26)
- 4.6 Admissibility of "information" received from accused person in custody; with special reference to the problem of discovery based on "joint statement"(Sec.27)
- 4.7 Confession by co-accused (Section 30)
- 4.8 The problem with the judicial action based on a "retracted confession"
- 5. Dying Declarations**
 - 5.1 The justification for relevance on dying declarations (Section 32)
 - 5.2 The judicial standards for appreciation of evidentiary value of dying declarations.
- 6 Other Statements by Persons who cannot be called as Witnesses**
 - 6.1 General principles.
 - 6.2 Special problems concerning violation of women's rights in marriage in the law of evidence
- 7. Relevance of Judgments**
 - 7.1 General principles
 - 7.2 Admissibility of judgments in civil and criminal matters (Section 43)
 - 7.3 "Fraud" and "Collusion" (Section 44)
- 8. Expert Testimony**
 - 8.1 General principles
 - 8.2 Who is an expert? : types of expert evidence
 - 8.3 Opinion on relationship especially proof of marriage (Section 50)
 - 8.4 The problem of judicial defence to expert testimony.
- 9. Oral and Documentary Evidence**
 - 9.1 General principles concerning oral evidence (Section 59-60)
 - 9.2 General principles concerning Documentary Evidence (Section 67-90)
 - 9.3 General Principles Regarding Exclusion of Oral by Documentary Evidence
 - 9.4 Special problem: re-hearing evidence
 - 9.5 issue estoppel
 - 9.6 Tenancy estoppel (Section 116)
- 10 Witnesses, examination and Cross Examination**
 - 10.1 Competency to testify (Section 118)
 - 10.2 State privilege (Section 123)
 - 10.3 Professional privilege (Section 126, 127, 128)
 - 10.4 Approval testimony (Section 133)
 - 10.5 General principles of examination and cross examination (Section 135-166)

- 10.6 Leading questions (Section 141-143)
- 10.7 Lawful questions in cross-examination (Section 146)
- 10.8 Compulsion to answer questions put to witness
- 10.9 Hostile witness (Section 154)
- 10.10 Impeaching of the standing or credit of witness (Section 155)

11. Burden of Proof

- 11.1 The general conception of onus probandi (Section 101)
- 11.2 General and special exceptions to onus probandi
- 11.3 The justification of presumption and of the doctrine of judicial notice
- 11.4 Justification as to presumptions as to certain offences (Section 111A)
- 11.5 Presumption as to dowry death (Section 113-B)
- 11.6 The scope of the doctrine of judicial notice (Section 114)

12 Estoppel

- 12.1 Why estoppel? The rationale (Section 115)
- 12.2 Estoppel, res judicata and waiver and presumption
- 12.3 Estoppel by deed
- 12.4 Exstoppel by conduct
- 12.5 Equitable and promissory estoppel
- 12.6 Questions of corroboration (Section 15-157)
- 12.7 Improper admission and of witness in civil and criminal cases.

Select bibliography

Sarkar and Manohar : Sarkar on Evidence(1999), Wadhawa & Co; Nagour
Indian Evidence Act (Amendment up to date)
Ratanlal-Dhirajlal : Law of Evidence (1994), Wadhawa & Co;Nagpur
Polein Murphy: Evidence (5th Edn. Reprint 2000) Universal, Delhi
Alberts, Osborn: The Problem of Proof (First Indian Reprint 1998) Universal, Delhi
Avtar Singh: Principal of the Law of Evidence(1992), Central Law Agency, New Delhi.

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SEMESTER – V

PAPER-22 LEGAL LANGUAGE, LEGAL WRITING INCLUDING GENERAL ENGLISH

(1)	Comprehension	12 Marks
(2)	Precis / Translation	10 Marks
(3)	Legal Maxims	14 marks
(4)	Legal Terms	14 Marks
(5)	Essay on Legal topics	10 Marks
(6)	Drafting: (a) Pleading (i) Civil (ii) Criminal Pleadings	15 Marks
	(b) Conveyancing	10 Marks
(7)	Translation	10 Marks

Recommended Books :

- (1) Roses in December (By Justice M.C. Chagla)
- (2) Law and Lawyers (By M.K. Gandhi)

The Paper includes the following UGC Model Curriculum Details :

1. Introductory :

- 1.1 Characteristics of legal language
- 1.2 History of Legal Language
- 1.3 Legal language in India
- 1.4 English as a medium of communication for legal transaction in India

2. Introduction to oral communication skills

- 2.1 Passive and active listening- questioning-non-verbal communication
- 2.2 listening comprehension

3. Vocabulary

- 3.1 Consulting a dictionary-consulting a the saurus
- 3.2 Synonyms and antonyms-related words-regular vocabulary exercises

4. Phonetic theory and practice

- 4.1 The phonetic script
- 4.2 Consulting a dictionary for pronunciation-exercises with audio aids
- 4.3 Reading exercises-stress, accent and intonation suitable to; Indian speaker with emphasis on clarity of speech and felicity of expression
 - 4.3.1 Reading comprehension of Principles and practice

5. Legal terminology

- 5.1 Terms used in civil law and criminal law.
- 5.2 Latin words and expressions – law register

6. Fundamental principles of Legal Writing

- 6.1 Concision – clarity – cogency – simplicity of structure
- 6.2 Attention and awareness of practical legal import of sentences
- 6.3 Brief writing and drafting of law reports
- 6.4 Writing of case comments
- 6.5 Essay writing on topics of legal interest

7. General Juristic writings in English

8. Proficiency in regional language

Every student should acquire skills of understanding, analysis, writing and communication in the regional language which he has to use in the interaction with the potential clientele. Necessarily, the proficiency in the language will contribute in a substantial measure to a successful practice in law.

Select Bibliography

Albert Parry : Seven Lamps of Advocacy

Moha's Convincing

Mogha's Forms and Precedents

Mogha's Pleading

Law and Language.

Bhatnagar R.P. & R. Bhargava: Law and Language, Macmillan, New Delhi

Brown, Gordon W.: Legal Terminology, New Jersey: Prentice Hall, 1990

Cochrane: Michael: Legal English : Paris Cujas, 1979

Cross Ian et. al. Skills for Lawyers, Jordan Publishing Co.,1997 Bristol

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173.

Kelkar,Ashok R. "Communication and Style in Legal Language." Indian Bar Review,
Vol. 10(3).1993

Lord Denning, "Command of Language". The Discipline of the Law, N.Delhi, Aditya Books 1993

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M.C. Setalvad: My Life, Law Other things (2000), Universal, Delhi.

Olivekronak: "Legal Language and Reality", in M.D.A/ Freeman, Introduction to Jurisprudence.

Riley Alison: English for Law: Macmillan, 1991

Williams Glanville: "Language and the Law" in Freeman, pp.1350-53
Thomson A.J. & A.V. Martinet: A Practical English Grammar, Oxford: OUP
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