

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT.

T.Y. LL.B.

SEMESTER – VI

PAPER-23 EQUITY, TRUSTS AND FIDUCIARY RELATIONSHIPS

Law of Equity	25 Marks
Indian Trust Act	25 Marks
Bombay Public Trust Act	25 Marks
General Principles of Trust	25 Marks

The Paper includes the following UGC Model Curriculum Details :

1. Introductory :

- 1.1 The concept of trust: distinction with agency and contract
- 1.2 Development of law: Common law and equity
- 1.3 Trusts: Classification

2. Definition and Nature of trusts under the Indian Law.

- 2.1 Creation of trusts : rules

3. Duties of trustees

- 3.1 Execution
- 3.2 Acquaintance with the nature of Property
- 3.3 Duties in respect of title
- 3.4 Duty of care
- 3.5 Conversion
- 3.6 Impartiality
- 3.7 Prevention of waste
- 3.8 Keeping of accounts and giving of information
- 3.9 Investment
- 3.10 Sale
- 3.11 Liability for breach of trust

4. Rights of Trustees

- 4.1 Title deed
- 4.2 Reimbursement
- 4.3 Indemnity
- 4.4 Seeking direction from court
- 4.5 Settlement of accounts
- 4.6 General authority

5. Powers of trustees

- 5.1 Sale
- 5.2 Varying of Investment
- 5.3 Property of minors
- 5.4 Giving receipts
- 5.5 Power to compound, compromise and settle
- 5.6 Exercising authority
- 5.7 Suspension of trustee's power

6. Disabilities of trustees

7. Rights of beneficiaries

- 7.1 Rents and profits
- 7.2 Special execution
- 7.3 Inspection and information
- 7.4 Transfer
- 7.5 Suit for execution
- 7.6 To have proper trustees
- 7.7 Right to compel the trustee to do the duties
- 7.8 Rights on wrongful purchase or acquisition by trustees
- 7.9 Follow of trust properties in the hands of third parties
- 7.10 Blending of property by trustee
- 7.11 Wrongful application of trust property by trustee for partnership purposes.

8. Liabilities of Beneficiaries

3. Discharge of Trustees

4. Appointment of New Trustees

5. Extinction of Trust

6. Constructive trusts : the equitable and fiduciary Relationship

- 12.1 Transfer without intent to dispose beneficial interest
- 12.2 Trust incapable of execution and trusts executed fully without exhausting property the cypress doctrine
- 12.3 Transfer and request for illegal purpose
- 12.4 Transfer pursuant to rescindable contract
- 12.5 Debtor becoming creditor's representative
- 12.6 Advantage from undue influence
- 12.7 Advantage by qualified owner
- 12.8 Property acquired with notice of existing contract

12.9 Purchase by person contracting to buy property to be held on trust

12.10 Possession of property without whole beneficial interest

12.11 Duties of constructive trustees

12.12 Rights of bonafide purchasers

7. Special legislation

13.1 Charitable and religious trust

8. Common property resources and public trust doctrine

Select bibliography

S.Krishnamurthy Aiyara and Harbans Lal Swin: Principles and Digest of Trusts(1998), Universal Book Agency, Allahabad.

R.H. Mandsley and E.H.Bum: Trust and Trustees: Cases and Materials (1978), Butterworth. London

R.E. Megarry and P.V. Baker: Snell's Principles of Equity(1964)ELBS, Sweet & Maxwell,

Philip H. Pettit: Equity and Law of Trust (1970)

Iyer N. : Indian Trust (1997), Delhi Law House, New Delhi.

Ahmedullah Khan: The Law of Wakf in India (1997), Delhi Law House, Dew Delhi.

Rajarathanam, Natarajan and Thankaraj: Commentary on Charitable Trusts and Religious Institutions(2000), Universal, Delhi.

Mukerjee : Commentary on Indian Press Act, (1999) Universal, Delhi

Rao C.R.: The Indian Trust Act and Allied Laws (1999)

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T.Y. LL.B.

SEMESTER – VI

PAPER-24 LAW OF ARBITRATION, CONCILIATION AND ALTERNATE DISPUTE RESOLUTION SYSTEMS

The Arbitration and conciliation Act, 1996		40 Marks
Draft Rules on Alternative Dispute Mediation Rules)	
Suggested by the Law Commission of India)	15 Marks
Legal Services Authorits Act, 1987		10 Marks
Consumer Protection Act, 1986		10 Marks
Family Courts Act, 1984		10 Marks
Prescribed Case Law		15 Marks

The Paper includes the following UGC Model Curriculum Details :

1. **Arbitration : meaning, scope and types**
 - 1.1 Distinctions
 - 1.1.1 1940 law and 1996 law – UNCITRAL Model law
 - 1.1.2 Arbitration and Conciliation
 - 1.1.3 Arbitration and Expert determination
 - 1.2 Extent of Judicial intervention
 - 1.3 International Commercial Arbitration
2. **Arbitration agreement**
 - 2.1 Essential
 - 2.2 Kinds
 - 2.3 Who can enter into arbitration agreement
 - 2.4 Validity
 - 2.5 Reference to arbitration
 - 2.6 Interim measures by court
3. **Arbitration Tribunal**
 - 3.1 Appointment
 - 3.2 Challenge
 - 3.3 Jurisdiction of arbitral tribunal
 - 3.3.1 Powers
 - 3.3.2 Grounds of challenge
 - 3.4 Procedure
 - 3.5 Court assistance

- 4. Award**
 - 4.1 Rules of guidance
 - 4.2 Form and content
 - 4.3 Correction and interpretation
 - 4.4 Grounds of seeing aside an award
 - 4.4.1 Can misconduct be a ground?
 - 4.4.2 Incapacity of a party, Invalidity of arbitration agreement
 - 4.4.3 Want of proper notice and hearing
 - 4.4.4 Beyond the scope of reference
 - 4.4.5 Contravention of composition and procedure
 - 4.4.6 Breach of confidentiality
 - 4.4.7 Impartiality of the arbitrator
 - 4.4.8 Bar of limitation, res judicate
 - 4.4.9 Consent of parties
 - 4.5 Enforcement
- 5. Appeal and revision**
- 6. Enforcement of foreign awards**
 - 6.1 New York convention awards
 - 6.2 Geneva Convention awards
- 7. Conciliation**
 - 7.1 Distinction between "Conciliation", "negotiation", mediation", and "arbitration".
 - 7.2 Appointment
 - 7.3 Statement of conciliator
 - 7.4 Interaction between conciliator and parties
 - 7.4.1 Communication
 - 7.4.2 Duty of the parties to Co-operate
 - 7.4.3 Suggestions by parties
 - 7.4.4 Confidentiality
 - 7.5 Resort to judicial proceedings
 - 7.6 Costs
- 8. Rule-making power**
 - 8.1 High Court
 - 8.2 Central Government
- 9 Legal Service Authorities Act : Scope**

Select Bibliography

- B.P. Saraf & M.Jhunjhunwala: Law of Arbitration and Conciliation(2000), Snow white, Mumbai.
- Gerald R. Willieme(ed.), The New Arbitration and Conciliation Law of India, Indian Council of Arbitration (1998), New Delhi.
- A.K. Bansal: Law of International Commercial Arbitration (1999), Universal, Delhi
- P.C. Rao & William Sheffield: Alternative Disputes Resolution- what it is and How it works ? (1997), Universal, Delhi.
- G.K. Kwatra: The Arbitration and Conciliation Law of India(2000), Universal, Delhi
- Basu N.D. :Law of Arbitration and Conciliation (9th Ed., Reprint 2000), Universal, Delhi
- Johari: Commentary on Arbitration and Conciliation Act, 1996 (1999), Universal, Delhi.
- Markanda P.C.: Law relation to Arbitration and Conciliation (1998), Universal, Delhi.

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT.

**T.Y. LL.B.
SEMESTER – VI**

[SPECIAL]

PAPER-25 PROFESSIONAL ETHICS, ACCOUNTANCY FOR LAWYERS AND BAR-BENCH RELATIONS (PRACTICAL TRAINING PAPER-IX)

Written Examination	80 Marks
Viva Voce	20 Marks

(1) Written Examination :

- | | |
|---|----------|
| (I) Advocate Act, Bar Council Code of Ethics Contempt Law & Practice. Accountancy for Lawyers | 40 Marks |
| (II) 10 Selected opinions of the Disciplinary Committee of the Bar Council of India | 20 Marks |
| (III) 10 Major Judgments of the Supreme Court on the Disciplinary Actions. | 20 Marks |

(2) Viva Voce examination to be conducted by a panel constituted on same line as in Practical Training Paper VII and VIII

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT.

T.Y. LL.B. SEMESTERS – V & VI

PAPER-26 PRACTICAL TRAINING PAPER – VII : MOOT COURT, PRETRIAL PREPARATIONS AND PARTICIPATION IN TRIAL PROCEEDINGS :

- (a) **Moot Court :**
Every students must conduct at least 3 moot court in year with 10 marks each in Assigned problems (5 marks for Written Submission and 5 marks for oral submission) 30 Marks
- (b) **Practicipating in Trial Proceeding :** Observation of trial in to case Attendance and performance to be certified by the Advocate in the prescribed Dairy on the list having at least 10 years standing in the Bar (One Civil & One Criminal) 30 Marks
- (c) **Pre-trial Prepapation :**
- Interviewing techniques 15 Marks
- Pre trial Preparations 15 Marks
(Records to be maintained in the prescribed diary)
- (d) **Viva Voce** 10 Marks
- (a) **Moot Court :**
Every student will do at least 3 three moot courts in a year with 10 marks each. The moot courts work will be on assigned problems and it will be evaluated from 5 marks for written submission and 5 marks for oral advocacy. The written submission shall be recorded in the prescribed diary. The panel to evaluate moot-court performance of each student shall consist the principal of his/her nominee, the teacher assigned the subject/or any other part time/full time teacher and a retired judge/professional lawyer with at least 10 year standing at the bar. i.e. the panel shall consist of 3 members of which at least one member shall be an outsider.
- (b) **Observance of Trial in two cases one civil and one Criminal.**
Civil case 15 Marks
Criminal case 15 Marks
(Attendance and performance to be certified by advocates, in the prescribed diary, having at least 10 years standing at the bar)
- (c) **Interviewing techniques and pre-trial preparation :**
Each student will observe two interviewing sessions of clients at the lawyers office/legal aid office and record the proceedings in the prescribed diary and which will carry 15 marks.
Each student will further observe the preparation of documents and court papers by the Advocate and procedure for filing suit/petition. This will be recorded in the prescribed diary and which will carry 15 Marks.

For (b) and (c) each student shall maintain a common prescribed diary for each term and the same shall have to be submitted by a stipulated date in both the terms.

The recordings in the diary shall be certified by the advocates on the list having at least 10 years standing at the bar.

The recording of both the dairies shall be evaluated at the end of the year through the University.

(d) Viva Voce Examination :

To be conducted by a Panel consisting of members as provided in Practical Training Paper-VII and VIII

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT.

T.Y. LL.B. SEMESTERS – V & VI

PAPER-27 PRACTICAL TRAINING PAPER – VIII : DRAFTING OF PLEADINGS AND CONVEYANCING

(a)	Pleadings	45 Marks
(b)	Conveyancing	45 Marks
(c)	Viva Voce	10 Marks

(a) **Pleadings** : at least 15 written exerciser on assigned topics (3 marks each)

(b) **Conveyancing** : at least 15 written exercises on assigned topics (3 marks each)

Assignments to be attempted in the classroom at regular periodic intervals in the prescribed diaries to be evaluated at the end of the year through the University.

The prescribed assignment diaries shall contain proper index as to the date of the written assignment attempted in the class room, supervisor teacher's signature, examiner's signature and marks.

(c) **Viva voce** examination (10 marks) which will test the understanding of legal practice in relation to drafting of pleadings and conveyancing.

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT.

T.Y. LL.B. SEMESTERS – V & VI

PAPER-28 PRACTICAL TRAINING PAPER – X : PUBLIC INTEREST LAWYERING, LEGAL AID AND PARA LEGAL SERVICES

Public Interest Lawyering, Legal Aid and para Legal Services 100 Marks

- (1) Lok Adalat
- (2) Legal Aid Camps
- (3) Legal Literacy Para Legal training
- (4) Negotiation and Counseling
- (5) Legal Research in support of SAL (PIL)
- (6) Writing of Case Comments
- (7) Edition of Law journal and Legal Office Management (Prescribed Diary to be submitted to be submitted to the University through college for evaluation)

This course shall consist of 100 marks. It shall be taught partly through class room instructions and partly through participation of students in extension programmes like Lok Adalat, Legal Aid Camp, Legal Literacy and Para-legal training.

The course should also contain lessons on negotiations and counseling, use of computer in legal work, legal research in support of 10 public Interest Litigation, writing of case comments, editing of Law Journals and Law office Management.

- (a) Writing of case comments at least 10 cases.
Pertaining to social action litigation (PIL) 50 Marks
- (b) Attendance and recordings of details of such attendance in Lok Adalat
Legal Literacy Camps, Legal Aid Camp, Permanent Conciliation Board,
Negotiations and Counseling in other Non Governmental organizations
and (NGOS) which are working especially for Legal Aid Literacy,
Human Rights, Environment, Gender related issues etc. 50 Marks

The prescribed diary shall be submitted to the University through the college for evaluation by a stipulated date, at the end of academic year.

GENERAL :

Each College may have a teacher to look after and co-ordinate practical training activities and to supervise the students work.