

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT.

THREE YEAR LL.B. PROGRAMME

CHOICE BASED CREDIT & SEMESTER SYSTEM
(with effect from Academic Year 2012-13)

FIRST LL.B.

SEMESTER – I

FIRST LL.B. SEMESTER-I

24 Credits

COURSE	COURSE CODE	SUBJECTS	CREDITS		
			LECTURES	OTHER	TOTAL
CORE COMPULSORY	CC-101	Law of Contract-I (General Principles of Contract & Specific Relief Act.)	3	1	4
CORE COMPULSORY	CC-102	Law of Contract-II (Specific Contracts, Sale of Goods Act, Partnership Act & Negotiable Instruments Act)	3	1	4
CORE COMPULSORY	CC-103	Law of Crimes-I General Principles of Criminal Law (IPC)	3	1	4
CORE COMPULSORY	CC-104	Law of Crimes-II Specific Offences (IPC)	3	1	4
CORE COMPULSORY	CC-105	Law of Torts, Motor Vehicle Accident and Consumer Protection Laws	3	1	4
SUBJECT ELECTIVE	EC-106	Constitutional History of India	1	1	2
FOUNDATION	FC-107	Use of Law Journals/ Law Reports, Internet and Legal Software	1	1	2

**CORE COMPULSORY COURSE CC-101 : LAW OF CONTRACT-I
(GENERAL PRINCIPLES OF CONTRACT
AND SPECIFIC RELIEF ACT)**

Objectives of the Course

Every man in his day to day life from dawn to dusk makes a variety of contracts. Man's contract making activities increase with the increasing trade, commerce and industry. In a way living in a modern society would be impossible if the law did not recognise this contract making power of a person. This prompted Roscoe Pound to make his celebrated observation : "Wealth, in a commercial age, is made up largely of promises." In this sense India is also a "promissory" society.

The conferment and protection by the law of this contract making power of persons gives them a considerable leeway to strike a best bargain for the contract making persons. In a way, they are permitted to regulate and define their relations in a best possible manner they chose. However, the contours of contractual relations in a feudal, colonial and capitalist society of pre-Independence India cannot necessarily be the same in the independent, developing and 'socialist' Indian society. But whatever may be the nature of a given society, the contractual relations, as are obtained in that society, are governed by certain principles which are more or less of a general and basic nature. In India these general principles are statutised in the form of the Indian Contract Act, 1872.

This course on General Principles of Law of Contract is designed to acquaint a student with the conceptual and operational parameters of these various general principles of contractual relations. Besides, other objectives of this course are as under

- (a) To study the general principles of the law of contract in the context of their development and judicial interpretation.
- (b) To inform the students about the use of law for the establishment of "just" order in contractual relations.
- (c) To develop the appreciative and evaluative faculties of the students in statutory law as well as case law in matters relating to contractual relations in a developing, planned and welfare economy of India.
- (d) To acquaint the students with application of contract law to domestic and international commercial transactions and to e-contracts.

Syllabus

		<u>University Examination Marks</u>
General Principles of Contract ..	..	50 Marks
(Ss 1 to 75 of the Indian Contract Act)		
Specific Relief Act ..	..	<u>20 Marks</u>
		Total.. 70 Marks

1. General Principles of Law of Contract
 - 1.1 Agreement and Contract Definitions elements and kinds
 - 1.2 Proposal and acceptance essential elements, communication, revocation, invitation for proposal, tenders, general offers.
 - 1.3 Consideration-nudum pactum, meaning, need, definition-kinds, elements-privity of contract.
 - 1.4 Application of Law to Domestic and International commercial transactions (UNIDROT)

2. Capacity to Contract
 - 2.1 Meaning
 - 2.2 Incapacity arising out of status and mental defect
 - 2.3 Minor-definition of 'minor'
 - 2.3.1 Nature of minor's agreement
 - 2.3.2 Beneficial contracts
 - 2.3.3 Ratification
 - 2.3.4 Liability for necessities
 - 2.4 Persons of unsound mind
 - 2.5 Other illustrations of incapacity to contract

3. Free Consent : meaning and definition
 - 3.1 Coercion – definition-essential-elements-duress-effect
 - 3.2 Undue influence - definition - essentials - elements - pardanashin lady- Unconscionable bargains, effect of undue influence
 - 3.3 Misrepresentation-definition-misrepresentation of law and fact-their effects
 - 3.4 Fraud-definition-essential elements - suggestio falsi and suppressio veri silence amount to fraud-importance of intention-concealment of truth.
 - 3.5 Mistake-definition-kinds-fundamental error-mistake of law and of fact-effects-when mistake vitiates free consent? when it does not?

4. Legality of Objects
 - 4.1 Void Agreements-lawful and unlawful consideration and objects-void, voidable, illegal and unlawful agreements and their effects
 - 4.2 Unlawful considerations and objects forbidden by law-fraud-injurious to person and property-immoral-against public policy.
 - 4.3 Void Agreements-without consideration-in restraint of marriage, in restraint of trade, good will, its exception, in restraint of legal proceedings and its exceptions.
 - 4.4 Uncertain agreements-wagering agreements and its exceptions.

5. Discharge of Contracts and Quasi-Contracts
 - 5.1 Modes of discharge of contract and their effects
 - 5.2 By performance
 - 5.3 By breach-anticipatory breach
 - 5.4 Impossibility of performance
 - 5.5 By period of limitation
 - 5.6 By agreement
 - 5.7 Quasi - Contracts and certain other relations resembling those created by contract

6. Specific Relief Act
 - 6.1 Specific Performance of Contract
 - 6.2 Recovery of Possession of Property
 - 6.2.1 Movable Property
 - 6.2.2 Immovable Property
 - 6.3 Injunctions : Kinds – Temporary, Permanent, Interlocutory
 - 6.4 Declaratory decree
 - 6.5 Rescission of Contracts
 - 6.6 Ratification and Cancellation of Instruments

Suggested Readings

- A.G. Guest (ed) : **Anson's Law of Contract**
- : **Law Contract**
- Avtar Singh : **Law of Contract** (Eastern)
- : **Law of Contract and Specific Relief** (Eastern)
- P.S. Atiyah : **Introduction of Law of Contract**
- G.C. Cheshire and H.S. Fifoot : **Cases on Law of Contract**
- Chitty : **Chitty on Contracts**, Vol.I : General Principles and Vol.2 Specific Contracts
- T.R. Desai and S.T. Desai : **Indian Contract Act and Sale of Goods Act**
- Pollock and Mulla : **The Indian Contract Act and Specific Relief Act**, 2 Volumes (2012) Lexis Nexis Butterworths.
- J.L. Kapur : **Pollock and Mulla on the Indian Contract Act and Specific Relief Act**
- V.D. Kulshreshtha : **Indian Contract Act**
- P.H. Winfield (ed) : **Pollock's Principles of Contracts**
- G.H. Theital : **Law of Contract Mulla's Law of Contract** Lexis Nexis
- Sarkar on **Specific Relief Act**
- V. Kesava Rao : **Contract-I Cases and Materials** Butterworths, Wadhwa.
- Dutt on **Contract** (Universal)
- Anand and Aiyer : **Law of Specific Relief** Universal
- Moitra A.C. : **Law of Contract and Specific Relief** Universal
- Cheshire, Fifoot & Furmston's : **Law of Contract** Lexis Nexis Butterworths
- Sarkar on **Specific Relief Act**, Lexis Nexis Butterworths.
- Mulla on **Indian Contract Act**, Lexis Nexis Butterworths.
- Law Commission of India Report on various aspects of Contract and Specific relief
- Annual Survey of Indian Law – Indian Law Institution, New Delhi.

**CORE COMPULSORY COURSE CC-102 : LAW OF CONTRACT-II
(SPECIFIC CONTRACTS, SALE OF
GOODS ACT, PARTNERSHIP ACT AND
NEGOTIABLE INSTRUMENTS ACT)**

Objectives of the Course

This Course is to be taught after the students have been made familiar with the general principles of contract in which the emphasis is on understanding and appreciating basic essentials of a valid contract and on existence of contractual relationship in various instances. Obviously, a course on special contracts should initiate the students to different kinds of contracts with emphasis on the intricacies therein. This course should also provide an insight into justification for special provisions for certain kinds of contracts.

Syllabus

	<u>University Examination Marks</u>
Specific Contracts	25 Marks
Sale of Goods Act	15 Marks
Partnership Act	15 Marks
Negotiable Instruments Act	<u>15 Marks</u>
	Total.. 70 Marks

1. Specific Contracts (Indian Contract Act)
 - 1.1 Indemnity - concept, need, definition, commencement, nature and extent of liability
 - 1.2 Guarantee – concept, definition, essential elements, extent of liability, discharge-rights and liabilities
 - 1.3 Bailment - definition, essential elements, rights and duties, general lien
 - 1.4 Pledge - definition-rights-who may pledge?
 - 1.5 Agency – definition-essential elements-creation-relations, rights-duties and liabilities-third parties delegation-termination

2. Sale of Goods
 - 2.1 Essentials - implied terms
 - 2.2 Rule of Caveat Emptor-exceptions
 - 2.3 Titles-transfer-delivery of goods-risk
 - 2.4 Unpaid seller-rights
 - 2.5 Remedies

3. Partnership
 - 3.1 Definition-advantages - disadvantages-nature, scope, kinds
 - 3.2 Mutual relationships-authority of partners-admission of partners-outgoing partners-rights and duties
 - 3.3 Registration of partnership-effect of non registration
 - 3.4 Dissolution of partnership

3.5 Liability of Partners under the Limited Liability Partnership Act.

4. Negotiable Instruments

- 4.1 Kinds-essentials
- 4.2 Competent parties-liability discharge from liability
- 4.3 Dishonour-remedies
- 4.4 Holder and Holder in due course
- 4.5 Negotiable - presentation

Suggested Readings

- Avtar Singh : **Contract Act**, Eastern
- : **Principles of Law of Sale of Goods and Higher Purchase**, Eastern
- Krishnan Nair : **Law of Contract**, Orient
- A.G. Guest : **Benjamin's Sale of Goods**, Sweet and Maxwell
- Bhashyam and Adiga : **The Negotiable Instrument Act**, Bharath
- Beatson : **Anson's Law of Contract**, Oxford
- Saharay H.K. : **Indian Partnership and Sale of Goods Act**, Universal
- Ramanaiya : **The Sale of Goods Act**, Universal
- M.S. Parthasarthy : **Negotiable Instruments Act**
- Pollock and Mulla's : **Sale of Goods Act**, Lexis Nexis-Butterworths
- Pollock and Mulla's : **Indian Partnership Act**, Lexis Nexis-Butterworths
- P.C. Markanda's : **The Law of Partnership in India**, Lexis Nexis-Butterworths
- S.T. Desai's : **Law of Partnership in India**, Lexis Nexis-Butterworths

**CORE COMPULSORY COURSE CC-103 : LAW OF CRIMES-I
GENERAL PRINCIPLES OF CRIMINAL
LAW (IPC)**

Objectives of the Course

The Indian society has changed very rapidly since Independence. It will not suffice to merely teach the Indian Penal Code in 'Criminal Law' courses, as has been traditionally done. The type of offences, the methods of dealing with them and the theoretical assumptions underlying them have all undergone major changes. Moreover, the development of criminal law after Independence has not been in terms of reforms of I.P.C. and Cr.P.C. merely, but mainly through new types of legislations, such as those concerning food adulteration, dowry, terrorism, smuggling, prevention of corruption, pollution etc. these laws define new types of crimes, prescribe new types of penalties and have different theoretical assumptions such as modification of the basis of criminal liability and on use of proof. The changes in political, social and economic orders have also brought about different types of organized violence which the state has to deal with.

A proper understanding of crimes, methods of controlling them and the socio-economic and political reasons for their existence, is now extremely important, in the larger context of India's development, if the students are to use their knowledge and skills to build a just society. The curriculum outlined here attempts to bring in these new perspectives and orient the teaching to India's new developmental heads.

Syllabus

1. General
 - 1.1 Conception of Crime-distinction between crime and other wrongs
 - 1.2 Salient features of IPC
 - 1.3 Territorial Applicability of IPC – Intraterritorial & Extraterritorial
 - 1.4 Elements of Criminal liability Mens Rea-importance
 - 1.5 Stages of a Crimes – guilty intention, preparation when punishable, attempt when punishable offence.
 - 1.6 Definitions.
2. Types of Punishment
 - 2.1 Theories of punishment – minimum punishment, judicial discretion in awarding punishment
 - 2.2 Capital Punishment-Constitutionality, judicial approach, rarest of rare cases.
 - 2.3 Life sentence
 - 2.4 Imprisonment – simple – rigorous – solitary confinement
 - 2.5 Forfeiture of property
 - 2.6 Fine – rules
3. Group Liability
 - 3.1 Common intention – Common object
 - 3.2 Abetment – instigation – aiding – conspiracy
 - 3.3 Unlawful assembly – rioting
 - 3.4 Criminal conspiracy – definition

4. General Defenses
 - 4.1 Absence of criminal intention – Minority, Intoxication, Insanity medical and legal, consent and its absence
 - 4.2 Right of Private Defence – justification and limits
 - 4.3 Necessity-trifles-communication made in good faith
 - 4.4 Mistake of fact – Mistake of law
 - 4.5 Judicial Acts
 - 4.6 Accident

5. Offences against State and by and against Public Servants
 - 5.1 Criminal conspiracy
 - 5.2 Waging war
 - 5.3 Sedition
 - 5.4 Public Servant – Illegal gratification

6. Offences injurious to Public Well-Being
 - 6.1 Public Tranquility
 - 6.1.1 Unlawful assembly
 - 6.1.2 Rioting – Affray
 - 6.2 Public Justice
 - 6.2.1 Giving and fabricating false evidence - offences
 - 6.2.2 Offences relating to election
 - 6.3 Public Health, Safety, Convenience, Decency and Morals
 - 6.3.1 Public Nuisance
 - 6.3.2 Food & Drugs Adulteration
 - 6.3.3 Negligent acts, Rash driving or riding
 - 6.3.4 Obscenity

Suggested Readings

- William Glanville : **Text Book of Criminal Law**, Universal
- Ratanlal & Dhirajlal : **The Indian Penal Code**, Lexis Nexis, Butterworths
- K.D. Gaur : **Commentary on IPC**, Universal
- : **Criminal Law – Cases and Materials**, Lexis Nexis, Butterworths
- : **A Text Book on the Indian Penal Code**, Lexis Nexis, Butterworths
- P.S. Achuthan Pillai : **Principles of Criminal Law**, Eastern
- B.M. Gandhi : **Indian Penal Code**, Eastern
- Kenny's : **Onlines of Criminal Law**, Universal
- Russell : **On Crimes**, Universal
- Shamsul Huda : **Principles of the Law of Crimes**, Eastern
- K.N.C. Pillai : **General Principles of Criminal Law**, Eastern
- : **Essays on IPC**, ILI
- P.K. Das : **Supreme Court on Rarest of Rare Cases**, Universal

CORE COMPULSORY COURSE CC-104 : LAW OF CRIMES-II
SPECIFIC OFFENCES (IPC)

Objectives of the Course

This course is to be taught after the students have been made familiar with the general principles of criminal law.

Syllabus

1. Offences against Human Body - I – resulting in death
 - 1.1 Culpable Homicide – when amounts to murder
 - 1.2 Murder – Ingredients, distinction
 - 1.3 Suicide – attempt – constitutionality
 - 1.4 Rash and Negligent act – causing death
 - 1.5 Death with consent – euthanasia – constitutionality
2. Offences against Human Body – II
 - 2.1 Hurt and Grievous Hurt
 - 2.2 Wrongful restraint and wrongful confinement
 - 2.3 Kidnapping, Abduction, Forced labour and slavery
 - 2.4 Unnatural offences – recent trends
 - 2.5 Criminal force, assault
 - 2.6 Criminal intimidation, insult, annoyance.
3. Offences against Property
 - 3.1 Theft – Extortion – Robbery – Dacoity – mischief – cheating – receiving stolen property
 - 3.2 Criminal misappropriation of property – criminal breach of trust
 - 3.3 Criminal trespass
 - 3.4 Coins, currency notes & government stamps – counterfeiting
 - 3.5 Documents and Property marks – forgery
4. Defamation
 - 4.1 Definition
 - 4.2 Public good – truth and veracity
 - 4.3 Libel and Slander

Suggested Readings

- William Glanville : **Text Book of Criminal Law**, Universal
- Ratanlal & Dhirajlal : **The Indian Penal Code**, Lexis Nexis, Butterworths
- K.D. Gaur : **Commentary on IPC**, Universal
- : **Criminal Law – Cases and Materials**, Lexis Nexis, Butterworths
- : **A Text Book on the Indian Penal Code**, Lexis Nexis, Butterworths
- P.S. Achuthan Pillai : **Principles of Criminal Law**, Eastern
- B.M. Gandhi : **Indian Penal Code**, Eastern
- Kenny's : **Onlines of Criminal Law**, Universal
- Russell : **On Crimes**, Universal
- Shamsul Huda : **Principles of the Law of Crimes**, Eastern
- K.N.C. Pillai : **General Principles of Criminal Law**, Eastern

- : Essays on IPC, ILLI
 - P.K. Das : Supreme Court on Rarest of Rare Cases, Universal
- CORE COMPULSORY COURSE CC-105 : LAW OF TORTS, MOTOR VEHICLE
ACCIDENT AND CONSUMER
PROTECTION LAWS**

Objectives of the Course

The law of civil liability has traditionally been understood as the law of wrongs against individuals or the property belonging to individuals for which the remedy consists in suing for damages. In the past, except for some exceptions, the bulk of litigation has been for the redressal of wrongs suffered by an individual at the hands of another individual. However, with rapid industrialization tort actions came to be used against manufacturers and other industrial Units for products which are injurious to human beings. More and more demands have arisen in this branch of the law, and presently the emphasis is on extending the principles not only to acts which are harmful but also for failure to comply with standards which are continuously changing due to advancement in science and technology. Product liability is now assuming a new dimension in developed economies.

In the absence of a comprehensive social insurance, tort litigation has assumed great importance for redressal of wrongs. Moreover, due to assumption of new functions by the enterprise remain largely unredressed. Monopolistic enterprises such as Airlines, Railways, Banks, Telephones, and co-operative societies have been exempted from jurisdiction of administrative agencies of regulatory character for unfair and restrictive practices indulged by them. Price fixing and quality of service are some matters in which these giant enterprises have no accountability. However, principles of liability developed in the law of tort have direct application to such wrongs. The thrust of teaching should, therefore, be to demonstrate how the existing principles could be adapted to meet the new problems created by the modern industrial state. For example, principle of the tort of nuisance could be applied for fixing liability of industrial establishments, public or private, for prevention and control of pollution and other hazardous activities.

Since the historic decision of the House of Lords in Rylands V. Fletcher, the scope of tort actions has been expanding. It is now possible to initiate actions has been expanding. It is now possible to initiate actions in tort against industrial units which store dangerous substances and cause damage to thousands of people. Principles of tort have also been found useful for protecting environment and also for setting up standards of professional conduct. In an age of specialization it has become necessary to recover damages from professionals such as doctors, architects, engineers and others for failure to follow ethical standards.

In India tort litigation has the exclusive privilege of the well to do sections of the society. Due to dilatory and expensive character of proceedings the underprivileged sections of the society have not taken note of this branch of law. It is for this reason that the legislators have codified tort principles by enacting laws such as Environment Protection Act, Consumer Protection Act, Motor Vehicle Act etc. The Bhopal disaster has brought out the deficiencies of the State of Law in a telling manner. The course on the law of torts should, therefore, make the students reflect on such developments in the state of law, and also take note of deficiencies in the application of the law through ordinary courts.

Syllabus

University Examination Marks

Law of Torts & Motor Vehicle Accident	..	50 Marks
Consumer Protection Act	..	<u>20 Marks</u>
		Total.. 70 Marks

1. General : Evolution, Definition, Nature, Scope and Objects.
 - 1.1 Principles of justice, equity, good conscience-uncodified character-advantages and disadvantages.
 - 1.2 Wrongful act-violation of duty in rem-damnum sine injuria and injuria sine damnum.
 - 1.3 Tort distinguished from crime, breach of contract etc-concept of unliquidated damages.
 - 1.4 Changing scope of law of torts, expanding character of duties.
 - 1.5 Objects-prescribing standards of human conduct, redressal of wrongs-proscribing unlawful conduct by injunction.
 - 1.6 Foreign Torts
2. Principles of liability
 - 2.1 Fault – Wrongful intent, motive. Negligence-liability without fault-violation of ethical codes-statutory liability-Motor Vehicle Act.
 - 2.2 Absolute/Strict Liability-Rationale Rule of Rylands V. Fletcher- Expansion-exceptions.
 - 2.3 Vicarious liability-basis, scope justification-express authorization, ratification, abetment-special relationships master and servant, principal and agent, firm and partner, corporation and principal officer etc.
 - 2.4 Occupiers of Premises
 - 2.5 Persons professing greater skill-director, physicians, surgeons, advocates, bankers, manufacturers etc.
 - 2.6 Motor Vehicles Act, 1939
 - 2.6.1 Chapter VII-A Liability without fault (Ss. 92-A, 92-B,, 92-C and 92-D)
 - 2.6.2 Insurance of motor vehicles against third party risks-Chapter VIII third party liability
3. Standing, Justification, Exinctions of Liability, Discharge of Torts and Legal Remedies.
 - 3.1 Standing-who may sue, who may be and may not be sued-personal capacity.
 - 3.2 Justification-Volenti non fit injuria-necessity-plaintiff's default-Act of God-Inevitable accident-Private defense-statutory authority-judicial and quasi-judicial acts-parental and quasi-parental acts-acts of state-executive, administrative acts-leave and licence-Triffles.
 - 3.3 Doctrine of Sovereign immunity and its relevance in India-Liability of State.
 - 3.4 Extinction of liability-actio personalis moritur cum persona-waiver and acquiescence-release-accord and satisfaction-limitation.
 - 3.5 Discharge of Torts
 - 3.5.1 Waiver by election
 - 3.5.2 Accord and satisfaction
 - 3.5.3 Release

- 3.5.4 Acquiescence
- 3.5.5 Statutes of limitation
- 4. Specific Torts : Torts against Person, Personal Relations, Property, Reputation
 - 4.1 Torts against persons
 - 4.1.1 Assault, battery and mayhem
 - 4.1.2 False imprisonment,
 - 4.1.3 Nervous shock
 - 4.1.4 Marital relations, domestic relations, parental relations, master-servant relations,
 - 4.1.5 Justification-damages.
 - 4.2 Torts against Property-Movable and Immovable
 - 4.2.1 Trespass-trespass ab initio
 - 4.2.2 Movable Property-trespass to goods, detinue, conversion, maintenance and champerty
 - 4.2.3 Torts against business interests-injurious falsehood, misstatement, passing off.
 - 4.2.4 Immovable Property-trespass to land-trespass ab initio-dispossession, injuries to reversion, waste, wrongs to easements and similar rights-slander of title and slander of goods.
 - 4.3 Defamation
 - 4.3.1 Libel and Slander distinction.
 - 4.3.2 Defences
 - 4.3.3 Remedies
 - 4.4 Malicious Proceedings
 - 4.4.1 Malicious Prosecution civil proceedings-malicious legal process- abuse of legal process.
 - 4.4.2 Misfeasance in public office
 - 4.5 Negligence – meaning, theories, existence of duty, standard of care, breach of duty
 - 4.5.1 Contributory negligence
 - 4.5.2 Breach of statutory duty
 - 4.5.3 Res-ipsa locquitur and its importance in contemporary law
 - 4.5.4 Professional liability-doctors, architects, lawyers, builders, engineers common carriers etc.
 - 4.5.4 Product liability-liability of manufactures.
 - 4.6 Nuisance-definition, essentials, types.
- 5. Consumer Protection
 - 5.1 Consumer-concept-definition scope
 - 5.2 Unfair trade practices
 - 5.3 Consumer goods
 - 5.4 Consumer safety
 - 5.5 Service and Commercial Services, Denial of Services-Deficiency
 - 5.6 Enforcement of consumer rights
 - 5.6.1 Consumer forum under Consumer Protection Act,
 - 5.6.2 Judicial Review

5.6.3 PIL and Class actions

5.6.4 Remedies and administrative remedies

Suggested Readings

- Salmond and Heuston : **On law of Torts**, Universal.
- D.D. Basu : **The Law of Torts**, Kamal.
- B.M. Gandhi : **Law of Torts**, Eastern
- P.S. Achuthan Pillai : **The Law of Torts**, Eastern
- Ratanlal and Dhirajlal : **The Law of Torts**, Universal
- Winfield and Jolowiz : **On Tort**, Sweet and Maxwell
- D.N. Saraf : **Law of Consumer Protection in India**, Tripathi
- Avtarsigh : **The Law of Consumer Protection : Principles and Practice**, Eastern
- P.K. Majumdar : **The Law of Consumer Protection in India**, Orient
- R.M. Vats : **Consumer and the Law**, Universal.
- J.N. Barowalia : **Commentary on Consumer Protection in India**, Universal.
- Ramswamy Iyer's : **Law of Torts**, Eastern
- S.K. Verma and M.Afzalwani : **A Treatise on Consumer Protection Law**, ILI, New Delhi

SUBJECT ELECTIVE COURSE EC -106 : CONSTITUTIONAL HISTORY OF INDIA

Objectives of the Course

India is a democracy and her Constitution embodies the principles of democratic government. A student must know the genesis of the Constitution. People write and adopt a Constitution because they want to make a fresh start in their system of governance. The Constitution represents a break from the past, yet it is influenced from the past, in what it accepts and what it rejects. As the present legal and constitutional system is directly associated with arrival of British in India, the course includes constitutional developments, since British advent in India.

The making of India's Constitution, formation of the Constituent Assembly, interaction of various forces and finally the adoption and promulgation of the Constitution of India are the distinguishing components of this course.

Syllabus

1. Historical Retrospection
 - 1.1 East India Company – 1600 to 1772 – Charters and Settlements
 - 1.2 Regulating Act, 1773 to 1832 : Act of 1781 – Charter of 1813
 - 1.3 Constitutional changes during 1833 to 1856
 - 1.4 First struggle for Independence, 1857 and Developments thereafter- Government of India Act 1858 – the Royal Proclamation of the British Crown – Indian Councils Act, 1861 and Indian Council Act, 1892 – Morley-Minto Reforms-1909.
 - 1.5 Government of India Act, 1919 – Montague-Chelmsford Reforms – Simon Commission
2. Government of India Act, 1935
 - Cripps Mission, 1942
 - The Wavell Plan, 1945
 - Cabinet Mission, 1946
 - Mountbatten Plan, 1947
3. Indian Independence Act, 1947
4. Formation of Constituent Assembly
 - 4.1 Cabinet Mission, 1946
 - 4.2 Provisional Government
 - 4.3 Preparations and Proceedings
 - 4.4 Constituent Assembly Sessions
 - 4.5 Adoption of Objectives Resolution
5. The Drafting and Adoption of the Constitution
 - 5.1 Drafting Committee and Other Committees
 - 5.2 Constituent Assembly at work
 - 5.3 The 1935 Act and the Constitution
 - 5.4 Preamble and Supremacy of the Constitution

5.5 Salient Features of the Constitution – Constitutional manifesto –
Constitutional machinery – Federal Structure on Unitary foundation

Suggested Readings

- **Constituent Assembly Debates** – Lok Sabha Secretariat
- M. Rama Jois : **Legal and Constitutional History of India** Vol-I and II, Tripathi
- B. Siva Rao (ed). : **The Framing of India's Constitution**, Vol-I to Vol-4 and Vol-5 Study Volume. [Vol-6 Constitution Making since 1950, An Overview]
- H.R. Khanna : **Making of India's Constitution**, Eastern
- B.M. Gandhi : **V.D. Kulshrestha's Landmarks in Indian Legal and Constitutional History**, Eastern
- Granville Austin : **The Indian Constitution-Cornerstone of a Nation**
- M.P. Jain : **Outlines of Indian Legal and Constitutional History**, Lexis Nexis, Butterworths, Wadhwa.
- M.P. Singh : **V.N. Shukla's Constitution of India** – Introduction, 11th Edn. (pp. A-1 to A-66), Eastern.
- : **Outlines of Indian Legal and Constitutional History**, Universal.
- M.V. Pylee : **Constitutional History of India, 1600-1950**, Asia.

FOUNDATION COURSE FC -107 : USE OF LAW REPORTS/LAW JOURNALS, INTERNET AND LEGAL SOFTWARE

Objectives of the Course

The objective of this course is to provide a law student with basic information about various law reports and law journals. Law reports are series of books that contain judicial opinions from a selection of case law decided by courts. When a particular judicial opinion is referenced, the law report series in which the opinion is printed will determine the case citation format. The court opinions are legally binding hence regular publication of judicial opinions is important to find out what law is declared by the judgments. The Supreme Court Reports (SCR) is the official reporter for Supreme Court decisions, in addition some private reporters are also authorised to publish court decisions. Law journals generally express views on topical legal issues, generating cross current of ideas on emerging matters.

In era of computer technology the maximum use of ICT to upgrade knowledge is very essential. Use of ICT in legal education and legal research poses challenge and offers opportunities. For this purpose, basic theoretical knowledge about use of internet, search engines, databases, websites etc. is essential. The course aims to equip the law student for effective and maximum use of ICT in teaching-learning processes.

Syllabus

1. Law Reporting
 - 1.1 The Doctrine of Precedent
 - 1.2 Law Reports of Supreme Court
 - 1.3 Law Reports of High Courts
 - 1.4 Other Law Reports
 - 1.5 Official and Private Reporting, SCR, ISCLR, AIR, SCC
 - 1.6 Copyright in Law Reports/Law Journals
 - 1.7 Principles of Law Reporting
 - 1.8 Computer aided search of case law reported in law reports
2. Use of Law Journals
 - 2.1 Indian Law Journals
 - 2.2 Foreign Law Journals
3. Use of Internet and Legal Education
 - 3.1 Law related websites : basic knowledge, kinds
 - 3.2 Selection of appropriate websites
 - 3.2.1 Finding law – domestic and international
 - 3.2.2 Finding case law – domestic and international
 - 3.2.3 Finding Primary and Secondary sources – Use
 - 3.3 Application of ICT in Legal Field
 - 3.3.1 Search engines
 - 3.3.2 Knowledge of pdf, ppt.
 - 3.4 Use of ICT in finding status of pending litigations and management of legal profession office.

- 3.4.1 Knowledge of status of pending matters before High Courts and Supreme Court
- 3.4.2 Office Management
- 4. Legal Software : General Information and Use
 - 4.1 Types of Legal Softwares
 - 4.2 Courts case : Commenting and Reporting, Crime Reporting
 - 4.3 Operating System, utility programme, installation and upgradation

Suggested Readings

- Nandan Kamath : **Law relating to Computers and Internet**, Universal
- Allan M Garten : **Internet : Law and Legal Profession**
- Kant D. Stuckey : **Internet and Online Law**
- Michael D. Rostoker : **Computer Jurisprudence and Legal Responses to the Information**, Revolution
- Rega Surya Rao : **Use of Internet, Internet for Law Students and Legal Profession**, Asia.
- Baxi Upendra : **"Legal Education in 21st Century"**
- : **"Towards Socially Relevant Legal Education"** A Consolidated Report of the UGC Workshop on Modernization of Legal Education.
- B.M. Gandhi : **V.D. Kulshrestha's Landmarks in Legal and Constitutional History**, See Chapter-21, Eastern.
- N.R. Madhawa Menon : **Reflection on Legal and Judicial Education**, Universal.
- Law Reports / Law Journals Refer Volumes of
 - AIR – All India Reporter
 - SCC – Supreme Court Cases
 - ILR – Indian Law Reporter etc.
 - Indian Bar Review – published by the Bar Council of India
 - Journal of Indian Law Institute – published by ILI, New Delhi
 - Journal of Indian Society of International Law – published by ISIL, New Delhi
 - Journal of the Constitution and Parliamentary Studies – published by Institute of Constitutional and Parliamentary Studies, New Delhi
 - Law Journals – published by Indian Universities
 - Foreign Journals – published by foreign universities namely Harvard, Oxford, Cambridge etc.
 - Journal published by SAGE

THREE YEAR LL.B. PROGRAMME
CHOICE BASED CREDIT AND SEMESTER SYSTEM

FIRST LL.B.
SEMESTER – II

FIRST LL.B. SEMESTER-II			24 Credits		
COURSE	COURSE CODE	SUBJECTS	CREDITS		
			LECTURES	OTHER	TOTAL
CORE COMPULSORY	CC-201	Constitutional Law of India-I (Preamble and Parts I to IV A)	3	1	4
CORE COMPULSORY	CC-202	Constitutional Law of India-II (Part-V onwards)	3	1	4
CORE COMPULSORY	CC-203	Environmental Law	3	1	4
CORE COMPULSORY	CC-204	Administrative Law	3	1	4
CORE COMPULSORY	CC-205	Law of Property & Easement Act.	3	1	4
SUBJECT ELECTIVE	EC-206	Gender Justice	1	1	2
FOUNDATION	FC-207	Legal Terms, Phrases and Latin Terms and Latin Maxims	1	1	2

CORE COMPULSORY COURSE CC-201 : CONSTITUTIONAL LAW OF INDIA-I (PREAMBLE AND PART I TO IV A)

Objectives of the Course

India is a democracy and her Constitution embodies the main principles of democratic government and what are the powers, functions, responsibilities and obligations of the government and how these powers are distributed and limited whatever might have been the original power base of the Constitution today it has acquired legitimacy as a highest form of public law. A good understanding of the Constitution and the law which has developed through constitutional amendments, judicial decisions and constitutional practices is therefore absolutely necessary for a student of law.

A student must know the genesis of the Constitution which must be traced through our struggles for independence and a vision of future India. This vision is articulated through the Constitution hence there is need for such futuristic view of a new social order for building up India into a nation has to be stressed.

A student should know the background of fundamental rights and directive principles, why the former stood guaranteed and the latter depended upon enactments of progressive legislations whether each liberalization of constitutional provision is a sign of the maturation of Indian judicial review.

The purpose of teaching constitutional law is to highlight its ever growing and open textured character. Constitutional interpretation is bound to be influenced by one's social, economic or political predilections. A student must, therefore, learn how various interpretations of the constitution are possible and why in a situation particular interpretation was adopted. Such a critical approach is necessary and desirable.

A student of constitutional law must have a very good understanding of socio-economic as well as political dimensions of the Constitutional Law. The teacher should teach the special importance of charismatic leadership of pre- and post-independent India.

Judicial review is an important aspect of the Constitutional Law. India is the only country whose apex court has power of review even constitutional amendments. Keshvanand Bharti's decision in 1973 looked rather unconvincing when it was delivered. But over the years, it has acquired legitimacy. Why? What is the basic structure of the Constitution? How has the Supreme Court and other High Courts interpreted the basic structure doctrine?

Judicial review is a very significant power and therefore we must examine who exercises it? Who are appointed as judges? What is their background? How are selections made of Judges? Communal or linguistic representation of the judges, how balanced? What is a committed judiciary? Can there be a totally uncommitted judiciary? What kind of commitment do we expect?

India is a multi-religious community, secular state concept was adopted as a solution to inter-religious conflicts and demand for separate nationality on the basis of religion. What kind of secular State does the Indian Constitution contemplate? History of secularism in the West has to be understood – Indian tradition of relation between State and religions needs to

be appreciated. How have provisions of secularism been interpreted by the Courts. How have political parties and the State in India observed the restraints required by secularism?

Syllabus

1. Preamble of the Constitution
 - 1.1 Purpose, objective, importance.
 - 1.2 Whether a part of the Constitution – Application of the Doctrine of Basic Structure to the Preamble.
 - 1.3 Amendments made
 - 1.4 Preamble and interpretation of the Constitution.
 - 1.5 Salient features of the Indian Constitution
 - 1.6 Idea of Citizenship – constitutional and legal provisions regarding citizenship
2. Fundamental Rights-I
 - 2.1 Right to Equality and Social Justice
 - 2.1.1 Equality before Law and Equal Protection of Law-meaning-constitutional provisions – Articles 14, 15, 16, 17, 29(2), 325.
 - 2.1.2 Classification for differential treatment – protective and constructive compensatory discrimination.
 - 2.1.3 Equality and private discrimination Article 15(2).
 - 2.1.4 Gender Justice – Articles 15(1), 15(2), 15(3), 16, 29(2).
 - 2.2 Civil liberties
 - 2.2.1 Freedom of Speech and Expression – Freedom of Press
 - 2.2.2 Other freedoms – assembly, association, movement, reside and settle, profession/business
 - 2.2.3 Restrictions – reasonableness
 - 2.2.4 Right to Property
 - 2.2.4.1 1950 to 1970
 - 2.2.4.2 After 1970
 - 2.3 Personal Liberty
 - 2.3.1 Rights of accused – double jeopardy, retroactive punishment, self-incrimination
 - 2.3.2 Right to Life and Personal Liberty – meaning – procedure established by law – due process of law
 - 2.3.3 Arrest and Preventive Detention and Constitutional Policy – Safeguards.
3. Fundamental Rights-II
 - 3.1 Right against Exploitation - Articles 23 and 24.
 - 3.2 Freedom of Religion and Secularism
 - 3.2.1 Scope of Freedom – Arts 25, 26, 27 & 28 - Limits of Freedom
 - 3.2.2 Non-discriminatory State and concept of Secularism – Article 14, 15, 16, 29 (2), 325
 - 3.2.3 Religion and State in India – State Control and noninterference with religion
 - 3.2.4 Minority rights – scope, meaning of minority – minority rights to educational institutions.
4. Fundamental Rights and Directive Principles
 - 4.1 What is State? Article 12 - Judicial interpretation
 - 4.2 What is Law? Article 13 - Judicial interpretation

- 4.3 Directive Principles – Reasons for incorporation – directions of change – new social order.
- 4.4 Constitutional Amendments – Arts 31-A, 31-B and 31-C.
- 4.5 Judicial policy towards Directive Principles
- 4.6 Fundamental Rights and Directive Principles – interrelationship – judicial balancing
- 4.7 Fundamental Duties Article 51-A.

Suggested Reading

- D.D. Basu : **Constitutional Law of India**
- : **Introduction to the Constitution of India**
- : **Commentary on the Constitution of India** (Vols. 1-6)
- M.P. Singh : **V.N. Shukla's Constitution of Law of India**
- M.P. Jain : **Constitutional Law of India**
- H.M. Seervai : **Constitutional Law of India** (Vols 1-3)
- M. Hidaytullah (ed) : **Constitutional Law of India** (Vols 1-3)
- T.K. Tope : **Constitutional Law of India**
- Granville Austin : **Indian Constitution : Cornerstone of a Nation**
- P.B. Mukherji : **Civil Liberties**
- A.K. Sarkar : **Law and Obscenity**
- S.C. Kashyap : **Human Rights and Parliament**
- P.K. Tripathi : **Some Insights into Fundamental Rights**
- C.L. Anand : **Equality, Justice and Reverse Discrimination**
- P.B. Gajendragadkar : **Secularism and Constitution of India**
- M.Ghouse : **Secularism, Society and the Law in India**
- **Report of the Backward Class Commission** (Vols 1 to 6)
- G.S. Sharma : **Secularism : Its Implications for Law and Life in India**
- P.K. Tripathi : **"Secularism : Constitutional Provision and Judicial Review" 8 JIL1(1966)**
- V.R. Krishna Iyer : **Social Mission of Law**
- S.B. Wad : **Caste and Law in India**
- A.R. Desai : **Violation of Democratic Rights in India**
- S.K. Ghosh : **Law and Preventive Detention in India**
- A.L. Gandhi : **Right to Property and Its Changing Dimensions**
- S.N. Jain : **Violation of Journalistic Ethics and Public Taste**
- S.P. Sathe : **Fundamental Rights and Amendment of the Indian Constitution**
- R. Dhavan : **Amendment : Conspiracy or Revolution**
- P.B. Gajendragadkar : **Indian Parliament and Fundamental Rights**
- : **Constitution of India Its Philosophy and Basic Structure**
- M. Galanter : **Competing Equalities Law and Backward Classes in India**
- B. Sivaramayya : **Inequalities and the Law**
- S.J. Sorabjee : **Law of Press Censorship in India**
- K.D. Gangrade : **Social Legislation in India** (Vols 1-2)
- S.N. Jain : **Official Secrecy and the Press**

Students should consult relevant volumes of the Annual Survey of Indian Law published by the ILI, New Delhi.

CORE COMPULSORY COURSE CC-202 :CONSTITUTIONAL LAW OF INDIA-II (PART-I AND PART-V ONWARDS)

Objectives of the Course

India is a nation with a number of sub-national loyalties, regional, linguistic etc. Why did the makers of the Constitution opt for a quasi-federal set up? How has this arrangement functioned since 1950? How have new demands for greater State autonomy grown? Federalism in India raises problems which require political rather than legal/judicial solutions. Students should be given a background of political realities in India with different types of federal arrangements envisaged by the Constitution with special provisions for special status.

Syllabus

1. Parliamentary Government
 - 1.1 Union and State Executive
 - 1.1.1 President of India – qualifications, election, powers, impeachment etc.
 - 1.1.2 Prime Minister and Council of Ministers – Presidents' Constitutional position – Constitutional Relationships between President and Council
 - 1.1.3 Governor and State Government : Council of Ministers – Constitutional relationships between Governor and Council
 - 1.1.4 Cabinet system-collective responsibility, individual responsibility, party system, anti-defection law.
 - 1.1.5 Attorney General of India and Advocate General for the State
 - 1.2 Union and State Legislature
 - 1.2.1 Parliament – Formation – Officers of Parliament – Disqualifications
 - 1.2.2 State Legislatures – formation – Officers of State Legislature – Disqualifications of Members
 - 1.2.3 Legislative Processes, Powers, Privileges and Immunities of the Legislature and their members – Legislative Privileges vs. Fundamental Rights – Article 143 of the Indian Constitution
 - 1.2.4 Comptroller and Auditor General of India.
2. Federalism
 - 2.1 Indian federation and comparative study of other federalisms
 - 2.2 Legislative Relations between the Centre and the States
 - 2.3 Administrative Relations between the Centre and the States
 - 2.4 Financial Relations between the Centre and the States-Contingency and Consolidated Funds.
 - 2.5 President's and Governor's position from the perspective of federalism
 - 2.6 Centre's Powers over the States
 - 2.7 Special Status – Provisions, Jammu and Kashmir, Union Territories, Assam etc
 - 2.8 Critical problems of Indian Federation – State autonomy v. Central Control Sarkaria Commission – Emergence of political federalism – growth of regional parties.

- : **Comparative Constitution**
- : **Commentary on Constitution of India**
- M.P. Singh : **V.N. Shukla's Constitution of India**
- : **Constitutional Law of India**
- : **Parliamentary Privileges and the Press**
- H.M. Seervai : **Constitutional Law of India**
- A.G. Gledhill : **Republic of India**
- T.K. Tope : **Constitutional Law of India**
- V.G. Ramachandran : **Law of Parliamentary Privileges in India**
- S.J. Sorabjee : **Governor : Sage or Saboteur**
- N.S. Gehlot : **Office of the Governor – Its Constitutional Image and Reality**
- B.R. Ambedkar : **Federation Vs. Freedom**
- R. Dhavan : **President's Rule in the States**
- : **Supreme Court under Strain : Challenge of arrears**
- : **Supreme Court of India and Parliament sovereignty**
- : **Selection and Appointment of Supreme Court Judges**
- : **Amendment : Conspiracy or Revocation**
- : **Contempt of Court and the Press**
- : **Justice on Trial - Supreme Court**
- P.B. Ganjendragadken : **Indian Parliament and Fundamental Rights**
- : **Secularism and Constitution of India**
- A. Jacob (ed). : **Constitutional Developments Since Independence**
- S.P. Sathe : **Fundamental Rights and Amendment of the Indian Constitution**
- : **Democracy and Constitution : Forty second Amendment Bill**
- M. Ghose : **Secularism, Society and Law in India**
- M.C. Setalvad : **Union and State Relations under the Indian Constitution**
- R. Dhavan and A. Jacob (ed). : **Indian Constitution : Trends and Issues**
- S.L. Shaktidher : **Codification of Legislative Privilege**
- U. Baxi : **Indian Supreme Court and Politics**
- : **Courage, Craft and contention : Antulay Case and Beyond**
- V.S. Deshpande : **Judicial Review of Legislation**
- V.R. Krishna Iyer : **Our Courts on Trial**
- H.R. Khanna : **Judicial Review or Confrontation**
- : **Judiciary in India and Judicial Process**
- N.A. Palkhiwala : **Judiciary Made to Measure**
- N.C. Chatterjee and Parmeswara Rao : **Emergency and Law**
- A.R. Desai : **Violation of Democratic Rights in India**
- R. Dhawan and A. Jacob : **"The Dissolution Case : The Supreme Court as the Bar of Politics"** 19 JILI 355.
- S.K. Varma, Kusum (eds). : **Fifty Years of the Supreme Court of India – Its Grasp and Reach**, Oxford.
- U. Baxi : **"The Constitutional Quicks and of Keshwanand Bharti and the Twenty fifth Amendment"** (1974) 1SCC (Jour) 45
- S.P. Sathe : **"Limitations on the Constitutional Amendments : Basic Structure Principle Re-examined" in Indian Constitution : Trends and Issues** 192.

The students should consult relevant volumes of the Annual Survey of Indian Law published by the Indian Law Institute, New Delhi.

CORE COMPULSORY COURSE CC-203 : ENVIRONMENTAL LAW

Objectives of the Course

Law is not merely a profession. It is that institution of education which imparts to the citizens of a country the knowledge required to build a just society. Essentially legal education should produce soldiers of justice – people who know the techniques and have the competence to engineer social transformations towards greater and greater justice. Modernization of legal education, however, has received the least attention in our country, both intellectually and the law curriculum and pedagogy has received very little attention is related to our colonial heritage. In any colony law is used only to control the actions of the subjects and to make sure that they follow the decree of the legislations. Legal education in such circumstance must be necessarily confined to mere understanding of statutes and the professional skill to use them. Any thinking about the rationality of law, its justification or its relationship to justice will endanger the colonial enterprise. The Colonizers, therefore, saw to it that legal education was confined to a particular kind of professionalism which did not hamper the process of state control or regulation.

In an independent democracy, however, this is not the function of law, nor should the aim of legal education to be produce such lawyers. It should produce people who are extremely sensitive to the injustices they see around themselves in their surrounding and know the techniques to eliminate them. Legal education should be a programme of sensitization and of impartation of skills with a specific teleology – the teleology of constructing a just society.

The environmental law programme offers us one such opportunity to break away from the colonial legal education still prevalent in India. In contrast to other reformed law curriculum that may be offered environmental law has certain characteristics which make it unique and hence one of the best instruments for breaking the ice of colonial legal education. Its uniqueness lies in the fact that the problem it raises do not relate merely to specific individuals, but about national development, industrial policy, policies concerning use of natural resources, injustice to communities, and so on. All these issues relate to problematics about the construction of a just society. Secondly, environmental law necessarily demands an inter-disciplinary approach.

The much felt need that legal education must also look at sociology, economics, etc. gets at once concretized within this subject. Any course in environmental law must necessarily demand stepping out of law and looking at the overall socio-economic structure within which law functions. This course, hence, is ideally suited to introduce the necessary inter-disciplinary approach in law. Thirdly, the uniqueness of the subject is also borne out by the new epistemological outlook which ecology related knowledge has brought about in recent times. The development of ecological knowledge has necessitated an overall change not only in managerial and policy studies but also in natural sciences. Its impact on legal studies, therefore, is expected. In view of the growing ecological knowledge the law curriculum will have to change sooner or later.

The environmental law course outlined attempts to bring together all these mentioned consideration. It is meant to be comprehensive but not exhaustive.

As the attached bibliography, statute and case material will show, there is a plethora of literature from which the teacher can select his teaching material, in terms of statutes cases, books and media material. The selection must necessarily be relevant and judicious. These are recommendatory, given the fast growing pace at which the literature, laws and cases are growing in the area, these suggestions cannot be mandatory.

Syllabus

1. Concept of Environment
 - 1.1 Environment – meaning – contents – Ecological Cycles and Interdependence National Welfare, National Resources and their Utilization – Alternative Technologies in Housing, Energy generation.
 - 1.2 Types of Environmental Laws.
 - 1.2.1 Law of Acquisition – land, forest, ores, fuels
 - 1.2.2 Laws for Production and Planning – Tenancy Law, Land reforms, land development, industrial and factory laws Atomic energy law etc.
 - 1.2.3 Laws for Distribution-Essential commodities, fuel, Cattle Use, Land and Forest Use Laws, Wildlife ect.
 - 1.2.4 Laws for Conservation – conservation of forests, wildlife, energies, Protection against pollution Protections against hazardous substances laws.
 - 1.3 Functions of Environmental Laws.
 - 1.3.1 Primary Protective Laws
 - (a) For Human beings namely laws pertaining to Water, Air, Noise Nuclear Radiation, Toxic Substances.
 - (b) For Non human beings namely wildlife, marine life, major forests, minor forest etc.
 - 1.3.2 Primary Planning Laws
 - (a) For production – irrigation, mining, grazing, catchment areas, wetland estuaries.
 - (b) For distributions-namely land ceiling, slums, housing, parks, sanctuaries, Biospheres etc.
 - 1.3.3 Secondary Laws
 - (a) Pertaining to administration and functioning like Water Boards, Pollution Control Boards etc.
 - (b) Law relating to administration – ministry, forest departments.
 - (c) Laws relating to lower courts
 - (d) Laws relating to collection dissemination and publication of data
2. Legal Control : Historical Perspectives
 - 2.1 Indian tradition : Dharma
 - 2.2 British Raj – industrial development and exploitation of nature
 - 2.3 Penal and Procedural law
 - 2.3.1 Indian Penal Code – Nuisance etc.
 - 2.3.2 Code of Criminal Procedure Offences against Public Nuisance
 - 2.3.3 Factories Act – hazardous process
 - 2.3.4 Provisions relating to Public Health and Hygiene.
3. Constitutional Perspectives and Issues of Distributive Justice

- 3.1 Fundamental Rights, Directive Principles and Fundamental Duties – Articles 14, 15(2)(b), 29, 39(a)(b)(c)(e)(f), 47, 48A, 49, 51-A(9), 32 and 226.
 - 3.2 Entries in Union List and Concurrent List of Schedule-VII
 - Union List : Entries 6,52,56 etc.
 - Concurrent List : Entries 17, 17A, 17B, 18, 20.
 - 3.3 Judicial Approach and Social Action Litigations
 - 3.4 International Regime : International Conventions and Treaties – Stockholm, Rio, Johannesbug, Bio-Diversity, and legal controls, control of eco-friendly experimentation on animals, plants, seeds and micro organism, UN Declaration on Right to Development, Wetlands, Green House Effect Ozone Depletion
 - 3.5 Emerging Principles
 - 3.5.1 Polluter Pays : Public Liability Insurance
 - 3.5.2 Precautionary Principle
 - 3.5.3 Public Trust Doctrine
 - 3.5.4 Sustainable Development – Environment vs. Development
4. Legislations for the Protection of Environment
- 4.1 Water and Air Pollution
 - 4.1.1 Meaning and Standards – Procedures
 - 4.1.2 Culprits and Victims
 - 4.1.3 Offences and Penalties
 - 4.1.4 Judicial Approach
 - 4.2 Noise Pollution – Legal Control – Judicial Approach Permissible and impermissible noise.
 - 4.3 Environment Protection
 - 4.3.1 Protection Agencies : Power and functions
 - 4.3.2 Protection : means and sanctions
 - 4.3.3 Emerging Protection through delegated legislation
 - 4.3.4 Hazardous Waste and Biomedical Waste
 - 4.3.5 Genetic Engineering
 - 4.3.6 Disaster Emergency Preparedness
 - 4.3.7 Environment Impact Assessment
 - 4.3.8 Coastal Zone Management
 - 4.3.9 Environmental audit and eco mark
 - 4.3.10 Judiciary : Complex problems in administration of environmental justice.
5. Forest and Greenery and Town and Country Planning
- 5.1 Forest Conservation and Greenery Conservation Laws.
 - 5.2 Conservation agencies
 - 5.3 Prior approval and non forest purpose
 - 5.4 Symbiotic relationship and tribal people
 - 5.5 Denudation of forest – judicial approach
 - 5.6 Wildlife – Conservation, Sanctuaries, national parks – licensing of zoos and parks – State's monopoly in the sale of wildlife and wildlife articles
 - 5.7 Offences against wildlife
 - 5.8 Town Planning and Country Planning – Law enforcement and constraint-Planning and Management Policies.

Statutory Materials

- Indian Constitution [Articles : 14,15,15(2)(b),19(c),21,31C,32,38,39,42,47,48,49,51, 51-A(9)]
- Indian Penal Code [Ss 188, 268, 269, 272, 277, 288, 290, 430]
- Code of Criminal Procedure, 1973 [Ss 133, 141]
- Factories Act, 1948 [Chapter IV-A]
- Indian Easement Act, 1882 [Ss 2,7,15,28(d)]
- The Water (Prevention and Control of Pollution) Act, 1974
- The Air (Prevention and Control of Pollution) Act, 1981
- The Environment Protection Act, 1986
- The Public Liability Insurance Act, 1991
- The National Environment Tribunal Act, 1995
- The Indian Forests Act, 1927 [Ss. 26,32(F)]
- The Indian Forest (Gujarat Unification and Amendment) Act, 1960
- Private Forest (Acquisition) Act, 1972
- Wildlife Protection Act, 1972
- Wasteland (Claims) Act, 1983

Suggested Readings

- A Rosencranz : **Environmental Law and Policy in India**
- Chhatrapati Singh : **Common Property and Common Poverty**, 1985
- R.B. Singh and Suresh Misra : **Environment Law in India**
- S.N. Jain (ed). : **Pollution Control and the Law**
- Kailash Thakur : **Environment Protection Law and Policy in India**
- Richard L. Rivesz (eds). : **Environment Law, the Economy and Sustainable Development** (2000), Cambridge
- Christopher D. Stone : **Should Trees Have Standing and Other Essays on Law, Morals and Environment** (1996), Oceana
- A Agarwal (ed). : **The State of India's Environment : The Second Citizens Report**
- P. Leelakrishnan : **Law and Environment**
: **The Environment Law in India**
- R. Allen : **How to Save the World, Strategy for World Conservation**
- Sanjay Upadhyaya and Videh Upadhyaya : **Water Laws, Air Laws and the Environment Law**, Vol. 1 and 2.
- Indian Law Institute : **Environment Protection : An Agenda for Implementation**
- World Commission on Environment and Development : **Our Common Future** (1987), Oxford.
- Tiwari Committee Report for Recommending Legislative Measures and Administrative Machinery for Ensuring Environmental Protection (1980).
- Prithvish Nag : **Essays on Environment and Resources – Some Regional Issues** (1991)
- Lal's Commentaries on Water Pollution, Air Pollution and Environment (Protection) Laws.
- S.C. Shastri : **Environment Law** (2008), Eastern
- Centre for Science and Environment – The State of India's Environment 1982, 1984-85 and 1999-2000.
- Sumeet Malik : **Environment Law** (2008), Eastern

- Stuart Bell and Donald Mc Gilliuary : **Environmental Law** (7th edn.), Oxford
- Elli Louka : **International Environmental Law – Fairness, Effectiveness and World order** (2006), Cambridge
- B.H. Baden Powell : **The Land System of India** (Vols. 1, 2 & 3)
- : **Manual of Jurisprudence for Forest Officers** (1882)
- E.P. Stebking : **Forests of India**
- U. Baxi : **The Bhopal Case** (Trilogy)
- Jayal Bandopadhyaya and Singh (ed). : **India's Environment – Crises and Responses**
- R. Guha : "Forestry in British India" in 18 **EPW**, No.44-45 (1983)
- D. Sharma : **India's Nuclear Estate**

CORE COMPULSORY COURSE CC-204 : ADMINISTRATIVE LAW

Objectives of the Course

The Modern state governs in the traditional sense, that is, it maintains law and order, adjudicates upon individuals and groups in the state. At the same time it is also the provider of essential services. In the event of need occasioned by unforeseen hazards of life in a complex society, it engages itself in giving relief, and helps the citizenry towards self-reliance. The assumption of unprecedented responsibilities by the state has necessitated devolution of authority on numerous state functionaries. The number of functionaries in carrying out these tasks has even been on the increase due to proliferation of human needs in an age of science and technology and their fulfilment. The aggregate of such functionaries is an essential component of modern administration.

Since the beginning of this century lawyers have been exercised with the need of understanding the nature and scope of powers and functions of administration. In the course of time a formidable body of law has come into existence for the purpose of exercising control over administration. Until now administrative lawyers have primarily been concerned with such matters as excess or abuse of power, maladministration, abuse of discretion, etc.; however, in recent years there has been a shift in emphasis from finding what the administration may not do to what it must do. The courts in India, no doubt, strike down administrative acts which are ultra vires or in violation of procedural norms; however, not much has so far been achieved in compelling administration to perform statutory duties, though a beginning has been made in respect of matters relating to fundamental human liberties. Most of the statutory duties imposed on administrative agencies or authorities remain largely in the realm of discretion.

A course on administrative law must, therefore, lay emphasis on understanding the structure and modus operandi of administration. It must take note of developmental perspective and attainment of social welfare objectives through bureaucratic process. It should go into matters which facilitate or hinder the attainment of these objectives.

Though in the matter of protection of rights of individuals against administration the role of courts cannot be minimised, it is no less important to know the advantages of informal methods of settlement. Many new methods of grievance redressal have been devised which are not only efficacious but also less time consuming and inexpensive.

Remedies available for administrative deviance need a critical study and evaluation in the context of realities.

Syllabus

1. Introduction : Evolution, Nature and Scope
 - 1.1 Meaning, Dicey's thesis, Rule of Law and Administrative Law, Constitutional base of Administrative Law, sources and definitions of Administrative Law.
 - 1.2 Indian Constitution : An Outline
 - 1.3 Local Self Government
 - 1.4 Separation of Powers and Executive Function : Scope

- 1.5 Emerging trends – positive duties of administration modern social welfare legislation – functions of modern State
2. Legislative Powers of Administration
 - 2.1 Legislative Process
 - 2.2 Executive Legislation
 - 2.3 Delegated Legislation
 - 2.3.1 Definition and forms
 - 2.3.2 Reasons for Growth
 - 2.3.3 Types of Delegated Legislation
 - 2.3.4 Limits upon Delegation of Legislative Power
 - 2.3.5 Delegation under Indian Constitution and Other Constitutions
 - 2.3.6 Constitutionality for validity of delegated legislation
3. Control of Delegated Legislation
 - 3.1 Publication
 - 3.2 Committee on Subordinate Legislation
 - 3.3 Parliamentary Control on Delegated Legislation
 - 3.4 Judicial Control of Delegated Legislation – Judicial Review
4. Classification of Administrative Action
 - 4.1 Legislative function
 - 4.2 Judicial, Quasi-Judicial and Administrative function
 - 4.3 Administrative Tribunals
 - 4.4 Commissions under Indian Constitution – Election Commission
 - 4.5 Statutory Commissions and Agencies – MRTP Commission, Press Council, Commission of Inquiry, National Commission for Women, National Commission for Minorities, National Commission and State Commissions on Human Rights, National Commission for Backward Classes.
5. Judicial Control of Administrative Action and Administrative Discretion
 - 5.1 Standing, laches, Res Judicata
 - 5.2 Grounds and Scope of Judicial Review
 - 5.3 Methods of Judicial Review, Writ Jurisdiction and Appellate Jurisdiction – Scope and Extent
 - 5.4 Rule of Law and Administrative Discretion – meaning – discretion conferred by the Constitution and objections, Grant of Discretion and Article-14, Civil liberties
 - 5.5 Judicial activism
6. Rules of Natural Justice and Fair Hearing
 - 6.1 Rules and Principles of Natural Justice
 - 6.2 Audi alteram partem
 - 6.3 Pre-Decisional and Post-Decisional Hearing
 - 6.4 Effect of Non-compliance with Principles of Natural Justice
7. State Liability – Corporations and Public Undertaking
 - 7.1 Suits against – State – Contractual liability
 - 7.2 Tortious liability
 - 7.3 Liability under Penal and Taxing Statute
 - 7.4 State Monopoly and Accountability

- 7.5 Public Enterprises – Meaning – Classification
 - 7.6 Legal Remedies – Rights and liabilities of Public Undertaking
 - 7.7 Informal methods of settlement of disputes and Grievance Redressal Procedures
8. Parliamentary and Other Controls over Government
- 8.1 Ombudsman – Lokpal – Lokayukta, Parliamentary Commissioner
 - 8.2 Public Inquires and Commissions of Inquires
 - 8.3 Vigilance Commission
 - 8.4 Congressional and Parliamentary Committees – Public Accounts Committees'
 - 8.5 Comptroller and Auditor General of India
 - 8.6 Constitutional Protection to Civil Servants and Administrative Service Tribunals – Service Rules and Procedural Safeguards – Administrative Service Tribunals.

Suggested Readings

- S.P. Sathe : **Administrative Law**
- I.P. Massey : **Administrative Law**
- Wade : **Administrative Law**
- D.D. Basu : **Comparative Administrative Law**
- Jain and Jain : **Principles of Administrative Law**
- A.T. Markose : **Judicial Control of Administrative Action in India**
- Indian Law Institute : **Administrative Tribunals in India**
: **Government Regulation of Private Enterprise**
: **Cases and Materials on Administrative Law**
- Law Commission of India : **Report on the Commission of Inquiry Act** (24th Report)
- M.P. Jain : **Cases and Materials on Administrative Law**
- De Smith : **Judicial Review of Administrative Action**
- **Report of the Committee on Ministerial Powers (1932)**
- **Report of the Committee on Prevention of Corruption** (1964)
- Street : **Government Liability**
- John Monteiro : **Corruption, Control of Maladministration**
- Administrative Reforms Committee : **Report on Problems of Citizen's Grievances**
- C.K. Allen : **Law and Orders**
- M.A. Fazal : **Judicial Control of Administrative Action in India, Pakistan and Bangladesh**
- C. Garner : **Administrative Law**
- C.K. Thakker : **Administrative Law**
- C.K. Takwani : **Lectures on Administrative Law**
- Franks : **Report of the Committee on Administrative Tribunals and Inquiries**
- Shwartz : **An Introduction to American Administrative Law**

CORE COMPULSORY COURSE CC-205 : LAW OF PROPERTY AND EASEMENT ACT

Objectives of the Course

The course on property conventionally deals with the Transfer of Property Act, 1882. More than a century has elapsed since the passing of the Act and far-reaching changes have occurred in the field of property laws owing to altered social conditions. While archaic feudal rules enacted by the colonial administration like the rule against perpetuities find a place in the Act, the post-independence development relating to control and use of agricultural land do not find a place. The obsolescence of the Transfer of Property Act, 1882 can be best illustrated by citing the provisions relating to leases on immovable properties. The provisions relating to leases under the Act are not applicable to agricultural leases; and even with respect to urban immovable property, the provisions are not applicable to the most dominant type, namely, housing under the rent control legislations. Thus the existing syllabus does not touch upon agrarian property relations which affect the vast majority of people or aspects relating to intellectual property which are important in the context of development. Similarly, in contemporary times the vast majority of mortgagees are no longer individuals but financial institutions like banks which render necessary a change in emphasis. There is also a need to focus the attention of students to the gender discrimination inherent in property systems like coparcenary, devolution of tenures, etc. The proposed syllabus attempts at overcoming these deficiencies and imbalances.

Syllabus

University Examination Marks

Transfer of Property Act	..	..	50 Marks
Indian Easement Act	..	..	<u>20 Marks</u>
			Total.. 70 Marks

1. Jurisprudential Contours of Property
 - 1.1 Concept – meaning – kinds of property – new property – Government largesse
 - 1.2 Kinds of Property – movable and immovable property intellectual property – copyright – patents and designs – trademarks, geographical indications etc.
 - 1.3 Possessional ownership as man-property relationship – finder of goods

2. Resources, Use, Patterns and Concepts in India : Who owns land? Sovereign or Subject
 - 2.1 Pre-Colonial position – religious and tribal approaches – position under colonial administration – permanent settlement – ryotwari settlement – Evolution of Doctrine of Eminent Domain – tenancies – revenue administration – acquisition and requisition of immovable property including land – concept of public purpose – process, powers, rights, exemption and release of acquisition and requisitioning of immovable property.
 - 2.2 Forms of control of Urban Property – Housing – shelter – slums and its clearance and development – housing policy – rent control – Urban development and planning – authority – powers

- 2.3 Post-Constitutional Development on Agricultural Land – land to tiller – land ceiling legislations – State enactments prohibiting alienation of land by tribals to non-tribals
3. Recording of Property Rights
 - 3.1 Registration of documents affecting property relations – exemptions – benefits
 - 3.2 Recording of rights in agricultural land
 - 3.3 Investigation of title to property
 - 3.4 Law relating to stamp duties – liability of instruments to duty – duties by whom payable.
 - 3.5 Effect of not duly stamping instruments, inadmissibility in evidence, impounding of instruments.
4. Law Relating to Transfer of Property – Transfer of Property Act, 1882
 - 4.1 General Principles of transfer of property
 - 4.2 Transfer of property – definitions – transfers by acts of parties
 - 4.3 Transfer of movable property
 - 4.4 Doctrine of Election
 - 4.5 Doctrine of Apportionment
 - 4.6 Transfer of immovable property – transfer by co-owners, by ostensible owners – rights – fraudulent transfer – part performance
5. Law relating to Transfer of Property-II
 - 5.1 Sale – essentials, definition, rights and liabilities of seller and buyer – marshalling by subsequent purchaser, provision by court for encumbrances and sale freed there from
 - 5.2 Mortgages and Charges
 - 5.2.1 Under the Transfer of Property Act – definitions – lands rights and liabilities of mortgagor and mortgagee – redemption – clog on redemption – marshalling and contribution – foreclosure and sale
 - 5.2.2 To a land mortgage bank, land development bank, powers and functions.
 - 5.3 Leases-definitions – essentials – rights and liabilities of lessor and lessee
 - 5.4 Exchanges-definitions – rights and liabilities of parties – exchange of money
 - 5.5 Gifts – definitions – how effected-Essential requirements, kinds of gift – onerous gift – universal donee – suspension and revocation of gift – gift of existing and future property – donatio mortis causa and Muhammadan Law
 - 5.6 Transfer of actionable claims – definition – notice – transfer of actionable claims – solvency of debtor – liability of transferee of actionable claim – mortgaged debt, assignment of rights under policy of insurance against fire – marine insurance – incapacity of officers connected with Courts of Justice, saving of negotiable instruments etc.
6. Easements
 - 6.1 Meaning – nature – essentials – characteristics
 - 6.2 Kinds – creation suspension and extinction of easements rights
 - 6.3 Easement rights : way, air, light, support etc.
 - 6.4 Riparian rights
 - 6.5 Licenses – meaning, elements, grant of license and its revocation

Suggested Readings

- Mulla : **Transfer of Property Act**
- Subbarao : **Transfer of Property Act**
- B. Sivaramayya : **Inequities and the Law** (1997) Eastern
- B.H. Barden-Powell : **Land Systems in British India**, Vols 1 to 3, Oxford
- V.P. Sarathy : **Transfer of Property**
- P.C. Sen : **The General Principles of Hindu Jurisprudence**
- T.R. Desai : **The Indian Easements Act**
- B.B. Katiyar : **Easements and Licenses**
- Sanjiva Rao : **The Indian Easements Act.**
- Yogesh Desai and J.H. Vasoya : **The Transfer of Property Act,**
- Justice Arijit Prasayat : **Dr. Hari Singh Gour's Commentary on the Transfer of Property Act,**
- Soli Sorabjee : **Dinshaw J. Vakils Commentaries on the Transfer of Property Act,** Wadhwa
- M. Krishnaswami : **Law of Adverse Possession,** Lexis Nexis

SUBJECT ELECTIVE COURSE EC-206 : GENDER JUSTICE

Objectives of the Course

The need to study gender justice as a special subject is because the constitutional guarantees have not achieved the necessary results. The Constitution guarantees equality of status and opportunity and no discrimination on the ground of sex. These fundamental rights did not preclude having special provisions for women.

The planners and policy makers treated women as beneficiaries of welfare measures. The hope was that the benefits of development would percolate below to every disadvantaged member of the society including women, therefore no exclusive efforts were made.

By the 6th Plan it had been realised that special efforts are required to be made to integrate women into the development process. The Plan therefore for the first time had a chapter devoted to Women and Development.

The course will study the legal provisions with specific emphasis on offences committed against women and on empowerment of women.

Syllabus

1. Crimes against women
 - 1.1 Introduction
 - 1.2 Domestic Violence
 - 1.3 Dowry harassment
 - 1.4 Sexual offences – Rape, Outraging modesty of woman, kidnapping.
 - 1.5 Sexual harassment of women at workplace
 - 1.6 Other offences – Female infanticide and female foeticide, Sati, prostitution, indecent representation of women, pornography
2. Constitutional Provisions and Policy
 - 2.1 Preamble – Equality of Status and Opportunity
 - 2.2 Fundamental Rights and guarantees Articles 14, 15, 16, 21, 22, 24, 39, 39A
3. Empowerment of women
 - 3.1 Concept and Method
 - 3.2 Human Rights – under domestic and international law
 - 3.3 National Commission for Women – formation and functions
 - 3.4 Uniform Civil Code, Gender Justice and Discriminatory provisions in Family Laws
 - 3.5 Reservation for women
 - 3.5.1 In local self government bodies
 - 3.5.2 In legislature – Proposed Amendment and Debates
 - 3.6 Women and Employment
 - 3.6.1 Laws to protect women and her labour
 - 3.6.2 Maternity Benefit Act, Factories Act, Equal Remuneration Act.
 - 3.7 Matrimonial Property

Suggested Readings

- Report of the Committee on the Status of Women, **"Towards Equality"** 1975
Government of India
- The Law Commission of India Report, 1988
- Anwar Yaquin & Badar Anwal : **Protection of Women under the Law**
- M.J. Antony : **Women's Rights**
- Anjani Kant : **Women and Law**
- Hingorani (ed). : **Gandhi on Women**
- 6th Plan and 7th Plan,
Chapter on Women and Development
Chapter on Socio-Economic Programmes for women
- Relevant Statutory Provisions of Family Laws, Criminal Laws and Labour Laws
- Relevant Journals of Indian Law Institute and Annual Survey of Indian Law

FOUNDATION COURSE FC-207 : LEGAL TERMS, PHRASES AND LATIN TERMS AND LATIN MAXIMS

Objectives of the Course

Command of language is an essential quality of a lawyer for presentation of pleadings and arguments before a court of law. Efficiency of advocacy depends upon communication skill to a substantial extent. No doubt he should be conversant with the legal terminology. Precision, clarity and cogence are governing principles of legal writing and dialogue, A student of law must be proficient in legal vocabulary to understand intricate problems of law and will equip him with the faculty of articulation in sound writing. The legal terms, phrases, maxims are frequently used in civil and criminal law, public and private law.

In no country is there a greater necessity for a comprehensive dictionary of legal terms and phrases than in India. The proceedings of Indian Courts are by the large in English. The standard law books and reports of judicial decisions are mostly in English. There is a vast body of vernacular words of peculiar import and nuances, pertaining mostly to land-tenures and land-revenue administration of several States. There are special terms governing customs, infinite in variety and number which are prevalent in many parts of India. There are also phrases and words peculiar to Hindu Law, Mohammedan Law and other personal laws. The wealth of these words have enriched the legal vocabulary of Indian Jurisprudence. There are also words, phrases and expressions which are peculiar to the English Statutes, decisions and treatises which have made entry into Indian legal literature. "It is imperative that such an endless array of words and phrases emanating from diverse sources need to be explained and defined in a manner specially suited to the conditions and circumstances of our ethos" [Ramanathan Aiyar *Concise Law Dictionary* Third Edn. 2005, Wadhwa – Pl. refer Preface].

Also in ancient times a great majority of questions respecting rights and remedies of private individuals were determined by reference to maxims of law, most of which are manifestly founded on reason, public convenience and social necessity. The principles embodied in these maxims have found a place in modern codes of all civilized nations. A knowledge of the first principles contained in these maxims are helpful in the application of modern rules of law to specific cases.

The course content is suggestive and by no means comprehensive and exhaustive. It caims at giving a fair idea of the legal terms, legal pherases, quasi-legal terms relating to other branches like Science, Art, Commerce. There are many terms of public law used in the sphere of trade, banking and commerce. There are also phrases of international, maritime, military and mercantile law and of forensic medicine. There are numerous words currently used in provincial and vernacular spheres which have acquired quasi-technical meaning in law and are frequently used in legal textbooks, revenue records, private documents, referred to frequently by Indian courts. The course purpose is also to aid students of law to acquire a knowledge of the technical import and application of Latin law maxims and phrases, commonly used. The teacher-learner may further enrich the repertoire.

Legal Terms and Phrases

Adoption; Bigamy; Court; Decree; Abetment and Abatement (Abet and Abate). Good Faith & Bad Faith; Kidnapping and Abduction Abeyance; Abscond; Alibi; Absolute Owner; Dominant and Servient Property and Dominant and Servient Owner; Title; Person; Will and Codicil; Bill of Exchange, Trespass and Trespass ab initio; Indemnity and Guarantee; Accord and Satisfaction; Maintenance and Champerty; Accused; Offence and Crime; Liability; Act; Act of Law, Act in Law, Act of State; Action and Cause of Action; Actionable Claim; Affidavit; Domicile; Intestate Succession; Abandonment; Abrogate; Absolve; Accessory; Accident; Accomplice; Adjournment; Adjudge; Garnishee Order; Consideration; Consent; Competent Party; Adolescent; Child; Juvenile; Partnership Firm; Admiralty; Adoption; Adulteration; Adultery; Bigamy; Adverse Possession; Riot and Affray; Agent and Agency; Aggrieved Party; Alimony; Alien; Amendment; Annuity; Amnesty; Appeal; Appellate Jurisdiction; Arbitrator; Arson; Natural and Legal Person; Arrest; Attachment; Attempt; Autopsy; Arbitration award; Bail and Anticipatory Bail and Bond; Judgment; Charge and Chargesheet; Battery; Bench; Beneficiary; Ownership; Genocide; Possession in Fact and in Law; By law; Capital Punishment; Life Imprisonment; Case Law; Civil Justice and Criminal Justice; Civil Proceedings; Code; Code of Conduct; Bailable and Non-Bailable Offence; Cognizable and Non-Cognizable Offence; Prohibited Relationship and Sapinda Relationship; Hindu Undivided Family and Property; Coparcenary; Common Law and Equity; Complaint; First Information Report; Conclusive Proof; Burden of Proof; Consideration; Consent; Consumer; Contempt of Court; Pleading and Conveyance; Intellectual Property Right – Copyright, Patent Trademark; Counsel; Culpable and Culpable Homicide – Murder; Damage; Damages; Deceased; Creditor and Debtor; Decree Holder; Holder in Due Course; Deed; Defamation; Plaintiff and Defendant; Detention and Preventive Detention; Document, Dying Declaration; Easement; Enactment; Estoppel; Evidence; Exhibit; Extortion; Extradition; Fact and Fact in Issue and Relevant Fact; Felony; Forensic Science; Fraud; Hearsay Evidence; Homicide; Legitimate and Illegitimate; Movable and Immovable Property; Impeachment; Self-incrimination; Double Jeopardy; Indigent; Pauper; Inquest; Interlocutory; Interim; Injunction; Investigation and Inquiry; Juvenile Delinquency; Lease; Malice; Maintenance; Minor; Mischief; Motive; Intention; Mortgage; Natural Justice; Negligence; Act and Omission; Onerous gift; Probation and Parole; Pardon; Perjury; Petition and Petitioner; Plea; Pledge; Precedent; Prerogative; Presumption Probate; Power of Attorney; Redemption; Remand; Reprimand; Respondent; Restitution; Repugnant; Review; Revision; Rule of Law; Sedition; Search and Seizure; Search Warrant; Libel and Slander; Solitary Confinement; Specific and General Relief; Statute; Stay and Stay of Proceedings; Summary Trial; Summons and Warrant; Summons Case and Warrant Case; Testament and Testamentary Succession; Custom and Usage; Tribunal; Trust and Trustee; Valid-Void and Voidable; Verification; Verdict; Volition; Guardian and Ward; Witness; Written Statement; Wakf; Muta; Mahr; Sahih, Batil and Fasad; Mutawali; Talak; Hiba and Hiba-bil-uwaz– Hiba-ba-shart-ul-uwaz; Musha, Vexatious etc.

Latin Terms and Maxims

- Actio personalis moritur cum persona
- Actus non facit reum nisi mens sit rea
- Audi alterm partem
- Damnum sine injuria
- Injuria sine damnum
- Ubi jus ibi remedium
- De minimis non curat lex
- Delegatus non potest delegare
- Ex turpi causa non oritur actio
- Ex nudo pacto non oritur actio
- Ex dolo malo non oritur actio
- Ignorantia facti excusat
- Ignorantia juris non excusat (Ignorance legis neminem excusat)
- Injure non remota causa sedproxima Spectatur
- Res ipsa loquitur
- Nemo dat quod non habet
- Qui Facit per alium facit per se
- Falsus in Uno Falsus in omnibus
- Respondeat Superior
- Rex non potest pec care
- Salus populi est suprema lex
- Sic utere tuo ut alienum non leadas
- Volenti non fit injuria
- Aequitas Sequitur legem
- Affirmanti non neganti incumbit probatio
- Nullum poena sine lege
- Lex non cogit ad impossibilia
- Nemo debet bis vexari pro una et eadem causa
- Qui prior est tempore potior est jure
- Noscitur a sociis
- Consensus ad idem
- Expressio unius est exclusio alterius
- Vigilantibus non dormientibus jura subveniunt
- A verbis legis non est recedendum

Act in pais; Adidem; Adinfinitum; A Priori; A fortiori; Ab Initio; Doli Incapax; Vis Major; Actus Reus; Mens Rea; Corpus Possessionis; Ad auseum; Aditem; Aequitas; Animus Possessionis; Ad Valorem; Onus Probandi; Malafide and Bonafide; Ratio Decidendi and Obiter Dicta; Ex-gratia; Ex-officio, Exparte; Writ Habeas Corpus; Writ-Quo Warranto; Writ Mandamus, In-camera, Intra-vires and Ultra-Vires; Lis Pendens; Locus Standi; Mala in se; Mesne Profits; Misfeasance – Malfeasance – Nonfeasance; Modus Operandi; Modus Vivandi; Prima-facie; Quid Proquo; Status quo; Subpoena; Vice Versa; Vis-a-vis; Decree nisi; Amicus curiae; Animu deserendi; Autrefois acquit; Autre fois convict; Causa Causans; Causa sine qua non; causa omissus; causa proxima; cestuique trust; Caveat; Caveat emptor; Compos mentis and Non Compos mentis; Corpus delict; Corpus juris; Corpus juris civilis; Jus gentium; jus cogens; jus civile; Cypres; De facto and De jure; De novo; Detinue; Do natio Mortis Causa; Droit administratif; Ex audita; Ex causa; Ex gratia; Ex delicto; Ex post facto; Facta probantia; Fait accompli; In camera; In loco parentis; In pari delicto; In pari passu; In rem and in personam; Status-quo; Inter vivos and Intravivos; Jus in personam; jura in repropria; jura in realiena; lex non scriptum; Jus scriptum; Jus naturale; Jus tertii; Laissez faire; Lex fori-Lex Domicilli-Lex loci; Lis Pendens; Res Judicata; Locus Standi; Mutatis mutandis; Pater Familias; Per diem; Per capita; Post mortem; Pro bono publico; Pro-rata; Profit a prendre; Quantum meruit; Quasi-judicial; Res gestae; Res nullius; Seisin; Sine die; Spes successions; Stricto sensu; Suggestio falsi and suppressio veri; sui generis; Suo-motu; Terra firma; Uberrima fidei; Versus; Vice-versa; Vox Populi; Suo motu.

Suggested Readings

- P. Ramanatha Aiyar : **The Law Dictionary.. with Legal Maxims Latin Terms & Words and Phases**, 3rd edn. 2005, Wadhwa
- Trayner's : **Latin Maxims**, Universal.
- B.M. Gandhi : **Concise Law Dictionary** Lexis Nexis, Butterworths, Wadhwa
- S.C. Woodhouse : **Latin-English and English-Latin Dictionary**, Routledge
- **Oxford Dictionary of Law**
- A.R. Biswas : **Encyclopaedic Law Dictionary (Legal & Commercial)** Lexis, Nexis, Wadhwa
- Avtar Singh's : **College Law Dictionary**, Lexis Nexis
- K.J. Aiyar's : **Judicial Dictionary**, Lexis Nexis
- S.R. Myneni : **Legal Language and Legal Writing**, Asia
- P. Ramanathan Aiyar's : **The Law-Lexicon The Encyclopaedic Law Dictionary with Legal Maxims, Latin Terms, Words and Phrases**, 4th edn. Lexis.
- Wharton : **Wharton's Law Lexicon**, 2011 Universal
 : **Concise Law Dictionary**, 2012 Universal
 : **Pocket Law Dictionary**, 2012 Universal
- Gubby Helen : **English Legal Terminology – Legal Concepts in Language**, 2009, Universal
- Motion A. W. : **The Pocket Law Lexicon**, 2009 Universal
- H. Broom : **A Selection of Legal Maxims**, Sweet and Maxwell
 : **Bromms Legal Maxims**, Universal
- Surendra Malik : **Supreme Court on Words and Phrases**, Eastern
- **Venkataramaiva's Law Lexicon with Legal Maxims (Vols 1 to 4)**, Law Publisher (India) Pvt.Ltd.
- John B. Saunders : **Words and Phrases Legally Defined**, Vols 1 to 5, Butterworths
- P. Ramanatha Aiyar : **Advanced Law Lexicon** (Vols 1-4), Wadhwa.

- L.B. Curzon : **Dictionary of Law**, Pitman
- Leslie Rutherford and Shila Bone : **Osborn's Concise Law Dictionary**, Universal
- Mick Woodley (ed) : **Osborn's Concise Law Dictionary**, Sweet and Maxwell
- Bryan A. Garner : **A Dictionary of Modern Legal Usage**, Universal
- J.E. Penner : **Mozley & Whitelaw's Law Dictionary**, Oxford
- Justice R.P. Sethi : **Supreme Court on Words and Phrases (1950-2004)**, Ashoka

THREE YEAR LL.B. PROGRAMME
CHOICE BASED CREDIT & SEMESTER SYSTEM

SECOND LL.B.

SEMESTER – III

SECOND LL.B. SEMESTER-III

24 Credits

COURSE	COURSE CODE	SUBJECTS	CREDITS		
			LECTURES	OTHER	TOTAL
CORE COMPULSORY	CC-301	Family Law-I	3	1	4
CORE COMPULSORY	CC-302	Family Law-II	3	1	4
CORE COMPULSORY	CC-303	Jurisprudence	3	1	4
CORE COMPULSORY	CC-304	Interpretation of Statutes & Principles of Legislation	3	1	4
CORE COMPULSORY	CC-305	Public International Law	3	1	4
SUBJECT ELECTIVE	EC-306	Juvenile Justice	1	1	2
FOUNDATION	FC-307	Moot Skill and Training	1	1	2

CORE COMPULSORY COURSE CC-301 : FAMILY LAW-I

Objectives of the Course

"Family and the Law" – The Course structure for the Core Compulsory Courses Family Law-I & II is designed mainly with three objectives in view. One, to provide adequate sociological perspective so that the basic concepts relating to family are expounded in their social setting Two, to give an overview of current problems arising out of the foundational inequities and inequalities writ in the various family concepts. Three, to view family law not merely as a separate system of personal laws based upon religions but as the one cutting across the religious lines and eventually enabling us to fulfil the constitutional directive of uniform civil code. Such a restructuring, would make the study of familial relations more meaningful.

The Course contents primarily are law relating to marriage and kinship; customary practices and State Regulations; Conversion and effect of conversion on family; matrimonial remedies; alimony and maintenance; family and its changing patterns; matrimonial home and settlement of spousal property; Uniform Civil Code.

Syllabus

1. Marriage and Kinship
 - 1.1 Evolution of the institution of marriage and family
 - 1.2 Role of religion, rituals and practices in moulding the rules regulating marital relations
 - 1.3 Lineage – Patrilineal and matrilineal; Authority structure-patriarchal and matriarchal; Location – patrilocal and matrilocal; Number of conjugal units – nuclear, extended, joint and composite
 - 1.4 Emerging concepts – maitri sambandh, live-in relationships, divided home
2. Customary practices and State regulations
 - 2.1 Polygamy
 - 2.2 Concubinage
 - 2.3 Child marriage
 - 2.4 Sati
 - 2.5 Dowry
 - 2.6 State interventions through various legal measures
3. Conversion and its effect on family
 - 3.1 Marriage
 - 3.2 Adoption
 - 3.3 Guardianship
 - 3.4 Succession
4. Matrimonial Remedies
 - 4.1 Non-judicial resolution of marital conflict problems – customary dissolution of marriage

- 4.2 Judicial resolution of marital conflict problems – a general perspective of matrimonial fault theory and the principle of irretrievable breakdown of marriage
 - 4.3 Divorce and Divorce by mutual consent under Personal Laws and Secular Laws
 - 4.4 Nullity of marriage
 - 4.5 Restitution of conjugal rights
 - 4.6 Judicial separation
 - 4.7 Option of Puberty
 - 4.8 Grounds for matrimonial relief – cruelty, desertion, adultery etc.
 - 4.9 Bars to Matrimonial reliefs – doctrine of strict proof – accessory – connivance – collusion – condonation – improper or unnecessary delay – taking advantage of one's own wrong or disability – Residuary clause – no other ground exists for refusing the matrimonial relief
5. Alimony and Maintenance
 - 5.1 Maintenance under the personal laws of neglected wives, divorced wives, minor children, disabled children, parents
 - 5.2 Provisions under the Code of Criminal Procedure, 1973, for maintenance of those who are unable to support themselves
 - 5.3 Alimony and maintenance as an independent remedy; a review under different personal laws
 - 5.4 Alimony and maintenance as an ancillary relief, alimony pendente lite and permanent maintenance.
 - 5.5 Maintenance of divorced Muslim women and the Muslim Women (Protection of Rights on Divorce) Act, 1986 a critical review.
6. Family and its changing patterns
 - 6.1 Family ties – New emerging trends
 - 6.2 New property concepts – new skills
 - 6.3 Factors affecting family-demographic, environmental, cultural, legislative
 - 6.4 Processes of social change in India – Sanskritization, Westernization, Secularization, Universalization, Parochialization, Modernization, Industrialization and Urbanization
 - 6.5 Settlement of Spousal property – Need for development of law
7. Uniform Civil Code : Need
 - 7.1 Religious pluralism and its implications
 - 7.2 Connotations of the directive contained in Article-44 of the Constitution
 - 7.3 Impediments to formulation of the Uniform Civil Code
 - 7.4 The idea of optional Uniform Civil Code

Suggested Readings

- Paras Diwan : **Hindu Law** (1985)
- Paras Diwan : **Family Law : Law of Marriage and Divorce in India** (1985)
- Kusum : **Marriage and Divorce Law Manual** (2000) Universal
- Manchanda : **S.C. Law and Practice of Divorce in India** (2000) Universal
- P.V. Kane : **History of Dharmasastra** (1974)
- A. Kuppaswami (ed) : **Mayne's Hindu Law and Usage** (1986)

- B. Sivaramayya : **Inequalities and the Law** (1985)
- K.C. Daiya : **Population control through family planning in India, "Indian Journal of Legal Studies** 85(1979)
- J.D.M. Derrett : **Hindu Law : Past and Present**
- : **Death of Marriage Law**
- A.A.A. Fyzee : **Outlines of Mohammedan Law** (1998)
- J.D.M. Derrett : **A Critique of Modern Hindu Law** (1970)
- S.T. Desai (ed.) : **Mulla's Principles of Hindu Law** (1998, Butterworths)
- A.M. Bhattacharjee : **Muslim Law and the Constitution** (1994) Eastern Law House, Calcutta
- : **Hindu Law and the Constitution** (1994) Eastern Law House, Calcutta
- Iravati Karve : **Kinship Organisation in India** (1953)
- K.M. Kapadia : **Marriage and Family in India**
- W.J. Goode : **The Family** (1964)
- F.B. Tyabji : **Muslim Law** (1968)
- N.R.M. Menon (ed.) : **National Convention on Uniform Civil Code for All Indians** (1986)
- I.F.G. Baxter : **Marital Property** (1973)
- Vasudha Dhagamwar : **Women and Divorce**
- : **Towards Uniform Civil Code** (1989) Tripati, ILI
- Tahir Mahommod : **Muslim Personal Law** (1977) Vikas

CORE COMPULSORY COURSE CC-302 : FAMILY LAW-II

Objectives of the Course

This course shall contain law relating to joint family; inheritance and succession; child and the family; family courts.

Syllabus

1. Joint Family
 - 1.1 Mitakshara joint family – mitakshara co-parcenary formation and incidents – property under Mitakshara law – separate property and co-parcenary property
 - 1.2 Dayabhaga co-parcenary – formation and incidents – property under Dayabhaga law
 - 1.3 Karta of joint family – position, powers, privileges and obligations
 - 1.4 Alienation of property – separate and co-parcenary
 - 1.5 Debts – doctrine of pious obligations and antecedent debts
 - 1.6 Partition and re-union
 - 1.7 Joint Hindu Family as a social security institution and impact of Hindu Gains of Learning Act and various taxation laws on it.
 - 1.8 Matrilineal joint family
2. Inheritance and Succession : Hindus
 - 2.1 Hindus – historical perspective of traditional Hindu Law as a background to the study of Hindu Succession Act, 1956
 - 2.1.1 Succession to property of a Hindu male dying intestate
 - 2.1.2 Succession to property of a Hindu female dying intestate
 - 2.2 Devolution of interest in Mitakshara co-parcenary with reference to the Hindu Succession Act.
 - 2.3 General rules of succession and disqualification relating to succession
 - 2.4 Marumakkatayam and Aliyasantana laws governing people living in Travancore Cochin and the district of Malabar and South Kanara
3. Inheritance and Succession : Muslims
 - 3.1 General rules of succession and exclusion from succession
 - 3.2 Classification of heirs – under Hanafi and Ithna Asharia Schools and their shares and distribution of property
4. Inheritance and Succession
 - 4.1 Christians, Parsis and Jews.
 - 4.2 Heirs and their shares and distribution of property under the Indian Succession Act, 1925
5. Child and the Family
 - 5.1 Legitimacy
 - 5.2 Adoption
 - 5.3 Custody, maintenance and education
 - 5.4 Guardianship and parental rights – principle of welfare of the child

6. Establishment of Family Courts
 - 6.1 Constitution, powers, functions and jurisdiction
 - 6.2 Administration of justice conducive to reconciliation and sorting out family problems

Suggested Readings

- Paras Diwan : **Law of Intestate and Testamentary Succession**, Universal
- Basu N.D. : **Law of Succession** (2000), Universal
- Paras Diwan : **Law of Adoption, Maintenance, Guardianship and Custody** (2000), Universal
- V.V. Raghavan (ed.) : **Paruck's Indian Succession Act, 1925** (1977)
- Virendra Kumar : **Alimony and Maintenance in the Light of Changing Concept of Marriage and Divorce** (1978)

Please refer the Select Bibliography provided for Family Law-I. The students should consult relevant volumes of the Annual Survey of Indian Law published by the Indian Law Institute, New Delhi.

CORE COMPULSORY COURSE CC-303 : JURISPRUDENCE

Objectives of the Course

At the heart of the legal enterprise is the concept of law. Without a deep understanding of this concept neither legal practice nor legal education can be a purposive activity oriented towards attainment of justice in society. Moreover, without a comprehension of the cognitive and teleological foundations of the discipline, pedagogy becomes a mere teaching of the rules. It is unable to present various statutes, cases, procedure, practices and customs as a systematic body of knowledge, nor is it able to show the inter-connection between these various branches of law, procedures and principles. Consequently, teaching becomes fragmented and devoid of any motivation which inspires one to pursue justice. The fact that the basic nature and purpose of law should be clear to every student and that it should be the very foundation of law teaching, needs little argument. Yet, by and large, traditional law teaching makes the learning of this subject very problematic for the student, whereas in truth, jurisprudence can be made into an easy and very exciting subject to teach and learn. There seem to be two major problems with the approach currently in practice. The first is that a great deal of time is spent on the historical development of various schools of thought. Now this is not bad in itself, but when in the first place, the students are neither aware nor clear as to what are the basic problems concerning law, such an approach in teaching is meaningless. In this rote method of memorizing schools and authors, the fundamental issues pertaining to the concept of law and how they relate to the creation of the just society, tend to get lost in the background. The answers that others have given concerning the nature of law are indeed important but not before one has grasped the nature of the problems concerning one's society. A course in jurisprudence should, primarily, induct the student into a realm of questions concerning law so that he is able to live with their perplexity or complexity and driven to seek out answers for himself. It should in no case begin with burdening the students with answers.

The second problem with pedagogy currently in practice seems to emerge from the first one. Since the major part of the time is spent in reporting what answers others have given about the nature of law, and since invariable all such answers happen to be those of the western thinkers, the students are unable to see connections between these Western or alien answers and what is happening in their immediate environment. That is, they neither see the significance of these schools or theories for their own situation, nor are they able to relate it to what they themselves should be doing in their daily lives. The philosophy of legal action and ways of attaining justice ought to be learnt within the course. Teaching jurisprudence requires innovative changes.

The teaching ought to reorient to one which concerns itself with matters of national development in terms of human and natural resources utilization. There must be a paradigm shift from a historical pedagogy to an analytical pedagogy. An analytical approach is one in which analysis becomes more important than mere memorising of doctrines or facts. It is difficult to impart knowledge of doctrines about law and justice which have developed over 3000 years by mankind in various nations and historical situations within short span of one semester. However it is important to impart analytical skill to do jurisprudence, familiarising a student with basic types of problems concerning law and types of solutions sought, so that he is not only able to use this skill in practice but is also motivated to take up detailed

historical studies on their own after the course. The course intends to give prominence to basic questions and issues and to the development of analytical skill. The emphasis is on the types of problems and types of solutions along with specific doctrines.

The course is in this sense open ended. The suggested readings are illustrative in nature. The basic idea of the course is to bring jurisprudence closer to our own reality, hence the teacher and the taught ought to make more and more use of Indian cases and materials as far as possible.

Syllabus

1. Introduction
 - 1.1 Need to Study Legal theory - relationship of legal theory to the development of a just society – Use of the terms : legal theory, jurisprudence, concept of law, difference between theory, concept , hypothesis, conjectures, opinions, ideas, notions.
 - 1.2 Norm and Normative system : difference between maxims, rules, principles and customary principles - rules and facts – difference between primary rule and secondary rule – types and orders of rules concerning classification, interpretation etc., - what is normative system – different systems like games, languages, religion, unions clubs etc – in what way they differ from legal system
2. Law : Different senses – why are laws obligatory? Whom does law obligate?
 - 2.1 Concept of law in Natural Sciences – distinction between law in Natural Science and legal laws – similarities (eg. generality) and differences (eg. the way they bind an action).
 - 2.2 Concept of law in Social Sciences (statistical and historical laws) – How are legal laws different from such social laws.
 - 2.3 Different types of Orders of Systems – Physical order, Social order, Religious order – to which or in which laws are applicable – what type of order is legal order.
 - 2.4 Why are laws obligatory? – Liability – Obligations (types) – Sanctions – Coercion – Compulsion – Duty – Estoppel – Promise – Dharma – Autonomous theories of obligation – basis of obligation arising out of peoples own social (general) or individual will
 - 2.5 Contractarian Theories – Rousseau, Hobbes, Kant, Kelsen – General Will Theories – People's, Constitutional or Sovereign Power – Mitchell, Rousseau, Conrad, Keshavanand Bharti Case – Free Will Theories (basis of obligation arising from individual will) – Aquinas, Del Vecchio, Kant and others.
 - 2.6 Hindus and Buddhist Conceptions of Swadharma, Moksha, Nirvana – basis in individual's own free will to attain the ultimate in development.
 - 2.7 Heteronomous Theories of obligatoriness theories which derive the basis of obligation from some one other than individual or people
 - 2.8 Command (Will) of the Sovereign Theories (Dictatorial Legal Positivism) – Will of Sovereign different from will of the people – Austin, Bentham, Hart, Kautilya, Manu, ADM Jabalpur v Shivkant Shukla
 - 2.9 Liberal Legal Positivism – Will of People reflected in some generally accepted conventions – Principles which the average, common or rational man would apply, such as in case of grammar of languages – Dworkin, Rawls.

- 2.10 Marxist Legal Positivism – basis of obligatoriness lies in the will of certain class of people – Marx, Pashukanis and others.
 - 2.11 Transcendental Theories – Basis of obligation is located in transcendental will such as of God – Iben-Sen, Quran, Bible, Mahabharata (Shanti Parva), Vishnu Puran etc. – Judeo Catholic View – The Islamic view – the Brahmanical view.
 - 2.12 Whom does the law obligate? Personality (types) – People – the State – Locus Standi – Mitchell, Conrad, Keshavanand Bharti Case and other cases – Can law obligate the State ex Directive Principles of State Policy – Does law obligate absolutely? eg. Trials of Socrates, Gandhi – justness and unjustness of trial.
 - 2.13 Theories of Authority – who has the authority to legislate and obligate us Why? – Types of authorities : legislative, judicial, sovereign customary, academic (experts), religious, international.
 - 2.14 The Functions of Law – law as upholder of the moral order of society – original meaning of Dharma – differences between Dharma (moral order) and Purushartha (ideals), the realization of ideals including utopia through law – law for bringing efficiency and social stability, utilitarian views – differences between ends of a legal order, a political order and a religious order – are they interchangeable – can one replace the other – issues concerning dialectics of law – are ends of law necessary for existence of a civil society – Can there be a civil society without legal order – Marxist view about withering away of State – Does it imply withering away of legal system? Is legal system necessary in heaven, swarga or utopia?
3. Schools of Jurisprudence
- 3.1 Analytical
 - 3.2 Natural Law
 - 3.3 Historical School
 - 3.4 Sociological School
 - 3.5 Economic Interpretation of Law
 - 3.6 Critical Legal Studies
 - 3.7 Feminist Jurisprudence
 - 3.8 Indian Perspective – the concept of 'Dharma', Social justice, social action litigations, compensatory jurisprudence
4. Sources of Law
- 4.1 Legislation : Why does Parliament have authority to legislate – Positivist Theories – What are the limits of legislative authority? Positivist View : there are no limits (Austin, Kelsen)
 Natural Law View : the limits are defined by principles of morality or natural justice (Acquinas, Finnis)
 Rationalistic View : limits are set by rational principles of justice (Kant, Rawls)
 Basic Structure Doctrine : limits are set by the Basic structure of the Constitution or the law itself, any legislation contrary to the basic structure in non-law (Keshavanand Case) – basic legal concept of reasonableness – The reasons for the limits of legislative authority dependancy of law on justice, different senses of justice, people's perception of what is just, the pervasiveness of justice in law, the criteria for just law, just law as an expression of external (public) morality of society, connection between law and morality, Just law as an expression of human rationality – law as a rational

- ideology – distinction between law as an ideology and law as a system for generation of alternative (competing) ideologies – the Transgression of limits of legislative authority, lawful modalities to check such transgression, People's Revolution, difference between coercion and violence – limits of justified coercion, relation between coercive system (the Police) and legal system, the dependency of law on coercion and the limits of coercion, the question of 'law and order' – can a legal order be maintained through coercion?
- 4.2 Precedent : the Doctrine of Stare Decisis and its applicability – Why are the Supreme Court's judgments binding? Why do the Supreme Court and the High Courts have 'original' jurisdiction? What is meant by 'original'? – Why are Precedents binding? What if there is conflict of authorities, Does the judiciary have the final and absolute authority to determine what will obligate the people – the power of judicial review concerns the matters of State and also other types of conflicts of authority.
 - 4.3 Custom : Basis of the Common Law presumption that customs can be binding.
5. Right and Duty – Juristic Concepts
 - 5.1 Right and duty – acquisition, limited and lost
 - 5.2 Kinds
 - 5.3 Right in wider sense
 6. Person
 - 6.1 Nature of personality – theories, Status of unborn, minor, dead person, animal
 - 6.2 Corporate Personality
 - 6.3 Dimensions of modern legal personality
 7. Possession and Ownership
 - 7.1 Meaning – Kinds – theories – acquisition – loss
 - 7.2 Distinction
 8. Liability and Obligation
 - 8.1 Liability – meaning – conditions – kinds – remedial and penal liability – Strict or absolute liability – Vicarious liability
 - 8.2 Obligation – meaning – chose in action – moral and legal obligation – sources and kinds – breach.
 - 8.3 Mental elements – act – omission – mens rea, intention, malice, motive, knowledge, negligence and recklessness.
 9. Property and Titles
 - 9.1 Property – meaning – rights – theories – kinds – modes of acquisition and loss
 - 9.2 Titles – meaning – facts and kinds of facts – acts in law – acts of law – agreements and kinds.

Select Bibliography

- Bodenheimer : **Jurisprudence - The Philosophy and Method of Law** (1996), Universal, Delhi
- Fitzgerald, (ed.) : **Salmund 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
- Dias : **Jurisprudence** (1994 First Indian re-print), Adithya Books, New Delhi
- Dhyani S.N. : **Jurisprudence : A Study of Indian Legal Theory** (1985), Metropolitan, New Delhi.
- Indra Deva Shrirama : **Growth of Legal System in Indian Society** (1980)
- Chhatrapati Singh : **Law From Anarchy to Utopia** (1985). Pl. refer Preface Introduction Part-II
- Hans Kelsen : **Pure Theory of Law**
- : **The Communist Theory of Law**
- Del Vechhio : **General Principles of law**
- John Austin : **The Province of Jurisprudence Determined**
- C.K. Allen : **Law in the Making**
- Lon Fuller : **The Morality of Law**
- Geoffrey Sawyer : **Law in Society** (1973)
- Carlos E. Alchouron : **Normative Systems** (1971)
- Karl Marx : **The Critique of Political Economy**
- Joseph Raz : **Authority of Law**
- Thomas Hobbes : **Leviathan**
- James Sterba : **Justice**
- J.S. Mill : **On Liberty**
- Austin B. Creel : **Dharma in Hindu Ethics**
- Immanuel Kant : **Perpetual Peace**
- Otto Von Gierke : **Natural Law and Theory of Society**

CORE COMPULSORY COURSE CC-304 : INTERPRETATION OF STATUTES AND PRINCIPLES OF LEGISLATION

Objectives of the Course

Legislation is the major source of law in the modern era. Legislatures enact laws after much deliberation. No doubt in this process, they have to take into account the present and future needs of the people. What are the matters to be reckoned with by legislature while enacting laws? With the emergence of legislation, interpretation of statutes became a method by which judiciary explores the intention behind the statutes. Judicial interpretation involves construction of words, phrases and expressions. In their attempt to make the old and existing statutes contextually relevant, courts use to develop certain rules, doctrines and principles of interpretation. Judiciary plays a highly creative role in this respect. What are techniques adopted by courts in construing statutes? How far they are successful in their strategy?

Syllabus

1. Principles of Legislation
 - 1.1 Law making – the legislature, executive and judiciary
 - 1.2 Principles of utility – relevance of John Rawls and Robert Nozick – individual interest and community interest – operation of principles upon legislation.
 - 1.3 Distinction between legislation and morals.
2. Interpretation : General Rules of Construction
 - 2.1 Meaning of the term 'statute' - commencement, operation and repeal of statutes – purpose of interpretation of statutes.
 - 2.2 General Rules of interpretation
 - 2.3 General Clauses Act-1897 – Utility
3. Interpretation : Aids
 - 3.1 Internal aids – title and preamble – heading and marginal notes – sections and subsections – punctuation marks – illustrations, exceptions, provisions and saving clauses – Schedules – Non-obstante clause
 - 3.2 External aids – dictionaries – translations – Travaux preparatoires – statutes in pari materia – Contemporanea Exposito – debates, inquiry commissions, reports and Law Commission Reports
4. Rules of Statutory Interpretation
 - 4.1 Primary rules literal rule Golden rule, Mischief rule, Rule of Harmonious construction
 - 4.2 Secondary Rules – Noscitur a sociis, Ejusdem generis, Reddando singula singulis
5. Presumptions in Statutory interpretation
 - 5.1 Validity of Statutes
 - 5.2 Territoriality in operation
 - 5.3 Presumption as to jurisdiction
 - 5.4 Presumption against inconvenience and absurdity

- 5.5 Presumption against injustice, impairing obligations or permitting advantage from one's own wrong
- 5.6 Prospective operation and Prospective over – ruling of statute
- 6. Interpretation with reference to the subject matter and purpose
 - 6.1 Restrictive and beneficial construction – taxation statutes, penal statutes, welfare legislations.
 - 6.2 Interpretation of substantive and adjunctival statutes
 - 6.3 Interpretation of directory and mandatory provisions
 - 6.4 Interpretation of enabling statutes
 - 6.5 Interpretation of codifying and consolidating statutes
 - 6.6 Interpretation of statutes conferring rights
 - 6.7 Interpretation of statutes conferring powers.
- 7. Principles of Constitutional Interpretation
 - 7.1 Harmonious Construction
 - 7.2 Pith and Substance
 - 7.3 Colourable legislation
 - 7.4 Ancilliary Powers
 - 7.5 "Occupied field"
 - 7.6 Residuary Powers
 - 7.7 Doctrine of repugnancy
- 8. Maxims of Statutory Interpretation
 - 8.1 Delegatus non potest delegare
 - 8.2 Ex-pressio unius exclusio alterius
 - 8.3 Generalia specialibus non derogant
 - 8.4 In pari delicto potior est conditio possidentis
 - 8.5 In pari delicto potior est conditio defendentis
 - 8.6 Ultres valet potior quam pereat
 - 8.7 Expressum fait cessare tacitum
 - 8.8 In bonam partem

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** 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 **to 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 issues of the Journal of Indian Law Institute

CORE COMPULSORY COURSE CC-305 : PUBLIC INTERNATIONAL LAW

Objectives of the Course

Law is that element which binds the members of the community together in their adherence to recognised values and standards. It is both permissive in allowing individuals to establish their own legal relations with rights and duties and coercive, as it punishes those who infringe its regulations. Law consists of a series of rules regulating behaviour and reflecting the ideas and preoccupations of the society within which it functions. This is equally true of international law, with important difference that principal subjects of international law are nation states and not individual citizens. There are also many contrasts between law within a country (municipal law) and the law that operates outside and between states, international organisations and in certain cases individuals. International law itself is divided into conflict of laws (or private international law as sometimes called) and public international law usually just termed as international law. The former deals with those cases within particular legal systems in which foreign elements obtrude, raising questions as to the application of foreign law or the role of foreign courts. Public international law is a separate system of law that covers relations between states in all their myriad forms. There are rules which bind all states or regional whereby a group of states apply specially to them.

The following syllabus is prepared with the perspective to orient law students to a whole range of contemporary concerns in international law and world affairs.

Syllabus

1. Nature and Development
 - 1.1 Historical Development – origins of Western nation state systems – interstate relation during colonization
 - 1.2 Expanding legal scope of international concern – Modern theories and interpretations
 - 1.3 Sources of international law – customs, treaties, general principles of law and equity – other sources.
 - 1.4 Basic principles of international law – sovereignty and equality of state – non intervention – co-operation – non use of force – peaceful settlement of disputes.
2. International Law and Municipal Law
 - 2.1 Theories of relationships
 - 2.2 The role of municipal rules in international law.
 - 2.3 International Law before municipal courts
3. State as subject of international law
 - 3.1 Legal personality
 - 3.2 State – Creation, recognition, fundamental rights of States – individuals – international organisations – acquisition, nature and consequences of legal personality.
4. Territory and Jurisdiction of State

- 4.1 Concept of territory in international law – territorial sovereignty – creation of new states and title to territory, acquisition of additional territory – territorial integrity and self determination – common heritage of mankind – leases and servitudes – Law of Air and Outer Space – Law of Sea – International Environment Law – International Criminal Law – International Humanitarian and Refugee Law – Nuclear proliferation and Disarmament.
 - 4.2 Jurisdiction – Principles of domestic jurisdiction – immunities and privilege from jurisdiction.
 - 4.3 State Responsibility – nature of responsibility – question of fault – invocation and consequences – aliens – expropriation of foreign property.
 - 4.4 State succession – continuity and succession
 - 4.5 Treaties – law making of treaties – interpretation – application amendment – invalidity, termination and suspension – dispute settlement – treaties between states and international organisations.
5. Settlement of Disputes
 - 5.1 Peaceful settlements – diplomatic methods – negotiations – etc.
 - 5.2 Use of force – law and force – just war – intervention – terrorism and international law
 6. United Nations and International Institutions
 - 6.1 The UN System – Security Council, General Assembly, other principal organs.
 - 6.2 Institutions – institutions of universal and regional character
 - 6.3 The International Court of Justice – organisation – jurisdiction.

Select Bibliography

- Malcolm N. Shaw : **International Law** (2008), Cambridge
- S.K. Varma : **Public International Law** (1988) PHI
- M.P. Tandon : **Public International Law**
- Paras Diwan : **Public International Law**
- Robert Jennings and Arthur Watts KCMGQC (eds.) : **Oppenheim's International Law** (2008) Oxford
- The Students shall consult journals published by Indian Law Institute, New Delhi and Indian Society of International Law, New Delhi.
- The Students shall consult some useful international law websites published in Malcolm N. Shaw : **International Law** (2008) Cambridge, pp.1332-1341

SUBJECT ELECTIVE COURSE EC-306 : JUVENILE JUSTICE

Objectives of the Course

Children constitute the weakest and most vulnerable, most helpless as well as most precious segment of human society. By law they are denied participation in decision making even indirectly and by nature they lack effective articulation and indication of their rights. Children are recognised as legal persons for many purposes, if not for all, legal rights are conferred by the legal system. The course intends to sensitize law students and draw their attention to the helpless condition of children and their exploitation and sufferings. The legal limitation on the capacity of children in the case for contracting, marriage, voting etc. and the legal rights conferred and the legal protection provided in the Constitution and in variety of laws which are to be studied critically with the understanding that either the parents or the society or state shall held legally responsible for the survival, development of personality and happiness of children.

Syllabus

1. Social, Constitutional and International Legal Status of Child
 - 1.1 Introduction : significance, scope and magnitude of the problem
 - 1.2 Social endeavour towards and recognition of the special status of child; the need to formulate comprehensive policy guidelines with regard to children at the national and state levels. National Policy for Children in 1974 and in 1987.
 - 1.3 Constitutional concerns – Article-15(3), Article-23 and 24, Article-39(e) and (f), Article-21-A, Article-51-A(k).
 - 1.4 International concern and endeavour for the welfare of children – UN Convention on Rights of Child – UN General Assembly Declaration of 1979 as the year of the Child.
2. State responsibility for welfare and protection of children.
 - 2.1 pre-primary, primary and secondary education
 - 2.2 Legal control of child labour
 - 2.3 Child and contractual liability
 - 2.4 Family relations and child
3. Child and Criminal Liability
 - 3.1 Definition of child – categories of children under the Juvenile Justice System in India
 - 3.2 Juvenile Justice System in India – Historical development, legislative process
 - 3.3 Normative Structure of the Juvenile Justice System in India Act of 1986 and Act of 2006 – Need for change and effective implementation.
 - 3.4 Judicial Process – Role of Courts, Supreme Court's initiatives
 - 3.5 Policy and Implementation Pattern – Strategy
4. Law and Offences against Child
 - 4.1 Provision and protection of neglected child
 - 4.2 Immoral Trafficking

- 4.3 Prevention of begging, vagrancy and beggary
- 4.4 Discrimination against girl child – female foeticide, amniocentesis – discrimination.

Select Bibliography

- S.N. Jain (ed.) : **Child and the Law** (1979) Indian Law Institute
- U.Baxi (ed.) : **Law and Poverty – Critical Essays** (1988), Tripathi
- Ved Kumari : **The Juvenile Justice System in India – From Welfare to Rights** (2004), Oxford
- Asha Bajpai : **Child Rights in India Law Policy and Practice**, Oxford

The students shall examine carefully the Judicial decisions especially in social action litigations (eg. Sheela Barse Case)

FOUNDATION COURSE FC-307 : MOOT SKILL AND TRAINING

The Compulsory Clinical Courses prescribed by the Bar Council of India – Rules of Legal Education, 2008 have Moot Court Exercise as one of the core component. Every student is required to do atleast three moot courts in a year. The moot court work is on assigned problem with evaluation for written submission and for oral advocacy.

What makes legal education distinct is "its signal contribution to societal and national integration by offering techniques, arenas, and platforms for rational, orderly and nonviolent settlement of disputes and handing of conflicts" [Report of the Curriculum Development Centre in Law – 1990 – Vol.-I, pp.1, Please refer the UGC Report of the Curriculum 'Development Centre in Law 1990 Volume-I and Volume-II and the UGC Model Curriculum in Law-2001].

The concern to make legal education more 'modern' and 'contemporary' to make it 'socially relevant' and humanistic for the teacher and taught has always guided the discussion; on law teaching and research in India [Please refer the Proceeding of the Kasauli Seminar on Legal Education, 1964; the Proceeding of the 1972 Pune International Seminar on Indian Legal Education, the Dharwad Workshop on Teaching Jurisprudence; the 1979 Report Towards Socially Relevant Legal Education; the UGC 1981 Report on the Status of Teaching and Research in the Discipline of Law] Significant structural reforms have been initiated by the Bar Council of India.

"A modernized legal education oriented to maximisation of constitutional ideas/ values and processes must endow it with assisting new pattern of human resource development" [UGC Report of the CDC in Law Vol-I p.16]

Objectives of the Course

"Mooting can give skills of interpretation and presentation, the ability to counter interruption and the ability to work in teams." Cavendish Guide to Mooting. The efficient functioning of legal system requires that its players are well equipped in law and lawyering skills. Moot exercise is described as 'pre-enrollment training', as a process of skill development and learning in classroom, the latter as live site for interactive learning and education. Legal education is not confined to books but encompass law in action. Moots as a form of clinical training has become a regular feature of the BCI and several nationally and internationally held moot court competitions.

The following syllabus is prepared with this objective in view.

Syllabus

1. Moot Exercise : What and Why
 - 1.1 Historical Development of Moot Court
 - 1.2 Meaning – Clinical legal education – simulate proceedings – difference between moot court and mock trial
 - 1.3 Legal education as justice education – law students as 'frontier persons' of legal education – student becomes 'counsel' and classroom becomes 'court'

- 1.4 New jurisprudence – socially relevant and just
 - 1.5 Development of range of skills – drafting, research, interviewing, negotiation, advocacy, communication, legal analysis.
 - 1.6 'Anticipative lawyering' – simulation of court proceeding – anticipatory arguments of legal issues in hypothetical case – to organize "new breed of public interest lawyers"
 - 1.7 Progressive lawyering – 'hard' and 'soft' cases
 - 1.8 Three Terrains of Processes – reading process – writing process – argumentative process.
 - 1.9 Educative potentials of moot learning – referring law, case law, digests and journals – sensitization – adversarial system of justice and non-adversarial system of justice.
2. Preparation Protocols
 - 2.1 Meaning – oral advocacy – difference between written memorial and written pleading or argument
 - 2.2 Problem and its analysis
 - 2.3 Legal research – relevant law and case law – primary sources and secondary sources
 - 2.4 Identification of the Issues
 - 2.5 Interpretation of facts and application of law
 3. Oral Advocacy :
 - 3.1 In the court room
 - 3.2 Speech and body language – do's and don't's
 - 3.3 Court manners and etiquette – forms of addressing the court
 - 3.4 Skills of oral presentation – vocabulary, expertise, appropriate expressions
 - 3.5 Answering Court queries – respect and decorum
 4. Written Memorials :
 - 4.1 requisites – grammar, syntax, style – rational thinking, legal perception of problem, knowledge of the current trends of legal interpretation.
 - 4.2 Language – marshalling evidence – preparation of both sides of the case – clarity
 - 4.3 Contents of Written Memorial A written memorial should ordinarily contain the following
 - 4.3.1 The Cause Title – status of moot court – nature, number and year of case – legal provision – names of parties – party represented
 - 4.3.2 Tables of Contents – scheme of written memorial at a glance – lists, issues, detailed arguments, prayer etc.
 - 4.3.3 List of Abbreviations
 - 4.3.4 Index of Authorities
 - 4.3.5 Statement of Jurisdiction
 - 4.3.6 Chronological Order of Facts
 - 4.3.7 Brief Statement of Facts
 - 4.3.8 Issues raised
 - 4.3.9 Summary of Arguments
 - 4.3.10 Arguments advanced in detail
 - 4.3.11 Prayer – remedy sought
 - 4.3.12 Use of italics – definitions – citations – lucid style, simple expression and syntax

5. Mooting Skills : Benefits

- 5.1 Role and duties of judge in mooting – transmitter of ideas and values – conscientious instructions – interactions with student counsel to moderate, improvise etc.
- 5.2 Learning to 'Swim' by actual 'getting into water'
- 5.3 approach to law and case law and other sources
- 5.4 confidence building and development of personal skills – personal participation
- 5.5 Research of legal issues and of facts – constant process – stamina and intellectual activity
- 5.6 Lessons in professional ethics – duties towards court, client, fellow counsel
- 5.7 Learning to be fair, candid and courteous – manners and etiquette
- 5.8 Formality of Dress Code
- 5.9 Learning use of legal language and legal terms

RECOMMENDED READINGS :

1. Snape J. and Watt G. : **The Cavendish Guide to Mooting**. Sydney; Cavendish Publishing Ltd; 1997
2. Simon Lee and Marie Fox : **Learning Legal Skills**, Blacks Press Ltd., 1st edition, Reprint, 1997
3. Hugh Rayne, Nigel Duncan and Richard Grimes : **Clinical Legal Education – Active Learning in Your Law School**, Blackstone Press Ltd; Aldine Place; London, WIZ 8 AA
4. NALSAR LAW University : **Moot Court for Interactive Legal Education**; Hyderabad

THREE YEAR LL.B. PROGRAMME
CHOICE BASED CREDIT & SEMESTER SYSTEM

SECOND LL.B.

SEMESTER – IV

SECOND LL.B. SEMESTER-IV

24 Credits

COURSE	COURSE CODE	SUBJECTS	CREDITS		
			LECTURES	OTHER	TOTAL
CORE COMPULSORY	CC-401	Principles of Taxation Law	3	1	4
CORE COMPULSORY	CC-402	Labour and Industrial Law-I	3	1	4
CORE COMPULSORY	CC-403	Labour and Industrial Law-II	3	1	4
CORE COMPULSORY	CC-404	Company Law	3	1	4
CORE COMPULSORY	CC-405	Intellectual Property Law	3	1	4
SUBJECT ELECTIVE	EC-406	Human Rights Law and Practice	1	1	2
FOUNDATION	FC-407	Study of Legal Problems	1	1	2

CORE COMPULSORY COURSE CC-401 : PRINCIPLES OF TAXATION LAW

Objectives of the Course

The direct taxation is a powerful incentive or disincentive to economic growth, a lever which can raise or depress savings and capital formation, an instrument for reducing income disparities. A student of taxation will have to make a detailed study of tax policy and tax in India. An analysis of this aspect will have to be made so that the reasons of such complications can be known. Also the power to tax is described as the power to destroy. The idea is being floated often whenever that state introduces a new tax. Is this true? It is not necessary that in order to raise revenue and place the economy on solid foundation, the taxing power should not be conferred on the State. The power to tax shall not go unregulated. In the context of federal structure, the distribution of taxing powers assumes added significance. Obviously, a study of constitutional framework on taxation becomes important. Along with this, an analysis of different laws enacted in exercise of these powers with their safeguards and remedies sheds light on the mechanics of the taxation by the Union and the States.

The following syllabus is prepared with this perspective in view.

				<u>University Examination Marks</u>
Income Tax Act	..	..	..	40 Marks
Gujarat VAT	..	..	..	15 Marks
Central Sales Tax Act	..	..	..	<u>15 Marks</u>
				Total.. 70 Marks

Statutory Materials

- (1) Income Tax Act and Rules
- (2) Central Sales Tax Act
- (3) Gujarat VAT

Syllabus

1. General Perspective
 - 1.1 History and Development of Taxation in India
 - 1.2 Fundamental principles relating to tax laws
 - 1.3 Government financial policy, tax structure and their role in the national economy – critical analysis of taxation policy in India
 - 1.4 Concept of tax – nature and characteristics of tax – distinction between tax and fee, tax and cess, direct and indirect tax, tax evasion and tax avoidance – meaning and concept.
 - 1.5 Taxing power and constitutional limitations in India – Centre State fiscal relations – Directive Principles and tax policy objective in India – Tax plan and judicial processes – Scope of taxing powers of Parliament, State legislatures and local bodies.

2. Income Tax
 - 2.1 Basic concepts – income – total income, income not included in total income deemed income – clubbing of income
 - 2.2 Assesses – person – family as a Unit for tax
 - 2.3 Tax planning and tax avoidance Black money – taxation of agricultural income and wealth.
 - 2.4 Chargeable income – heads of income – salaries – income from the house property – income from business or profession – capital gains – income from other sources – deductions, relief, exemptions – rate of income tax
 - 2.5 Income tax authorities – power and functions
 - 2.6 Offences and Penal Sanctions
 - 2.7 Settlement of grievances

3. Central Sales Tax
 - 3.1 Central Sales Tax – Sale and purchase of goods – meaning of Sale
 - 3.2 Sale in course of Inter-state trade and commerce
 - 3.3 Charge of tax – exemption and rebate
 - 3.4 Sales tax authorities
 - 3.5 Offences and penalties

4. State Sales Tax
 - 4.1 Meaning of Sale – Sale or purchase of goods
 - 4.2 Sale to take place outside a State
 - 4.3 Sale in course of export or import
 - 4.4 Charge of tax – exemption and rebate
 - 4.5 Sales tax authorities
 - 4.6 Offences and penalties

5. Service Tax
 - 5.1 Taxable Service
 - 5.2 Meaning and importance of Service tax
 - 5.3 Constitutional perspective
 - 5.4 Salient provisions of the service tax law
 - 5.5 Valuation of taxable service
 - 5.6 Offences and penalties

6. Other Tax Laws
 - 6.1 Wealth Tax – meaning
 - 6.2 Taxable wealth – determination of value of assesses – exemption and rate of wealth tax
 - 6.3 Wealth Tax authorities
 - 6.4 Offences and Penalties

Select bibliography :

- Remesh Sharma : **Supreme Court on Direct Taxes** (1998), Bharath Law House, New Delhi.
- A.C. Sampath Iyenger : **Law of Income Tax** (1998), Bharath Law House, New Delhi

- Diwan B.K. and Sanjay Mehtani : **Formation, Taxation and Assessment Charitable and Religious Trusts** (1999), Bharath Law House, New Delhi.
- Kanga and Palkiwala : **The Law and Practice of Income Tax** (1999), Wadhwa, Nagpur
- K. Parameswaran : **Power of Taxation under the Constitution** (1987), Eastern, Lucknow
- V. Ramachandran & T.A. Ramakrishnan (eds.) **A.N. Aiyer's Indian Tax Laws** (2000) Company Law Institute of India Pvt.Ltd. Chennai.
- S. Bhattacharya and H.R. Garg : **Handbook of Direct Taxes** (1990), Eastern Law House, Calcutta.
- C.A. Gularickar : **Law and Practice of Wealth Tax and Valuation** (1998), Gularikar, Mumbai.
- Walter R. Mahler : **Sales and Excise Taxation in India** (1970), Orient Longmen, Delhi.
- R.V. Pattel : **The Central Sales Tax Act** (1966), Tripathi, Bombay.
- S.D. Singh : **Principles of Law of Sales Tax** (1973), Eastern, Lucknow.
- R.V. Patel : **Central Sales Tax Act** (1966) Tripathi, Bombay
- Law and Practice relation to Central Sales Tax Act : Govt. Publication
- Singhanian : **Direct Taxes Law and Practice**
- Sundaram : **Law of Income Tax in India**
- R.R. Gupta : **Income Tax Act and Practice**
- K. Chaturvedi and S.M. Pithisaria : **Income Tax Law**
- V.P. Gandhi : **Some Aspects of Income Tax Structure : An Economy Analysis**
- T. Mathew : **The Tax Policy**
- H.M. Seervai : **Constitutional Law of India**
- M.P. Jain : **Indian Constitutional Law**

CORE COMPULSORY COURSE CC-402 : LABOUR AND INDUSTRIAL LAW-I

Objectives of the Course

Protection of labour is a constitutional mandate. A Constitution inspired by the vision of social justice is committed to the cause of upliftment of labour. Well balanced industrial development leads to increased productivity which in turn is a factor of national progress. Labour makes significant contribution in this respect.

Is labour merely a commodity? Is it only a factor in production? There may be different approaches towards this question one fact is certain. Today's labour is engaged in a battle for position of honour and status equal with management. Shedding away old *laissez faire* attitudes, the modern welfare State plays an active role. The law and practice relating to labour is the story of this battle.

In this context the study of labour law is not confined to mastering of the rules and regulations relating to employment of the work force. The wings spread wider. It has its focus on the societal impulses on and state reactions to, the complex socio-economic, human and political problems arising out of the constant conflicts between different classes.

The student should get an insight into the mechanics of socio-legal control of labour relations. The student should be exposed to the history, the present norms, the emerging areas, and possible future techniques of labour jurisdiction.

The syllabus for both core compulsory courses on Labour and Industrial Law is prepared with this perspective in view.

University Examination Marks

Trade Union Act, 1926	..	..	10 Marks
Industrial Disputes Act, 1947	..	..	20 Marks
Bonded Labour (Abolition) Act, 1976		..	10 Marks
Contract Labour (Regulation and Abolition) Act, 1970			10 Marks
Child Labour (Prohibition and Regulation) Act, 1986		}	20 Marks
Maternity Benefit Act, 1961			
Equal Remuneration Act, 1976	..		
		..	<u> </u>
			Total.. 70 Marks

Statutory Materials

Trade Union Act, 1926
Industrial Disputes Act, 1947
Bonded Labour (Abolition) Act, 1976
Contract Labour (Regulation and Abolition) Act, 1970
Child Labour (Prohibition and Regulation) Act, 1986
Maternity Benefit Act, 1961
Equal Remuneration Act, 1976

Syllabus

1. Historical Perspectives on Labour
 - 1.1 Labour through the ages – slave labour – guild system – division of labour on caste basis – labour during fendal 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 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 – freedom of association – international norms and Indian Constitution
 - 2.3 Legal control and protection of trade union – registration – amalgamation – rights, 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 Concept of collective bargaining – international norms – conditions precedent – merits and demerits
 - 3.2 Bargaining process – negotiation, pressurization strike, lockout, go slow, work to rule, gherao, bandh and hartal
 - 3.3 Structure of bargaining : Plant, industry, national levels
 - 3.4 Durations and enforcement of bipartite agreement
 - 3.5 Reforms in law
4. State Regulation of Industrial Relations
 - 4.1 Theoretical foundations : Social justice, labour welfare, public interest, productivity, industrial peace and development, price control
 - 4.2 Method of regulation – recognition of mutual agreement – assistance to bipartite settlement, conciliation, voluntary arbitration, formulation of standing orders – State prescription of machinery, reference for adjudication (political overtones) the adjudicatory mechanisms (how do they differ from courts?) – award and its binding nature – judicial review of awards – State prescription of standards in layoff, 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 : Restraints on managerial prerogative

- 5.1 Doctrine of hire and fire – history of management's prerogative
 - 5.2 Fairness in disciplinary process – punishment for misconduct – meaning of misconduct – the right to know – chargesheet
 - 5.3 The right to defend : domestic inquiry, notice, evidence, cross examination, representation, unbiased inquiry officer and reasoned decision
 - 5.4 Pre-natal (permission) and postnatal (approval) control during pendency of proceedings (section-33 of the I.D.Act)
6. Protection of the Weaker Sectors of Labour
 - 6.1 Constitutional dimensions of labour standards
 - 6.2 Tribal Labour : need for regulation
 - 6.3 Bonded Labour : Socio-economic programmes for rehabilitation
 - 6.4 Contract Labour : regulation
 - 6.5 Child Labour : Prohibition & Regulation
 - 6.6 Women Labour : Maternity Benefit – equal remuneration – protective provisions for women

Select bibliography

- Seth D.D. : **Commentaries on Industrial Disputes Act 1947** (1998), Law Publishing House, Allahabad.
- Srivastava K.D. : **Disciplinary Action against Industrial Employees and its Remedies** (1990), eastern, Lucknow.
- 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**
- O.P. Malhotra : **The Law of Industrial Dispute** (1998), Universal, Delhi.
- J.G. Riddal : **The Law of Industrial Relations**
- R.R. Singh : **Labour Economics**
- ILO **Conventions and Recommendations**
- ILO **Collective Bargaining**
- Gillian S. Morris and Timothy J. Archer : **Collective Labour Law** (2000) Oxford
- Nick Humphrey : **Trade Union Law** (1997) Blackstone
- John Bowers and Simon Hentyball : **Text book on Labour Law** (1998), Blackstone
- Stephen Dery and Richard Mitchell : **Employment Relations Individualisation and Union Exclusion** (1999), Blackstone
- Roger Blanpain, Chris Engels (eds.) : **Comparative Labour Law and Industrial Relations in Industrialised Market Economies** (1999), Kluwer
- ILO **Collective Bargaining in Industrialised Market Economies**
- Mary Sur : **Collective Bargaining**
- R.W. Rideout : **Principles of Labour Law**
- Ottokahn Freund : **Labour and the Law**
- Russel A. Smithetal : **Collective Bargaining and Labour Arbitration** (1970)
- Robert A. Goman : **Basic Text on Labour Law**
- Chaturvedi R.G. : **Law and Procedure of Departmental Enquiries and Disciplinary Actions** (1997)

- Government of India : **Agricultural Labour Enquiry**
- Government of India : **Report on the Second Agricultural Enquiry**
- : **Report on the Third Agricultural Enquiry**
- **Report of the National Commission on Rural Labour** (1991) Govt. of India, Ministry of Labour
- P.L. Malik : **Labour and Industrial Law, Vol-I and II**
- ILO **Conventions and Recommendations**

The students should consult relevant volumes of Indian Journal of Industrial Relations, Journal of Indian Law Institute and Annual Survey of Indian Law; relevant Journal Sections of the Supreme Court Cases (SCC), Economic and Political Weekly (EPW).

CORE COMPULSORY COURSE CC-403 : LABOUR AND INDUSTRIAL LAW-II

Objectives of the Course

The objectives of this course are the same as the preceding course.

The course focusses upon provisions of remuneration for labour, and measures for health, safety and labour welfare.

University Examination Marks

Factories Act, 1948	20 Marks
Employees State Insurance Act, 1948 ..	10 Marks
Employees Provident Fund (Miscellaneous Provisions) Act, 1952	10 Marks
Minimum Wages Act, 1948	} 15 Marks
Payment of Wages Act, 1936	
Payment of Bonus Act, 1965	
Payment of Gratuity Act, 1972	
Workmen's Compensation Act, 1923 ..	15 Marks
Total..	70 Marks

Statutory Materials

Factories Act, 1948
Employees' State Insurance Act, 1948
Employees Provident Fund (Miscellaneous) Provisions Act, 1952
Minimum Wages Act, 1948
Payment of Wages Act, 1936
Payment of Bonus Act, 1965
Payment of Gratuity Act, 1972
Workmen's Compensation Act, 1923

Syllabus

1. Remuneration for Labour
 - 1.1 Theories of wages : marginal productivity, subsistence, wages, fund, supply and demand, residual claimant, standard of living
 - 1.2 Concept of wages : minimum wages, fair wages, living wages, need based minimum wages
 - 1.3 Components of wages : dearness allowance, principle of fixation
 - 1.4 Disparity in wages in different sectors – need for rationalisation and national approach
 - 1.5 Wage determining process : modes and modalities – unilateral fixation by employer – bilateral fixation – conciliation, arbitration and adjudication – Wage Board and Pay Commission – Principles of wage fixation
 - 1.6 Concept of bonus – computation of bonus
 - 1.7 Protection of Wages : nonpayment, delayed payment, unauthorized deductions – remedial measures

2. Health and Safety
 - 2.1 Obligations for health and safety of workmen – legislative controls – factories, mines and plantations
 - 2.2 Employer's Liability
 - 2.3 Workmen's compensation
 - 2.4 Employees State Insurance
 - 2.5 Liability for hazardous and inherently dangerous industries – environmental protection

3. Labour Welfare
 - 3.1 Welfare provided by the employers and through bipartite agreements and by statutory prescription
 - 3.2 Provident Fund and Family pension
 - 3.3 Gratuity
 - 3.4 Insurance
 - 3.5 Interstate migrant workers regulation of employment and conditions of service
 - 3.6 Regulation of working hours : Statutory controls

4. Social Security Law
 - 4.1 Meaning – distinction between labour Welfare and Social Security
 - 4.2 Modality : Social prescription, Social assistance and social assurance
 - 4.3 Labour Social security as part of the general social security in the welfare state
 - 4.4 Origin and development- international norm on social security
 - 4.5 Constitutional perspectives fundamental right – realization of the rights through meaningful social security measures – right to life wider dimensions right to adequate means of livelihood, free legal aid, public assistance in cases of unemployment, old age, sickness and disablement, maternity relief.
 - 4.6 From compensation to insurance – judicial interpretation of the expression "arising out of and in the course of employment" – Employees State insurance benefits – improvement over workmen's compensation – social security and role of trade unions – funding – benefits and beneficiaries – social security clauses in collective agreements.

Select bibliography

- John Bowers and Simon Honeyball : **Text 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.
- 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)

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- ILO **Conventions and Recommendations**
- R.N. Choudhary : **Commentary on the Workmen's Compensation Act, 1923 (2000)**, Orient
- H.H. Saharay : **Industrial and Labour Laws in India** (1987)
- Harry, Calvert : **Social Security Laws**
- Munkman : **Employer's Liability** (1985)
- V.R. Bhattacharya : **Some Aspects of Social Security Measures in India**
- P.L. Malik : **Labour and Industrial Law Vol-I and Vol-II**

CORE COMPULSORY COURSE CC-404 : COMPANY LAW

Objectives of the Course

Industrialisation has played, and has to play, a very vital role in the economic development of India. In the post Independence era, industrial development is regarded and hence employed, as a principal means in the strategy for attaining the values of the constitution. Corporations, both public and private, are viewed as a powerful instrument for development, and thereby, for ameliorating the living conditions of masses, besides bringing returns and financial benefits to the capital and labour. In a developing society like India, vast varieties of consumer goods are manufactured or produced and different kinds of public utility services are generated both for general welfare and consumption purposes. Obviously, it is beyond the capacity of a one or a few entrepreneurs to engage into such activities. Because, besides the problem of raising large capital needed for such enterprises, there is a looming danger of market risks. Hence, taking recourse to the device of incorporation is the only efficacious way to surmount all such hurdles. Partnerships also have their legal and managerial limitations. As against these, corporation offers many advantages. Besides its separate and distinct existence, it has that unique virtue of limited liability. It attracts an entrepreneur to invest his capital in a new virgin field of manufacture or production. By adopting the device of incorporation for his new enterprise, not only he knows the extent of his risk, but all those who deal with the corporation, also know its privileges, immunities and liabilities. The device incorporation facilitates the operation of law of credit, labour laws and taxation laws.

The approach towards teaching of the company law has primarily analytical and historical also comparative and philosophical. Jurisprudence also includes problems of corporate personality and its various theories. The commercial aspects is emphasized primarily by company law teacher and the philosophical aspects of corporation are emphasized by jurisprudence teacher.

There is also the need to look at the functional operation of the corporation. Corporations also play developmental role in a mixed "socialist" Indian society. Corporation, indeed is a trading device which may bring good returns for the investors and the labourers. It also has social commitment arising out of its social existence. So the corporations is also subject to taxation laws, labour laws, law of credit, environmental protection laws and laws of remedies. It is also a subject of various governmental controls. It is necessary for focus attention on the position of corporation in such a developmental matrix.

The course aims to have integrated approach with functional operation of corporation with developmental perspective.

The objectives of the course may be formulated as follows –

- (i) to understand the economic and legal dimensions of corporations in the process of industrial development in establishing "just" social order in the context of constitutional values.
- (ii) to acquaint the students with the normative, interpretative, philosophical and economic contours of various statutory rules relating to corporations

- (iii) to evaluate the application and functioning of such statutory rules in their roles for establishment of "just" and "socialist" social order in India

Syllabus

1. Meaning of Corporation
 - 1.1 Theories of Corporate Personality
 - 1.2 Creation and extinction of corporations
2. Forms of Corporate and Non-Corporate Organisations – Corporations – Partnerships and other associations of persons – State corporations – government companies public sector – small scale, co-operative, corporate and joint sectors – foreign collaborations, their role, functions and accountability, corporations and the rule of law, their civil and criminal liability, their essential characteristics. The relevant provisions of the Companies Act, 1956; the Indian Partnership Act, 1932; the Non-Trading Corporations Act and the Societies Registrations Act, 1882.
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
 - 3.4 Prospectus – issue – contents – liability for misstatements – statement in lieu of prospectus.
 - 3.5 Promoters – position – duties and liabilities
 - 3.6 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 – dematerialised shares (DEMAT)
 - 3.7 Shareholder – who can be and cannot be a shareholder – modes of becoming shareholder – calls on shares – forfeiture and surrender of shares – lien on shares – rights and liabilities of shareholders.
 - 3.8 Share capital – kinds – alteration and reduction of share capital – further issue of share capital – conversion of loans and debentures into capital duties of court to protect the interests of creditors and shareholders.
 - 3.9 Directors – position – appointment qualifications – vacation of office – removal – resignations – powers and duties of directors – role of nominee directors – meetings, registers, loans – remuneration of directors – compensation for loss of office – managing directors and other managerial personnel.
 - 3.10 Meetings – kinds – procedure – voting
 - 3.11 Dividends – payment – capitalisation of bonus shares – profit
 - 3.12 Audit and accounts
 - 3.13 Borrowing – powers – effects of unauthorised borrowing – charges and mortgages – loans to other companies – investments – contracts by companies.
 - 3.14 Protection of minority rights

- 3.15 Debentures – meaning – fixed and floating charge – kinds of debentures – shareholder and debenture holder – remedies of debenture holders.
 - 3.16 Prevention of oppression and mismanagement – who can apply – when can he apply – powers of the company, of the court and of the Central Government.
 - 3.17 Investigation – powers
 - 3.18 Private companies – nature and advantages – government companies – holding and subsidiary companies – conversion into public company – foreign companies
 - 3.19 Reconstruction and amalgamation
 - 3.20 Defunct companies
 - 3.21 Winding up – types – by court – reasons – grounds – who can apply – procedure – powers of liquidator – powers of court – consequences of winding up order – voluntary winding up by members and creditors – winding up subject to supervision of court – liability of past members – payment of liabilities – preferential payments – unclaimed dividends – winding up of unregistered company
 - 3.22 Laws relating to certain kinds of corporations such as banking, universities, insurance (life and general), public corporations, non-trading corporations.
4. Government control of Corporate Activity – MRTP Act, Reports of Sachar Committee, Dutta Committee – FERA and FEMA – Conversion of foreign exchange and Prevention of Smuggling Act – Essential Services Maintenance Act – Control of Public Sector industries – Public Undertakings Committee reports – Nationalisation and taking over of sick Undertakings – Corporate Finance Institutions – Industrial Credit and Investment Corporation of India – IDBI Act – Industrial Reconstruction Corporation of India – LIC – UTI – RBI Rules and Rule of other commercial and co-operative banks – industrial state finance institutions – such as Gujarat Industrial co-operative Bank Ltd., GIIC Ltd., Gujarat Laghu Udhog Sahakari Society Ltd., GSFC, Gujarat Small Industries Corporation Ltd.
5. Corporate Taxation Laws and Corporate Labour Laws
- 5.1 Taxation as a means to establish a "just" social order namely Income Tax, Sales Tax, Wealth Tax, Law of Excise & Custom.
 - 5.2 Labour Laws as means to protect human rights and thereby establish "just" social order – important recommendations of ILO and National Labour Commission of India – Labour Laws like Factories Act, Maternity Benefit Act, Child labour, Payment of Wages, Minimum Wages, Gratuity; Trade Union; Equal Remuneration; Contract Labour; Workmen Compensation; Industrial Relations; Industrial Disputes etc – Labour and Management relations, history and problems, workers participation in management.
6. Law and Multinational Companies
- 6.1 Collaboration agreements for technology transfer – investment in India – repatriation of projects.
 - 6.2 Control and regulation of foreign companies, taxation of foreign companies, Share capital in such companies
 - 6.3 Corporations and Environment Protection – Common law rights and remedies – National laws eg. IPC, Easement Act, Labour legislations, Smoke, nuisance – statutes dealing with river schemes and canals – pollution prevention control and protection laws – Bhopal Tragedy legal liability and legal remedies.

7. Corporate Liability

- 7.1 Legal liability of corporations and remedies available against them – civil, criminal, tortious, specific relief, writs, liability under special statutes (like EPA, CPA) M.C. Mehta etc.
- 7.2 Unincorporated Associations – Law relating to unincorporated associations – Nature and extent of liability

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 : **Palmer's Company Law** (1987), Stevens, London
- R.R. Pennington : **Company Law** (1990), Butterworths
- A. Ramaiya : **Guide to the Companies Act**, (1998), Wadha
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- Allsop Peler : **Company Law – Leading Cases in a Nutshell**, Sweet and Maxwell
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- Cain T.E. : **Private Companies**
- Topham and Ivamy : **Company Law**, Butterworth

CORE COMPULSORY COURSE CC-405 : INTELLECTUAL PROPERTY LAW

Objectives of the Course

It is very such essential to sufficiently realize importance of this branch of law. The three areas i.e. law of copyright, trademarks and patents are conceptualized as representing intellectual property. Law of patents and trademarks are often referred to as industrial property and law relating to copyright is named intellectual property. This course speaks of intellectual property as signifying all the three bodies of the law including the law on industrial design and geographical indications.

The expression "Intellectual Property" refers to regimes of legal recognition of primarily, the products of the mind or imagination. The subject – matter of property relations, pre-eminently is based on mental labour; in a sense, the law relating to intellectual property protects the right to mental labour. There is also a lot of manual labour entailed, the distinction, however between mental and manual labour, must always, be recognized as one of degree rather than kind, What the law of intellectual property protects are exertions of human mind, whether works of literature, trade and merchandise marks, architectural plans, industrial designs or patentable inventions.

The law confers rights, of proprietary nature, on creative intellectual labour primarily on the basis that it is in the interest of the society and state to promote creativeness and inventiveness; limited monopoly through patents, copyrights, marks, protection of designs etc., provide incentive for greater inventive and innovative effort in society. At the same time, it is true that, by and large, in a capitalist society, the beneficiaries of such incentives are most frequently, not the intellectual labourers but organized business and industry, whether they be copyright in industries (publishing houses, entertainment industries, mass media, recording and video enterprises) or research and development industries in private or public sector. An important aspect of this course would be to explore the ways in which the laws can strike a fair balance between the interests and rights of intellectual labourers on the hand and organized industrial enterprise on the other.

Another dimension of this course is to study the ways in which the regime of laws militates against or favours community property in national cultures. Protection of folklore or traditional motifs in designs, for example suggest the idea of community property in cultural resources of society. Should narratives of epics be appropriable for exclusive profits by film makers? Should commercial imitation to tapestry or filigree work be allowed without a return to the community or should arrangement be made for a return to society of commercial exploitation of cultural heritage, which would be used to support cultural styles by small artisans and crafts persons of India? Our intellectual property law is silent on many such aspects. Ways should be found to explore such issues while teaching to this course.

As concerns "modernization" crucial questions arise in the field of copyright protection in computer software and hardware, electronic music, home video viewing and scientific research. Both copyright, trademarks, design and patent law here relate themselves basically to the law of unfair competition and constitute an aspect of consumer protection and welfare. The recognition of international patents have on one hand the advantage of making

available otherwise inaccessible technology and knowhow but this also result in some forms of economic and even political dominations (eg. multinationals).

Both from standpoint of human resources development, modernization and justice it is important that this course takes above objectives in view. New areas of development like plant patenting and patenting new forms of life (biotechnology) should receive serious and special attention. Evidentiary aspects of the regime of intellectual property also need to be addressed.

Syllabus

1. Introductory
 - 1.1 Meaning of intellectual property competing rationales of the legal regimes for the protection of intellectual property
 - 1.2 Main forms of intellectual property; copyright, marks, patents designs – the competing rationales – for the protection of rights in copyright, trademarks, patents and designs.
 - 1.3 Leading international instruments concerning intellectual property rights : the Berne Convention, Universal Copyright Convention, the Paris Union, the World Intellectual Property Rights Organization (WIPO) and the UNESCO
2. Select aspects of the Law of Copyright in India
 - 2.1 Meaning of copyright – historical evolution of the law – copyright in literary, dramatic and musical works – copyright in musical and works and cinematograph films – ownership of copyright – assignment of copyright – author's special rights.
 - 2.2 Notion of infringement – criteria for infringement – infringement of copyright by films of literary and dramatic works – importation and infringement – fair use of provisions – video piracy
 - 2.3 Aspects of copyright justice – remedies especially the possibility of Anton Pillar injunctive relief in India
3. Intellectual Property in Trademarks
 - 3.1 The rationale of protection of trademarks (a) as an aspect of commercial and (b) of consumer rights – study of UNCTAD Report
 - 3.2 Definition – conception of trademarks – registration – distinction between trademark and property mark – the Doctrine of Honest Concurrent User – the Doctrine of Deceptive Similarity
 - 3.3 Passing off and Infringement criteria for infringement – Standards of proof in Passing off Action – Remedies
4. The Law of Intellectual Property : Patents
 - 4.1 Conception of Patent – Historical overview of the patents law in India
 - 4.2 Patentable Inventions with special reference to biotechnology products entailing creation of new forms of life
 - 4.3 Biotechnology patents – nature and types – TRIPS obligations – plant patenting sui generis protection of plant varieties – multinational ownership – regulation of environment and health hazards in biotechnology patents – Indian policy and position
 - 4.4 Patent Search, Examination and Records – process of obtaining a patent – application examination, opposition and sealing of patents – International and

- global patent information retrieval systems (European Patent Treaty), Patent Co-Operation Treaty (PCT) – differences in resources for patent examination between developed and developing nations – Indian Position
- 4.5 Some Grounds for Opposition : Problem of limited locus Standi to oppose especially in relation to inventions having potential of ecological and mass disasters – wrongful obtaining the invention – prior publication or anticipation – obviousness step – insufficient description – evidentiary problems in piracy – reversal of burden of proof in process patent – TRIPS obligation – nature and scope of law reforms
 - 4.6 Rights and Obligations of Patentee – Patents as chose in action – duration of patent law and policy considerations – use and exercise of rights – Right to secrecy – the notion of "abuse" in patent rights – compulsory licenses.
 - 4.7 Special Categories – Employee invention, law and policy considerations – combination and selection of patents – international patents, transfer of technology, knowhow and problems of self reliant development patents in nuclear power
 - 4.8 Infringement – criteria – onus of proof – modes of infringement – Doctrine of Colourable Variation – Defences in Suits of infringement – injunctions and related remedies.
5. Consideration of some aspects of reform in the law of Intellectual property
 - 5.1 Legal regime of Unfair Trade Practices and of Intellectual Property. UN Approaches (UNCTAD, UNCITRAL) EEC Approaches – Position in India and other Countries.
 - 5.2 Special Problems of the Status of Computer Software in Copyright and Patent Law.
 6. Intellectual Property and Human Right
 - 6.1 Freedom Speech and Expression – Copyright Protection on internet – WCT (WIPO Copyright Treaty 1996)
 - 6.2 Legal Status of hazardous research protected by the regime of intellectual property law.
 - 6.3 Human rights of impoverished masses – intellectual property protection of new products for health care and food security.
 - 6.4 Traditional Knowledge – protection – biodiversity convention – right of indigenous people – geographical indications

Select Bibliography

- Special attention should be given to literature of the UN System, WIPO and the UNESCO.
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- Sangal, P.S. and Kishore Singh : **Indian Patent System and Paris Convention : Legal Perspectives** (1987)
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SUBJECT ELECTIVE COURSE EC-406 : HUMAN RIGHTS LAW AND PRACTICE

Objectives of the Course

Human rights is doubtless the major concern of all societies, developed as well as developing. Formerly, human rights were conceived rather narrowly as mere freedom from arbitrary government and classical constitutions provided guarantees of individual liberty or minority protection against the State in their constitutional bill of rights. It was realised later, and much more so over last fifty years since the end of the Second World war that the threats to liberty, equality and justice did not emanate from the State alone. Many nations of Asia and Africa came to nationhood during this period. Their assertion of sovereignty challenged many premises of international law which had been taken as established by the developed nations. These nations had to bring about their development and they needed capital. Foreign aid and foreign investments were invited but these could very well lead to their second subjugation. Poverty, ignorance, exploitation had to be fought at the global level. Development had to come without the sacrifice of human values. A greater awareness of human rights, not only obligations for creating an environment in which man could live with dignity was necessary. If law was to be real instrument of social engineering, the lawyers, judges and to conscientize future law teachers, researchers and activists about human rights.

The focus of a course on human right must be on the national problems with an international or global perspective. Thoughts and ideas cannot be parochial or national. They are universal; But their articulation becomes meaningful only when they are seen in the context of local experience. The course content must be informed by transformational dimension. The study methodology must be macro at the thought level and micro at the experience level. While we must therefore focus on the local problems, we must not let the global perspective go out of sight. The world community concerns about human rights have been expressed through various conventions and treaties. On the national levels, they are contained in constitutional provisions such as directive principles of state policy, fundamental rights, fundamental duties and judicial, legislative as well as administrative strategies of reconstruction. Human rights acquire much more comprehensive and wider meaning. Human rights is an important parameter of a just society and future lawyers must be able to assess any programme of social transformation with reference to them.

The following syllabus is prepared with this objective.

Syllabus

1. Panoramic View of Human Rights
 - 1.1 Human Rights in Western and Non-Western Thought
 - 1.2 Awareness of Human rights during nationalist movement
 - 1.3 Universal Declaration of Human Rights, Constituent Assembly Debates, Part-III and Part-IV – Drafting process
 - 1.4 Subsequent development of international law and the Position in India (eg. Convention on Racial Discrimination, Torture Convention, Women's Convention Environment and the two covenants ICCPR and the ICESCR.
 - 1.5 Regional Conventions (eg. American, European, African etc.)

2. Fundamental Rights Jurisprudence as incorporating Directive Principles
 - 2.1 The dichotomy of FR and DP
 - 2.2 The interaction between FR and DP
 - 2.3 Resultant expansion of Basic Needs oriented Human Rights in India

3. Human Rights and Vulnerable Groups.
 - 3.1 Women and Children – basic rights
 - 3.2 Disabled
 - 3.3 Tribals – Indigenous Peoples
 - 3.4 Minorities
 - 3.5 War Victims and Refugees
 - 3.6 Criminal Justice System – Accused and Under trials – torture – third degree methods – justifications – Torture, Treatment and Punishment of Offenders

4. Enforcement of Human Rights
 - 4.1 International organisation (UN)
 - 4.2 National Mechanism (Legislative, Executive Judicial) – Attitudes and Approaches.
 - 4.3 National Human Rights Commission – Commissions for Women, Minorities, Backward Classes, Scheduled Caste and Scheduled Tribes, Safai Karmacharies etc.
 - 4.4 Right to Development of Individuals and Nations – Constitutional and legal changes in India from human right perspective

5. Peoples Participation in Protection and Promotion of Human Rights
 - 5.1 International Organisations (eg. Amnesty International, Human Rights Watch, Asia Watch) Minority Rights Groups – Law Asia
 - 5.2 Organisations National eg. PUCL, PUDR, Mahila Dakshata Samiti, Lawyers Collective, Bar Associations (National and International)
 - 5.3 Development Agencies and Human Rights – Funding agencies and their role

Select bibliography :

- SS.K. Avesti and R.P. Kataria : **Law Relating to Human Rights**, Chh. IV, V, VIII, XIV, XXIX and XXXIX, (2000) Orient, New Delhi.
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- : **Introducing Human Rights** (2006) Oxford
- C. Raj Kumar and K. Chockalingam : **Human Rights, Justice and Constitutional Empowerment**, Oxford.
- Journals of Indian Society of International Law

COMPULSORY FOUNDATION COURSE FC-407 : STUDY OF LEGAL PROBLEMS

Objectives of the Course

The objective of this course is to encourage the students to more sustained effort at legal learning. The course aims to impart a very specific focus for exploration of basic problems of Indian legal, social, economic and political order. In this context new methods of teaching and learning is wholly made possible. This course gives an opportunity to teachers and students, to pursue new and emergent bodies of knowledge. They have scope for diligent pursuit of finer aspects of legal development and for pedagogic innovation and experimentation with new ways of analyzing legal development.

"Legal education has a very crucial role to play in development of the law as a hermeneutical profession, since it is an educational process which equips the future lawyer, judge, administrator, counsellor and legal scientist to fashion and refashion ways of peaceful and ordered attainment of ideals of human governance on the one hand and democratic right on the other" (Please refer UGC Report of the Curriculum Development Centre in Law 1990 Vol-I para 3.6, pp.16-17)

The following syllabus is prepared with the perspective of studying problems of access in governance and public participation. Other areas studying selected problems may include Compensatory Discrimination; Agrarian Reforms; Law and Disabled; Educational Process and Planning; Public Health and Law; Law and Mass Disasters; Law and Credit; Unorganized Labour and Law; Diasmament and Peace Strategies; Legislative Drafting, Media and Law etc.

Syllabus

1. Public Participation, Access and Governance
 - 1.1 Conceptual analysis – Meaning of democracy. How can democracy be non-participatory?
 - 1.2 Why should access and public participation be facilitated?
2. Mapping out of main governing decision – making institutions
 - 2.1 Parliament – Government of India
 - 2.2 State Legislatures – State Government
 - 2.3 Local Authorities – Panchayats
 - 2.4 Statutory Authorities
 - 2.5 Administrative Authorities
 - 2.6 Courts, Tribunals, Lok Nyayalaya
 - 2.7 Lokpal – Lokayukta
3. Public participation and Access to Legislative Process
 - 3.1 Legislature – Union/State
 - 3.2 Functions of Legislature
 - 3.3 Elections of Members – "Right to Recall"
 - 3.4 Duties of Members of Legislature serving the constituency – Social profiles of MPs and MLAs
 - 3.5 Role of Press

- 3.6 Provisions for publication of the Laws
- 3.7 Committees of Parliament, CAG
- 4. Public Participation and Access to Administrative Process
 - 4.1 Delegated legislation – Rules making by previous publication
 - 4.2 Publication of Delegated Legislation
 - 4.3 Existing inaccessibility of Legislation and Delegated Legislation
 - 4.4 Hearing in Administrative Decision making – Audi Alteram Partem
 - 4.5 Who must be heard? Liberalisation of the rules of locus standi – standing of third person – standing of social action group
 - 4.6 Who can challenge administrative action?
- 5. Access to Information
 - 5.1 Extent of Literacy – Extent of Legal illiteracy
 - 5.2 Need to spread knowledge of laws
 - 5.3 Provision for free and compulsory education for children–Articles-21A and 45
 - 5.4 Right to Information – Fundamental Right?
 - 5.5 Official Secrets Act, Government Privileges to withhold Disclosure of documents
 - 5.6 Public Inquiries
- 6. Access to Judicial Process
 - 6.1 Rules of locus Standi
 - 6.2 Provisions for proper suits – court fees
 - 6.3 Delay, Expensiveness and hyper technicality of the judicial process
 - 6.4 Lack of public participation alienation of people – liberal rules of locus standi to appeal in criminal cases
 - 6.5 Civil Procedure Code – Representative Suits
 - 6.6 Media and Public Participation – Role of Media
 - 6.7 Public Interest Litigations
 - 6.8 Epistolary Jurisdiction – Letter Petitions – Limits of Writ Jurisdiction
- 7. Alternative Models of Dispute Settlement
 - 7.1 Tribunals – Articles-323A and 323B
 - 7.2 Family Courts, Consumer Council and Consumer Forum
 - 7.3 Lok Nyayalays
 - 7.4 Lokpal and Lokayuktas
- 8. How to Facilitate Access and Public Participation
 - 8.1 Procedural Reforms
 - 8.2 Alternative Models of Dispute Resolution – Lok Nyayalaya – Grassroots Justice
 - 8.3 Legal Aid Movement – Legal Literacy – Social Action Litigation – Legal mobilisation of the Poor
 - 8.4 Reforms of Electoral Process
 - 8.5 Decentralisation of power – federalisation of Panchayat Raj – Article-40 of the Constitution
 - 8.6 Suspension or Dismissal of Local Self Government
 - 8.7 Growth of Mass Movements for Social Transformation Participatory Movements (Chipco Movement, Bhoomi Sena)
 - 8.8 Public Participation in Law Reforms – Womens Groups, Environment Groups, Environment Groups – Circulation of Draft – Legislation for public reaction

(eg.Lokpal Bills) Planning Process, Public Participation and (eg. Seventh Five Year Plan)

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The students should consult relevant volumes of the Annual Survey of Indian Law published by the Indian Law Institute. (Constitutional Law I & II, Administrative Law, Public Interest Litigation)