

Semester - IX

BCL – 501 Drafting, Pleading & Convenience

Objective: The objective of this paper is to equip the students with drafting skills.

Unit I: General Principles of Drafting and Relevant Substantive Rules

Unit II: Pleadings Civil

Plaint, written statement, interlocutory application, original petition, affidavit, execution petition, memorandum of appeal and revision, petition under Art.226 and Art.32 of the Constitution of India.

Unit III: Pleadings Criminal

Complaint, criminal miscellaneous petition, bail application, memorandum of appeal and revision.

Unit IV: Conveyance

Sale deed, mortgage deed, lease deed, gift deed, promissory note, power of attorney, will, trust deed.

Unit V: Drafting Of

Write petition and Public Interest Litigation petition.

Note: Examination and allocation of marks:

1. Each Student shall undertake 15 practical exercises in drafting carrying 45 marks (3 marks for each exercise).
2. Each student shall undertake 15 practical exercises in Conveyancing carrying 45 marks (3 marks each).
3. At the end of the semester, the student shall appear for a viva voce, which shall carry 10 marks.
4. The above-mentioned drafting of Pleadings and Conveyancing exercises shall be in the handwriting of the students on one side of the bond size papers. The papers shall be bound accompanied by a certificate signed by the course teacher and the principal to the effect that it is the bonafide work of the concerned candidate. There shall be a cover and contents page.

Suggested Reading

1. *Srivastava R.D., Pleading, Drafting & Conveyancing, Central Law Agency, Allahabad.*
2. *Srivastava K.K., Law of Pleading Drafting & Conveyancing, Central Law Agency, Allahabad.*
3. *Chaturvedi R.N., Pleading Drafting & Conveyancing, Central Law Publications, Allahabad.*

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BCL – 502 Alternate Dispute Resolution

Objective: The objective of this course is to provide information regarding alternate methods to resolve negotiation disputes.

Unit I: General Principles of Arbitration & Conciliation Act, 1996

1. Meaning , Kinds and Advantages
2. Matter referable/non referable to Arbitration
3. Role of Court in referring a dispute to Arbitration

Unit II: Composition & Jurisdiction of Arbitral Tribunal & Arbitral Proceedings

1. Number of Arbitrators
2. Appointment of Arbitrator
3. Pecuniary Jurisdiction
4. Jurisdiction of Arbitrators
5. Disqualification of Arbitrators
6. Setting-aside of Award
7. Powers of Arbitrators/Tribunals

Unit III: Foreign Awards

1. Meaning and Definition of Foreign Award
2. Powers of Judicial Authority to refer matters to Arbitration
3. Scope and Enforcement of Foreign Award

Unit IV: Conciliation

1. Introduction, Numbers of Conciliators
2. Appointments of Conciliators
3. Role of Conciliators
4. Settlement of disputes and status of settlement agreement

Unit V: Alternative Means of Settlement of Disputes

1. Mediation
2. Conciliation
3. Arbitration
4. Lok Adalat

Leading Cases for Detailed Study

**Arain & Co. Vs Union Of India*

**B.Ramaswamy Vs B.Rangaswamycmc Ltd.Vs Unit Trust Of India*

**Doypack System Pvt.Ltd. Vs Union Of India*

**Food Corporation Of India Vs Indian Council Of Arbitration & Others*

Suggested Readings:

1. Singh Avtar, *Law of Arbitration and Conciliation*, Easter Book Company, Lucknow
2. Paranjape N.V., *Law relating to Arbitration and Conciliation in India*, Central Law Agency, Allahabad
3. Mishra S.S., *Arbitration and Conciliation in India*, Gyan Book All Indian Publication, Delhi
4. Tripathi S.C., *Arbitration and Conciliation*, Gyan Book All Indian Publication, Delhi

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BCL – 503 Human Rights & Procedure

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.
- Human Rights Watch Women's Rights Project : **The Human Rights Watch Global Report on Women's Human Rights** (2000), Oxford.
- Ermacara, Nowak and Tretter : **International Human Rights** (1993), Sweet & Maxwell.
- Wallace : **International Human Rights : Text & Materials** (1996), Sweet & Maxwell
- Muntarhorn : **The Status of Refugees in Asia** (1992), Oxford.
- Frank Cass : **Human Rights and Global Diversity** (2001), London.
- Nirmal C.J. (ed.) : **Human Rights in India** (2000), Oxford
- Nirmal B.C. : **The Right to Self determination in International Law** (1995), Deep & Deep.
- Batra T.S. : **Human Rights - A Critique**
- P.R. Gandhi : **International Human Rights Documents** (1999) Universal, Delhi.

- National Human Right Commission : Annual reports, Bulletin.
- Basu D.D. : **Human Rights in Constitutional Law**
- M.P. Tandon : **Public International Law**
- Paras Diwan : **Human Rights and Law**
- P.R.P. Journal of Human Rights.
- U.Baxi : **Human Rights in a Post Human World** (2009), Oxford.
- : **The Right to be Human** (1986)
- : **The Crisis of the Indian Legal System** (1982)
- : **The Future of Human Rights**
- S.C. Kashyap : **Human Rights and Parliament**
- F. Lauterpacht : **International Law and Human Rights** (1968)
- South Asia Human Rights Documentation Centre : **Handbook of Human Rights and Criminal Justice System** (2007) Oxford.
- : **Human Rights and Humanitarian Law - Developments in India and International Law** (2007) Oxford.
- : **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

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Semester - IX

BCL – 504 Right to Information

Objective: The objective of this paper is to impart knowledge among the students about the legal as well as administrative mechanism for the quick protection of basic rights of human being in this fast period of Information technology.

Unit-1 Introduction to RTI Act

1. The evolution of the Right to Information in India.
2. The important terms used in the Act.
3. The salient features of the Act
4. Public Authorities and their Obligations under the Act
 - a. What is a Public Authority?
 - b. Who are the Public Authorities covered under the Act?
 - c. Which Public Authorities are exempted from the ambit of the Act
 - d. Obligations of Public Authorities

Unit-2 Role of Public Information Officers: PIOs and APIOs - Accepting Information

1. The requirement for designation of Information Officers - PIOs / APIOs - in public authorities
2. The specific Duties & Responsibilities of Information Officers.
3. The liabilities of a PIO for non-compliance with the provisions of the Act.
4. How to accept information requests and assist citizens in making information requests?
5. What is the process for disposal of requests?
6. The time limits for disposal of information requests.
7. The fees and costs to be charged for providing information.
8. The grounds on which requests can be rejected and the procedure for such rejection

Unit-3 Exemptions from Disclosure of Information, Partial Disclosure and "Third Party" Information

1. Specific provisions of the Act which exempt certain kinds of information - the classification of such exempted information.
2. Application of public interest test with respect to exempted information.
3. Grounds that allow for partial disclosure of information
4. The concept of 'Third Party' and the issues and considerations revolving around its involvement.

Unit-4 The roles and responsibilities of Appellate Officers within Public Authorities.

1. The process involved in making first appeals to designated Appellate Officers.
2. Timelines for making a first appeal and disposal of the appeal
3. First Appeals and Appellate Officers - Important Provisions

Unit-5 Information Commission: Powers and Functions

1. The Role and Responsibilities of the Information Commissions.
2. The relevant provisions in the RTI Act dealing with Complaints to the Information Commission and the specifications thereof.
3. The "Second Appeal" process and the Commissions' mandate for the same.

4. The power of Information Commissions with regard to enforcing compliance of public authorities with the provisions of the RTI Act, imposing penalty / recommending disciplinary action against erring PIOs etc.

Suggested Readings:

1. *Justice P.S. Narayan, G.B. Reddy, Right to Information and Law, Vikas Publishing House, Delhi.*
2. *R.K. Verma, Right to Information Law and Practice, Jain Publishing Agency, Delhi.*
3. *Dr. D.N. Barowalia, Commentary on the Right to Information, Universal, Law Publication Delhi (2007)*
4. *Right to Information Act, 2000*

Semester - IX

BCL – 505 Interpretation of Statute & 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