

**SCHOOL OF EXCELLENCE IN LAW**

**REVISED CURRICULUM (2022-2023)**

**For**

**LL.B. Hons Degree Course**

**Course of Law, Eligibility Conditions for Admission, Course  
Component, Examination Regulations and Syllabus.**

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## **I. UNDER GRADUATE COURSE OF LAW**

### **1. Under Graduate Courses of Law:**

LL.B., (Hons.): It shall be three Academic Years Degree Course in Law.

Three year course shall be divided into six semesters.

### **2.Objectives of Revised Curriculum:**

The objectives of revised curriculum of courses of law are: (1) To reorient legal education by making provision for sufficient opportunity to the students for extensive as well as intensive study of law. (2) To enable students to acquire knowledge and skills gained from studying law and to facilitate students to analyse law to apply in practical situations. (3) To equip students with strong communication skills and to make them responsible to meet the needs of contemporary requirements of Bar, Bench and Industry in the globalised economic era. (4) To educate them of diverse backgrounds to become effective, ethical and expert personage who are employable in a variety of legal settings.

### **3.Extent and Application**

This regulation rules as to course component, curriculum, examination pattern and standard of passing for LL.B. Hons. and will come into force w.e.f. the academic year 2022 - 2023.

## II.COURSE COMPONENT OF LL.B. HONS'

### LLB. Hons. Course: Number of Subjects

The Course shall have the following subjects-

- Core Law Papers - 22
- Ancillary Hon's Papers -06
- Clinical Core Papers -04
- Specialized Hon's Optional - 08

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Total 40

#### 2. Choosing Hons. Specialized Course in Law Subjects for LL.B. Hon's.

□ The arrangement of Hons. Specialized Course in law for LL.B. Hon's., course allows the student to have specialization, to some extent, in (a) International Law and Intellectual Property Rights Group, or (b) Constitutional Law and Property Law Group or (c) Criminal Law and Forensic Science Group or (d) Industrial and Commercial Law Group by choosing the optional subjects from the given list in each semester from **Second Year** Onwards.

##### ▪ Explanation 1:

A student willing to have specialization in International Law and Intellectual Property Rights Group can choose optional papers at serial number (a) in each semester from Second year onwards for 3 Year LLB Hons Course

A student willing to have specialization in Constitutional Law and Property Law Group can choose optional papers at serial number (b) in each semester from Second year onwards for 3 Year LLB Hons Course

A student willing to have specialization in Criminal Law and Forensic Science Group can choose optional papers at serial number (c) in each semester from Second year onwards for 3 Year LLB Hons Course.

A student willing to have specialization in Industrial and Commercial Law Group can choose optional papers at serial number (d) in each semester from Second year onwards for 3 Year LLB Hons Course

- **Explanation 2:**

This arrangement of optional subjects in law is made to allow the student to have specialization to some extent in a specified group. It will be mandatory for the student to choose subjects as given in explanation 1.

**Explanation: 3**

University may offer all or any of the groups of specialized Hon's course at its discretion. The student has to choose the group at the beginning of the semester and based on first come first serve basis the group will be allocated.

- **Practical Papers**

In the final semester, a student has to do two practical papers from the group which he/she has selected

**Explanation :**

If the student has selected group (a) International Law and Intellectual Property Law specialization, the student has to do two practical papers one on International Law and other one on Intellectual Property Rights in the final semester.

If the student has selected group (b) Constitutional Law and Property Law specialization, the student has to do two practical papers one on Constitutional Law and other one on Property Law in the final semester.

If the student has selected group (c) Criminal Law and Forensic Science specialization, the student has to do two practical papers one on Criminal Law and other one on Law and Forensic Science in the final semester.

If the student has selected group (d) Industrial and Commercial Law specialization, the student has to do two practical papers one on Industrial Law and other one on Commercial Law in the final semester.

**□ Components of Practical Papers**

*The following are the components of the practical papers:*

<i>1. Longish Paper (Research Oriented Paper )</i>	<i>: 50 marks</i>
<i>2. Case Comment</i>	<i>: 15 marks</i>
<i>3. Book Review</i>	<i>: 15 marks</i>
<i>4. Viva Voce</i>	<i>: 20marks</i>
<i>Total</i>	<i>: 100 marks</i>

## **GUIDELINES TO BE FOLLOWED FOR PRACTICAL PAPERS**

**[NOTE: *These are the general guidelines to be followed by each student along with the instructions given by the SOEL from time to time*]**

### **LONGISH PAPER (RESEARCH ORIENTED PAPER) (50 MARKS)**

Longish paper research is an essential part of the academic experience. It allows for a more indepth exploration of a particular topic or research question, and it can help to develop important academic skills such as research, analysis, and writing. Longish paper research can also contribute to the overall body of knowledge on a particular topic or research question, and it can be excellent preparation for advanced studies. The significance of doing longish paper research cannot be overstated, as it is an important step in the academic journey and an opportunity to make a meaningful contribution to one's field of study.

1. **Originality:** The research paper should present original ideas and findings, and contribute to the existing body of knowledge in the field.
2. **Depth:** The paper should explore the topic in depth, and provide a comprehensive analysis of the relevant literature, theories, and empirical evidence.
3. **Scope:** The paper should have a clearly defined scope, and focus on a specific research question or set of questions. It should avoid being too broad or too narrow.
4. **Methodology:** The paper should use appropriate research methods and techniques, and provide a detailed account of the data collection and analysis process.
5. **Clarity:** The paper should be well-structured and clearly written/ typed (Times New Roman- 1.5 spacing), with a logical flow of ideas and arguments. It should also be free of grammatical and spelling errors.
6. **Relevance:** The paper should be relevant to the field of study, and address current debates and issues.
7. **Significance:** The paper should demonstrate the significance of the research, and explain how it contributes to the field and has practical implications.
8. **Citation:** Remember to cite your sources and use proper legal citation formats, such as Bluebook citation.
9. **Length:** The paper should be of an appropriate length, taking into account the complexity of the topic and the scope of the research. It should not be too short or too long.( not more than 30 pages)
10. **Ethical considerations:** The paper should adhere to ethical guidelines for research, and avoid any form of plagiarism or academic misconduct.(Plagiarism – less than 20%)

### **CASE COMMENT (15 MARKS)**

**A case comment is a written analysis of a particular court case or legal decision. It is an essential skill for legal professionals to master. Here are the steps you can follow to write a case comment:**

1. **Choose a case:** The first step is to choose a case that you want to write about. It is best to select a case that interests you or relates to a topic that you are studying.
2. **Read and analyze the case:** Read the case thoroughly and take notes on the key facts, legal issues, and court's decision. Identify the legal principles applied by the court and any precedents cited.
3. **Prepare an outline:** Prepare an outline for your case comment. It should include an introduction, a summary of the facts, the legal issues, the court's decision, and your analysis.

4. **Introduction:** In the introduction, provide some background information about the case and its significance. You can also provide an overview of your analysis and your thesis statement.
5. **Summary of the facts:** Summarize the key facts of the case, including the parties involved, the events leading up to the legal dispute, and any relevant evidence.
6. **Legal issues:** Identify and discuss the legal issues raised in the case. This should include the legal principles applied by the court and any precedents cited.
7. **Court's decision:** Describe the court's decision and reasoning. Discuss how the court applied the legal principles and precedents to the facts of the case.
8. **Your analysis:** In this section, provide your analysis of the case. You can discuss whether you agree with the court's decision and reasoning, or whether you have a different interpretation. You can also discuss the broader implications of the case and how it may impact future legal decisions.
9. **Conclusion:** Summarize your analysis and restate your thesis statement. You can also discuss any questions or issues raised by the case that need further research.
10. **Proofread and edit:** Proofread and edit your case comment to ensure that it is well-written, coherent, and free of errors.
11. **Citation:** Remember to cite your sources and use proper legal citation formats, such as Bluebook citation.

### BOOK REVIEW (15 MARKS)

Writing a book review is a critical analysis of a book's content, style, and relevance to its intended audience. Here are some steps you can follow to write an effective book review:

1. **Read the book:** The first step is to read the book thoroughly, taking note of its key themes, characters, and style.
2. **Introduce the book:** Begin the review by introducing the book's author, title, publication date, and any other relevant information about the book.
3. **Summarize the book:** Provide a brief summary of the book's content and main themes. Avoid spoilers and focus on the central ideas of the book.
4. **Evaluate the book:** Evaluate the book's strengths and weaknesses, including its writing style, character development, plot, and pacing. Consider whether the book is well-researched and how it contributes to the overall body of knowledge on its topic.
5. **Support your evaluation:** Use evidence from the book to support your evaluation. This could include direct quotes or examples from the text.
6. **Discuss the intended audience:** Consider who the book is intended for and whether it meets the needs and interests of its intended audience.
7. **Provide a conclusion:** Sum up your evaluation and provide a final assessment of the book's overall value and significance.
8. **Edit and proofread:** Finally, edit and proofread your review to ensure that it is well-written, coherent, and free of errors.
9. **Ethics:** Remember to be objective and avoid personal biases or opinions that are not supported by evidence from the book.
10. **Citation:** Remember to cite your sources and use proper legal citation formats, such as Bluebook citation.

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## **GUIDELINES TO BE FOLLOWED FOR MOCK COURT**

**[NOTE: *These are the general guidelines to be followed by each student along with the instructions given by the SOEL from time to time*]**

### **IMPORTANCE OF MOCK COURT**

- **Hands-on experience:** Mock court provides participants with hands-on experience in a simulated courtroom setting. This allows them to practice and refine their legal and professional skills, such as critical thinking, communication, and advocacy.
- **Real-world application:** By simulating actual legal proceedings, mock court allows participants to apply legal concepts and principles in a realistic context. This helps them to understand how legal theories and rules apply in practice and enhances their understanding of the legal system.
- **Feedback and evaluation:** Participants can receive feedback and evaluation from instructors, judges, and peers, which allows them to identify areas of strength and weakness and make improvements. This feedback can also help participants to develop confidence and professionalism in their legal skills.
- **Teamwork and collaboration:** Mock court involves teamwork and collaboration among participants, including attorneys, witnesses, and judges. This allows participants to develop skills in collaboration, negotiation, and teamwork, which are essential in the legal profession.
- **Networking opportunities:** Mock court can provide opportunities for participants to network with legal professionals and peers, which can be beneficial for future career opportunities.

### **GUIDELINES FOR MOCK COURT**

- **Choose a case:** Choose a case that is relevant and interesting to the participants. It should be a case that can be easily understood by the participants and has clear legal issues and arguments.
- **Assign roles:** Assign roles to the participants, such as judges, attorneys, witnesses, and jurors. Make sure each participant understands their role and the expectations associated with it.
- **Research and prepare:** Participants should research and prepare for their roles. Attorneys should prepare opening statements, cross-examination questions, and closing arguments. Witnesses should prepare their testimony and be familiar with the facts of the case.

**Conduct a practice session:** Conduct a practice session to ensure that participants are prepared and comfortable with their roles. This will also help to identify any issues that need to be addressed before the actual mock court.

- **Set up the mock court:** Set up the mock court to resemble a real courtroom, with a judge's bench, witness stand, and jury box. Make sure that all necessary equipment, such as a microphone or projector, is available and functioning properly.
- **Conduct the mock court:** Conduct the mock court according to the established rules and procedures. The judge should preside over the proceedings, attorneys should make their arguments and question witnesses, and jurors should deliberate and reach a verdict.



- **Debrief:** After the mock court, conduct a debrief session to discuss what worked well and what could be improved for future mock courts. Participants can provide feedback and suggestions, and lessons learned can be applied to future mock court sessions.

## INSTRUCTION TO THE STUDENTS FOR MOCK TRIAL

- **Understand the case:** Read and understand the case materials, including the legal issues, the facts of the case, and the arguments made by each side. Take notes on key points and arguments.
- **Prepare your role:** If you are playing a specific role, such as an attorney or witness, prepare your role in advance. This includes researching and developing your arguments, creating an opening statement, cross-examination questions, and a closing argument if applicable.
- **Practice with your team:** Work with your team to practice your arguments and coordination. This includes practicing your arguments and timing your presentation, as well as coordinating your strategies and tactics.
- **Dress professionally:** Dress professionally to make a good impression on the judges and jurors. Dress as you would for a real courtroom setting.
- **Be prepared for objections:** Be prepared to make and respond to objections during the trial. Practice your objections and responses in advance.
- **Stay focused and confident:** During the trial, stay focused and confident. Speak clearly and loudly, and maintain eye contact with the judges and jurors. Be prepared to adapt to changing circumstances during the trial.
- **Respect the process:** Respect the process and rules of the mock trial. This includes following the time limits, avoiding inappropriate behaviour or language, and being respectful to the other team and participants.

## TO PREPARE MOCK COURT REPORT

- **Introduction:** Begin the report with an introduction that provides an overview of the mock court, including the case and the participants.
  - **Case summary:** Provide a brief summary of the case, including the legal issues, the facts of the case, and the arguments made by each side.
  - **Legal analysis:** Analyse the legal issues presented in the case, including the legal principles and rules that apply, and how they were applied by the participants.
  - **Participants' performance:** Evaluate the performance of each participant, including the attorneys, witnesses, and judges. Assess their use of legal principles, their effectiveness in presenting their arguments and evidence, and their overall professionalism and preparedness.
- Offer specific recommendations for areas where they can improve their legal and professional skills.
- **Strengths and weaknesses:** Identify the strengths and weaknesses of each participant, and provide specific examples to support your analysis.
  - **Feedback and suggestions:** Provide feedback and suggestions for improvement to each participant.
  - **Conclusion:** Conclude the report with a summary of your overall assessment of the mock court and its participants. Provide final recommendations for improving the mock court experience in the future.

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## **GUIDELINES TO BE FOLLOWED COURT TRAINING PROGRAMME**

**[NOTE: These are the general guidelines to be followed by each student along with the instructions given by the SOEL from time to time]**

### **SIGNIFICANCE OF COURT VISIT**

1. **Understanding the legal system:** Court visits provide a firsthand opportunity for students to observe the workings of the legal system. They can see how legal principles and procedures are applied in practice, and gain a deeper understanding of how the legal system operates.
2. **Enhancing critical thinking skills:** Court visits can help students develop critical thinking skills, as they analyse and evaluate the proceedings they observe. They can learn to identify and assess arguments, evidence, and legal principles, and to form reasoned judgments.
3. **Connecting theory to practice:** By observing actual legal proceedings, students can connect the theoretical concepts they learn in the classroom to real-world situations. This can make the material more meaningful and relevant, and enhance their understanding and retention of the material.
4. **Exposure to different legal practices:** Court visits can expose students to different legal practices, depending on the type of court they visit. They can see how different courts operate, and how different legal professionals approach their work.
5. **Developing professional skills:** Court visits can also help students develop professional skills, such as communication, organization, and attention to detail. They can learn how to behave professionally in a formal setting, and how to take effective notes and write reports.

Overall, court visits can be a valuable and enriching learning experience for students interested in law and the legal system, and can help prepare them for future careers in the legal field.

### **GUIDELINES FOR THE STUDENTS FOR COURT VISIT**

1. **Dress appropriately:** It is important to dress appropriately and conservatively when visiting a court. Wear only uniform.
2. **Arrive early:** Make sure to arrive early to allow yourself enough time to go through security and find the correct courtroom.
3. **Follow court rules:** Once inside the courtroom, make sure to follow all the rules and instructions given by the court personnel. Avoid talking or making noise during the proceedings.
4. **Take notes:** Bring a notebook and pen to take notes on the proceedings. This will help you to remember important details and may be useful later on for any assignments or reports.
5. **Be respectful:** Show respect to all individuals in the courtroom, including Judges, Advocates, staffs etc., Avoid interrupting or talking over anyone during the proceedings.
6. **Avoid recording or taking pictures:** Recording or taking pictures inside the courtroom are typically prohibited, so make sure to follow the rules and avoid doing so.
7. **Ask questions:** If you have any questions or are unsure about something, ask your faculty in charge for clarification and with prior permission to the court personnel.

Remember to always behave in a professional and respectful manner when visiting a court. This will help you to gain a better understanding of the legal system and make the most out of your visit.

## INSTRUCTION FOR THE STUDENTS TO PREPARE COURT VISIT REPORT

1. **Introduction:** Start your report with a brief introduction, including the name of the court you visited, the date of your visit, and the purpose of your visit.
2. **Description of the court:** Provide a brief description of the court, its powers and functions.
3. **Proceedings observed:** Describe the proceedings you observed during your visit, including the type of case, the judge presiding, the advocates representing each party, and the arguments presented by each side.
4. **Legal principles and processes:** Explain any legal principles or processes you learned during the proceedings, such as the burden of proof, the rules of evidence, or the steps in a trial etc.
5. **Analysis and reflection:** Provide your analysis and reflection on what you observed and learned during your visit. Discuss how the court proceedings relate to the legal principles and processes you learned in class.
6. **Conclusion:** Summarize the key points of your report and provide any recommendations or suggestions for future visits to the court.
7. **Formatting and citation:** Use proper formatting and citation guidelines for your report, as per the instructions provided by your faculty.

Remember to be objective and professional in your report, and to use appropriate language and tone. Use your notes taken during the court visit to ensure the accuracy of your report, and to support any claims or conclusions you make.

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- **Miscellaneous Rules of Eligibility for Admission and Syllabus:**

The rules given herein are for the general understanding of the candidates. However, the admission to SOEL and syllabus shall be subject to the rules made and condition prescribed, from time to time, by the University, Central Government, State Government, Bar Council of India, University Grants Commission or any other authority empowered.

- **Removal of Doubts and Difficulties:**

Notwithstanding anything stated in the rules herein or any issue hereinabove, for any unforeseen issues arising, and not covered by the rules herein, or in the extent of differences of interpretation, the Hon'ble Vice Chancellor of the University may take a decision and the said decision of the Hon'ble Vice Chancellor shall be binding. (\*N.B: If there is any amendment or repeal or enactment of any law will be implemented in the next academic year without carrying out any revision of the syllabus.)

**Abbreviations used in Subject Codes:**

- (a) HLC – Core Law Papers
- (b) HLA – Ancillary Hon's Papers
- (c) HS – Specialized Honours Course

## URSE I YEAR

### **I Semester**

S.No.	Subject Code	Subjects
1		<b>Introduction to Law and Legal Research</b>
2		Jurisprudence
3		<b>Law of Torts (Including the Motor Vehicle and Consumer Protection Act)</b>
4		Law of Contracts I
5		Constitutional Law I
6		Family Law I

### **II Semester**

S.No.	Subject Code	Subjects
7		<b>Indian Penal Code (Law of Crimes-I)</b>
8		Constitutional Law II
9		Law of Contracts II
10		Family Law II
11		Property Law
12		Professional Ethics

## II YEAR

### **III Semester**

S.No.	Subject Code	Subjects
13		Law of Evidence
14		Company Law
15		Administrative Law
16		Mediation and Conciliation
17		Interpretation of Statutes
18		a. International Economic Law
		b. Comparative Constitutional Law
		c. Correctional Process
		d. Corporate Securitisation
19		a. International Treaties & Conventions on IP
		b. Introduction to Land Laws
		c. <b>Criminology</b>
		d. International Labour Organisation and Labour Jurisprudence

#### IV Semester

S.No.	Subject Code	Subjects
20		Public International Law
21		Labour Law I
22		Intellectual Property Law
23		a. International Human Rights Law
		b. Human Rights in the Constitutional Law
		c. Cyber Crime
		d. Insurance Law
24		a. IP on Traditional Knowledge and Genetic Resources
		b. Land Laws of Tamil Nadu
		c. Forensic Science and Investigation
		d. Service Laws
25		Alternative Dispute Resolution Policy
<b>25A</b>	<b>Elective</b>	<b>NCC</b>

### III YEAR

#### V Semester

S.No.	Subject Code	Subjects
26		Labour Law II
27		Competition Law
28		Cyber Law and Information Technology
29		Banking Law
30		a. Private International Law
		b. <b>Election Law</b>
		c. <b>Victimology</b>
		d. International Commercial Arbitration
31		a. Intellectual Property Litigations
		b. RERA and Tenancy Law
		c. Psychology of Crime
32		d. Social Security and Unorganised Labour
		<b>Drafting Pleading, Conveyancing and Chamber Visit</b>

**VI Semester**

S.No.	Subject Code	Subjects
33		Civil Procedure Code and Limitation Act
34		<b>Criminal Procedure Code (Law of Crimes-II)</b>
35		Environment Law
36		Law of Taxation
37		<b>Maritime Law</b>
38		a. Practical Paper
		b. Practical Paper
		c. Practical Paper
		d. Practical Paper
39		a. Practical Paper b. Practical Paper c. Practical Paper d. Practical paper
40		<b>Mock Court and Court Training Programme</b>

## **The Course shall have the following subjects: Total 40**

### **Core Law Papers: 22**

1. Introduction to Law and Legal Research
2. Law of Torts (Including Motor Vehicle Act and Consumer Protection Act)
3. Law of Contracts-I
4. Jurisprudence
5. Law of Contracts-II
6. Family Law-I
7. Constitutional Law I
8. Family Law-II
9. Constitutional Law –II
10. Indian Penal Code (Law of Crimes-I)
11. Administrative Law
12. Company Law
13. Property Law
14. Law of Evidence
15. Public International Law
16. Labour Law –I
17. Environmental Law
18. Labour Law –II
19. Civil Procedure Code
20. Criminal Procedure Code (Law of Crimes-II)
21. Mediation and Conciliation
22. Law of Taxation

### **Ancillary Hon's Papers: 06**

1. Interpretation of Statutes
2. Banking Law
3. Intellectual Property Law
4. Competition Law
5. Cyber Law and Information Technology
6. Maritime Law

### **Clinical Core Papers: 04**

1. Professional Ethics
2. Alternative Dispute Resolution Policy
3. Drafting Pleading, Conveyancing and Chamber Visit
4. Mock Court and Court Training Programme

### **Specialized Hon's Optional: 08 ( Each having Two Subjects)**

1. International Law and Intellectual Property Law
2. Constitutional Law and Property Law
3. Criminal Law and Forensic Science
4. Industrial and Commercial Law

### III. EXAMINATION REGULATIONS

These Regulations are made applicable for students joining Five Year integrated Degree courses and Three year Degree Courses at the School of Excellence in Law. These regulations cover the following criteria:

1. Internal and External components will be in the ratio of 30:70.

2. Internal Components: 30 Marks

<input type="checkbox"/> <i>Mid Semester</i>	-	<i>10 Marks</i>
<input type="checkbox"/> <i>Project &amp; Presentation</i>	-	<i>7 + 3 = 10 Marks</i>
<input type="checkbox"/> <i>Vivavoce</i>	-	<i>05 Marks</i>
<input type="checkbox"/> <i>Attendance</i>	-	<i>05 Marks</i>

External Components: 70 Marks (Question Paper pattern of the End Semester Exam)

*Part A – Essay Type-Answer any 2 out of 3 questions (12 Marks x 2= 24 Marks)*

*Part B – Problems- Answer any 2 out of 3 questions (7 Marks x 2 = 14 Marks)*

*Part C – Short Notes- Answer any 5 out of 7 (4 Marks x 5 = 20 Marks)*

*Part D – Brief Answer – Answer any 2 out of 3 (6 Marks x 2= 12Marks)*

- Internal components
- Mid semester test to be conducted after two months of teaching for 10 marks.
- Project assignment for 7 marks, Students shall submit the assignments to the subject faculty as directed by them within the stipulated time and has to present the project.
- All students should attend comprehensive Viva-Voce at the end of the semester.
- Every student who has secured a minimum of 50% (15/30) in internals shall be considered to have passed the internals.
- Students who have not done any of the internal components for any valid reasons may be given an additional chance to complete the same during the respective semester on payment of fine of Rs.400 for the first chance and Rs.750 for the subsequent chance within the semester as instructed by the Director. The payment of fine shall be made through challan only.
- All the internal assessment components shall be completed prior to a fortnight before the commencement of the external examinations. No submission of assignments shall be entertained after the last date.



- Any student who has not completed the above said internal components will be allowed to write the external examinations in spite of they have secured the required attendance. Therefore the students are advised to successfully complete the internal components of each subject within the prescribed time as notified by the Director.

**External:**

- Every student has to secure a minimum of 75 percent attendance in the concerned semester for appearing in the external examinations.
- Candidates who have earned attendance between 67% to 75% on valid reasons are eligible to appear for the examinations provided the lack of attendance is recommended for condonation by Director, SOEL on payment of the prescribed fee of RS.2000/- The condonation fee must be paid by challan only. The condonation fee must be paid on or before the last working day of the concerned semester failing which the candidate has to pay 200 hundred rupees fine if the payment is made prior to the commencement of exams after the commencement of the external examinations the condonation fee will not be accepted and the candidates whose name found in the condonation list shall redo the semester.
- End semester examinations shall be conducted for 70 marks for each subject. Students who have secured 35 marks out of 70 shall be considered to be passed in the external examination.
- A student should secure 50% in both internal as well as external separately to have to be passed in the concerned paper.

**3. Class attendance shall carry a maximum of 5 marks which is as follows:**

- |      |               |         |
|------|---------------|---------|
| I.   | Less than 75% | No mark |
| II.  | 75% - 79%     | 1 marks |
| III. | 80% -84%      | 2 marks |
| IV.  | 85% -89%      | 3 marks |
| V.   | 90% - 94%     | 4 marks |
| VI.  | 95% and above | 5 marks |

**The special instructions for attendance is as follows:**

- Students representing the university in any of the co-curricular and extracurricular activities will be provided the attendance make up to maximum of 20 percent of the total number of days based on the request made by the student concerned and duly signed and certified by the faculty advisor in charge of the co-curricular and extracurricular Activity before the student(s) concerned along with the certificate shall reach the director, school of excellence in law without any delay.
- In Exceptional cases where the students have to represent the university in any co-curricular or extracurricular activities without the necessary formalities, the same may be explained in their application for attendance make up within three days of their return to the university after such activity. The reason for such delay need to be specified and the same has to be certified by the faculty advisor in charge of such co-curricular or extracurricular activity and forwarded to the Director of SOEL without any further delay.
- A student who has been granted medical leave on the submission of medical certificate by a duly competent authority shall be allowed to appear in the end semester exams provided he/she has put in a minimum of 67 percent attendances in each course. Students securing less than 67% on any circumstances shall not be permitted to appear for the external examinations and they shall redo the semester.
- In any event, no claims for such attendance make up shall be entertained at the end of the semester.
- Attendance makeup shall be admissible, shall be subject to prior approval from the concerned committee in charge for participation in moot courts, seminars, university exchange programmes, conferences, internships, N.C.C., N.S.S.,

Y.R.C. or any other academic, cultural or sports activities

**5. Instructions for Examinations**

- Candidates should carefully fill in all the required details in the application form, including name of the candidate, correct register number, date of birth and subject codes, failing which their applications are liable to be rejected.

**Blind candidates are exempted from payment of examination fees. They should enclose copy of medical certificate in evidence of their handicap. However, they should pay the fee for statement of marks, provisional certificate and convocation.**

- ☐ **The fees once paid, will in not be refunded under any circumstances.**
- ☐ **The fees shall be remitted by way of Bank challan only and not by way of D.D.**
- ☐ **All candidates appearing for the examination should forward their applications, through the Director, SOEL and the exam applications will not be submitted to the controller of examinations under any circumstances.**
- ☐ **Candidates should obtain their hall tickets from the Director, SOEL, three days in advance of the commencement of examination, by producing relevant certificate of identity.**
- ☐ **Candidates will not be permitted to write the examination without the hall ticket.**
- ☐ **The answers must be legibly written either in blue or black ink.**
- ☐ **Special sketch pens or other pens should not be used for underlining points.**
- ☐ **The candidates should write the correct register number in the space provided in the first page of the answer book. No other part of the answer book shall contain the name or register number of the candidate.**
- ☐ **The candidates will not be permitted to enter the examination hall after 30 minutes from the commencement of the examinations. No candidate will be allowed to leave the examination hall, within the first 30 minutes from the commencement of the examination.**
- ☐ **Candidates who are intended to write the examination on the particular day/session are not permitted to be outside the examination hall specifically inside the campus of the university after the commencement of the examinations.**
- ☐ **Candidates are not permitted to borrow any stationers from any other candidate during the examination within the examination hall.**

- **Candidates are required to adhere discipline and rules of the examination within and outside the examination hall so as to facilitate the other candidates to write the examination in a peaceful manner.**
  - **Candidates shall not cause any nuisance either to the co examinee or to the invigilators and they have to adhere the instructions of the hall superintendent.**
- 
- **The candidates are required to be seated in the examination hall before the commencement of the examination. After the commencement they have to get the permission of the hall superintendent and they have to take their respective seat in the examination hall.**
  - **The candidates should personally hand over the answer papers to the Hall superintendent before leaving the hall.**
  - **Electronic gadgets like cellular phone, pager or other instruments for communication from outside will not be permitted inside the examination hall. Possession of such instruments will also be treated as malpractice in the examination hall and will be punished accordingly.**
  - **Candidates are required to hand keep their belongings including their mobile in their respective cloak rooms and advised to get their token. On return of the token they can get back their belongings from the cloak rooms.**
  - **If the above instructions are not followed or any other similar wrong/delinquency is committed, it will be considered as malpractice and penal action will be initiated against the delinquent student.**
  - **Candidates who have failed any subject are eligible, applying for revaluation, review and to get their photo copies of their answer books on payment of fees prescribed for the same.**

## **6. Uniform Span Period System (N+2)**

According to the system, the students of the various courses of 5 Year Integrated Hons' Degree Programme are permitted to pursue their higher classes and carry forward their backlog papers and has to clear their papers through the regular semester by the University.

The students those who joined in the various programmes from the academic year 2019-2020 onwards are eligible to complete their course of study within the normal period prescribed for such programme without detention.

As per the (N+2) norms, those students who are admitted in the academic year 2019-2020 onwards in various programme of the UG & PG will be given two additional years to complete their arrears of papers, if any, after the completion of the prescribed duration of the study to become eligible for award of degree from the time of joining in the programme. During such extended period of two years of time span, such candidates (he/she) ceases to be a regular student of the University. If a student, he/she fails to clear the arrears of papers in the extended period (two years) after the normal programme of study shall not be eligible to be qualified for the degree.

## **FIRST YEAR I-SEMESTER**

### **INTRODUCTION TO LAW AND LEGAL RESEARCH**

#### **Objectives of the Course:**

The subject Introduction to Law and Research as a field of knowledge is essentially taught to the beginners of law. Contextually, it concentrates on the foundational dimensions of law at an introductory level. The core areas of dissemination include the role of law in human life and welfare, definitional elements of law, conceptual insights on legal terminologies and maxims, classification of law, basic views on legal systems, studying and interpreting legislations, understanding decisional law and fundamentals of legal research. The course work will be skill based. In sum, the course work ensures the transformation of a trainee into a student of law in both the ethical and knowledge dimensions.

#### **Module 1: Introduction to Law, Definition and Classification of Laws**

Role of Law in Human Life and Welfare-Definition of Law- Law and Justice, Law and Morality-

Sources of Law-Kinds of Law-Divine Law, Man Made Law, Natural Law-Public and Private Laws-Constitutional Law, International Law and National Law, Human Rights Law, Personal Law, Environmental Law-Comparative Law, Law of Evidence, Civil and Criminal Law.

#### **Module 2: Legislation and Legal Reasoning**

Defining Legislation-Law making Bodies-Qualities of Drafters-Skills of Interpretation-How to read Texts and Purposes-Internal and External Aids of Interpretation-General Clauses Act, 1897.

#### **Module 3: Justice and Judicial System**

Defining Justice-Understanding Judicial Function-Reading Judgements-Components of Judgement-Doctrine of Reasoned Decisions-Doctrine of Precedent-Identifying *ratio decidendi*.

#### **Module 4: Fundamentals of Legal Research**

Defining Research and Legal Research-Qualities of Legal Researcher-Doctrinal and Non-Doctrinal Modes of Research, Significance of Socio-Legal Research-Utilising Law Library.

#### **Module 5: Legal Education and Law Reforms**

Salient Reports on Legal Education-Prof. Radhakrishnan Report on Reforms on Higher Education-Select Reports of the Law Commission of India.

#### **Books**

#### ***Suggested Reading***

1. V.C.R.A.C. Crabbe (1993), Legislative Drafting, Cavendish Publishing: United Kingdom.

2. Subhash C. Kashyap (1994), *Our Constitution: An Introduction to India's Constitution and Constitutional Law*, National Book Trust of India: India.
3. S.K. Verma and M. Afzal Wani (2001), *Legal Research and Methodology*, New Delhi: India.
4. N.S. Bindra (2002), *The General Clauses Act: Central and States*, Lexis Nexis Butterworths: India.
5. A.B. Kafaltiya (2008), *Interpretation of Statutes*, Universal Law Publishing: India.
6. Suri Ratnapala (2009), *Jurisprudence*, Cambridge University Press: United Kingdom.
7. Tushar Kanti Saha (2010), *Text Book on Legal Methods, Legal Systems and Research*, Universal Law Publishing, New Delhi: India.
8. P. Ramanatha Aiyar (2014), *Concise Law Dictionary*, Lexis Nexis: India.
9. Justice D. M. Dharmadhikari (2016), *Human Values & Human Rights*, Universal Law Publishing: India.

### **Further Reading**

1. Upendra Baxi (1982), *The Crisis of the Indian Legal System-Alternatives in Development: Law*, Vikas Publishing House Pvt. Ltd.: India.
2. P.M. Bakshi (1993), *Legal Interpretation: Ancient and Modern*, The Indian Law Institute: India.
3. A.G. Noorani (2011), *Challenges to Civil Rights Guarantees in India*, South Asia Human Rights Documentation Centre, Oxford University Press: India.
4. C.G. Weeramantry (2004), *Universalising International Law*, Martinus Nijhoff: Leiden.

### **Articles**

1. J.K. Bhavnani (1962), *Legal Education in India*, *Journal of the Indian Law Institute*, Vol. No.4, PP. 167-190.
2. V.S. Deshpande (1969), *Extrinsic Aid in the Construction of Statutes*, *Journal of the Indian Law Institute*, Vol. No.11, Issue No. 2, PP. 123-158.
3. Rahmatullah Khan and Sushil Kumar (1975), *Comparative Law Research in India*, *Journal of the Indian Law Institute*, Vol. No. 12, PP. 505-510.
4. Upendra Baxi (1975), *Socio-Legal Research in India: A Programschrift*, Indian Council of Social Science Research: New Delhi, occasional monograph No.12.
5. D.N. Saraf (1982), *Relevance and Utility of Empirical Research in Law*, *Journal of the Indian Law Institute*, Vol. No. 24 Issue No. 2&3, PP. 611-634.
6. Rajeev Dhavan (1994), *Law As Struggle: Public Interest Law in India*, *Journal of the Indian Law Institute*, Vol. No. 36, Issue No.3, PP. 302-338.
7. S.P. Sathe (2001), *Judicial Activism: Indian Experience*, *Washington University Journal of Law & Policy*, Vol. No. 6, PP. 29-109.
8. Justice D.M. Dharmadhikari (2002), *Nature of Judicial Process*, Vol. No. 6, Issue No. 1, Supreme Court Cases.
9. Upendra Baxi (2007), *The Rule of Law in India*, *SUR-International Journal of Human Rights*, Vol. No. 6, Issue No.4, PP. 7-25.
10. V.G. Hegde (2010), *Indian Courts and International Law*, *Leiden Journal of International Law*, Vol. No. 23, Issue No.1, PP. 53-77.

11. Yashomati Ghosh (2017), Indian Judiciary: An Analysis of the Cyclic Syndrome of Delay, Arrears and Pendency, Asian Journal of Legal Education, Vol. No. 5, Issue No.1, PP. 21-39.
12. Philip Sales (2019), Legislative Intention, Interpretation, and the Principle of Legality, Statute Law Review, Vol. No. 40, Issue No. 1, PP.53-63.

### **Research Oriented Judgments**

1. Bangalore Water Supply and Sewerage Board v. A. Rajappa, AIR 1978 SC 548.
2. Maneka Gandhi v. Union of India, AIR 1978 SC 597.
3. Bandua Mukti Morcha v. Union of India, AIR 1984 SC 802.
4. U.P. Bhoodan Yagna Samiti v. Braj Kishore & Others, AIR 1988 SC 2239.
5. Paramanand Katara v. Union of India, AIR 1989 SC 2039.
6. State of Karnataka v. Appa Balu Ingale and Others, AIR 1993 SC 1126.
7. Vellore Citizens Welfare Forum v. Union of India, AIR 1996 SC 2715.
8. Indian Council for Enviro-Legal Action v. Union of India, AIR 1996 SC 1446.
9. Bobby Art International, Etc. v. Om Pal Singh Hoon & Others, AIR 1996 SC 1846.
10. Vishaka v. State of Rajasthan, AIR 1997 SC 3011.
11. M.C. Mehta v. State of Tamil Nadu, AIR 1997 SC 699.
12. Samatha v. State of Andhra Pradesh, AIR 1997 SC 3297.
13. Gaurav Jain v. Union of India, AIR 1997 SC 3021.
14. M/s. Spring Meadows Hospital v. Hajrol Ahluwalia, AIR 1998 SC 1801.
15. Apparel Export Promotion Council v. A.K. Chopra, AIR 1999 SC 625.
16. Mr. 'X' v. Hospital 'Z', AIR 1999 SC 495.
17. Chairman, Railway Board v. Chandrima Das, AIR 2000 SC 988.
18. Murali S. Deora v. Union of India, AIR 2002 SC 40.
19. Rupa Ashok Hurra v. Ashok Hurra & Another, AIR 2002 SC 1771.
20. In Re: Networking of Rivers (2012) 4 SCC 51.

### **Select Reports of the Law Commission of India**

1. Report No. 183 (2002) on "A Continuum on the General Clauses Act, 1897 with Special Reference to the Admissibility and Codification of External Aids to Interpretation of Statutes".
2. Report No. 187 (2003) on "Mode of Execution of Death Sentence and Incidental Matters".
3. Report No. 196 (2006) on "Medical Treatment to Terminally Ill Patients (Protection of Patients and Medical Practitioners)".
4. Report No. 201 (2006) on "Emergency Medical Care to Victims of Accidents and during Emergency Medical Condition and Women under Labour".
5. Report No. 210 (2008) on "Humanization and Decriminalization of Attempt to Suicide".
6. Report No. 221 (2009) on "Need for Speedy Justice-Some Suggestions".
7. Report No. 222 (2009) on "Need for Justice-dispensation through ADR etc".
8. Report No. 223 (2009) on "Need for Ameliorating the lot of the Have-nots-Supreme Court's Judgments".



9. Report No. 234 (2009) on “Legal Reforms to Combat Road Accidents”.
10. Report No. 255 (2015) on “Electoral Reforms”.

### **Learning Outcomes**

1. To get introduced to the conception of law and its relevance to human life.
2. To understand the classification of laws to resolve the identity crisis.
3. To systematically work on the skills of using general and legal language.
4. To imbibe analytical skills of enquiry and legal reasoning.
5. To be aware of the notion of jurisprudence and its intersectionality with social problems.
6. To learn the skills of statutory interpretation and realise the impact of the schools of textualism and purposivism.
7. To examine the role of the courts of justice in the legal system, by basically learning the parts of judgement, judicial reasoning, identifying the ratio and judicial behaviour.
8. To develop understanding in the reforms in legal education, especially in the post-independence era.
9. To be a student of research by learning the fundamentals of legal research and also observing the patterns of socio-legal research.
10. To expose oneself to the legal reforms movement institutionalised by the Law Commission of India.
11. To equip the knowledge of this course work and apply the skills in the future course works.
12. To systematically evolve as a legal mind, to earn intellectual self-respect and contribute in the profession.

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# **JURISPRUDENCE**

## **Objectives of the Course:**

*Laws are rules, claims are supported by arguments, and decisions are conclusions. The rules, arguments and conclusions are bound to conform to the requirement of logic. They must be systematically coordinated and carried to their consequences. Thus the whole body of legal doctrines can be considered as often considered as a more or less closely woven tissue of prepositions and deductions. The ideas which constitute this tissue are not presented to society ready-made; they are gradually unfolded by processes of collective thought; sometimes particular points get generalized and subjected to principles; at other times inferences are drawn from general prepositions. These processes constitute the dialects of law. Those dialects become ever standing principles and thus the consolidation of all wisdom of law becomes Jurisprudence.*

## **COURSE OUTLINE**

### **Module I: Clarificatory Jurisprudence**

- (a) Evolution of Law – Ancient India, Greek and Roman Civilization – Law, Morals, Ethics and Justice – Nature of law – Functions of Law
- (b) Rule of Law: Authority (or) Autonomy (or) Anarchy (or) Obligation (or) Opinion (or) Dictum – Law as a Social Fact
- (c) Nature and Scope of Jurisprudence – From Police State to Welfare State.

### **Module II: Evaluative Jurisprudence**

- (a) Schools of Jurisprudence – Western Thoughts and Indian Jurisprudence – Concept of Dharma – Social Transformation and Social Justice
- (b) Jurisprudence and other fields of knowledge such as Art, Humanities, Social Sciences, Medicine, Science and Technology – Jurisprudence in Socio-Political context and Normative context – Discovery or formulation of “A common law of mankind”
- (c) Similarities and differences between – (i) Local Law & Global Law; (ii) Civil Law & Common Law; (iii) Cultural & Technical aspects; (iv) Micro & Macro aspects.

### **Module III: Classificatory Jurisprudence**

- (a) Definition of Law – Kinds of Law – Nature and Functions of State – State and Sovereignty – Relationship with Law and State

- (b) Sources of Law – Classical and Modern Sources – Sruti, Smriti, Convention, Custom, Legislation, Precedent and its kinds – Stare Decisis, Ratio Decidendi and Obiter Dicta
- (c) Administration of Justice – Complete Justice – Theories of Justice – Basis of International Law and Constitutional Law.

#### **Module IV: Conceptual Jurisprudence - I**

- (a) Legal concepts: Meaning, Definition and kinds of Rights and Duties – Jural Correlatives and Jural Opposites
- (b) Person and its kinds – Status and Theories of Corporate personality
- (c) Title and its kinds – Ownership – meaning and its kinds – Possession – meaning and its kinds

#### **Module V: Conceptual Jurisprudence - II**

- (a) Liability – meaning and its kinds – Negligence – meaning and its kinds – Obligation – meaning and its kinds
- (b) Law of Procedure – Elements of Judicial Procedure – Evidence
- (c) Property – meaning and its kinds

#### **Module VI: Functional Jurisprudence**

- (a) Application of Law and Interpretation of Law
- (b) Codification of Customary Law and Enforcement mechanism – Writ Remedies
- (c) Public Interest Litigation – Justice Delivery System – Judicial Activism and Judicial process.

#### **Module VII: Developmental Jurisprudence**

- (a) Global Justice and Human Rights – Capitalism -Vs- Common good -Vs- International Law – Critical Legal Studies – Legal Formalism -Vs- Legal Realism – Solidarity and the Limitations of Liberalism
- (b) Economic Jurisprudence – Feminist Jurisprudence – Cyber Jurisprudence

- (c) Post-Modern legal theory – Pragmatism and Post-structuralism – Law & Justice in contemporary era.

**RECOMMENDED READINGS (Hardcopy & E-Books):**

**Books:**

1. Lloyd's Introduction to Jurisprudence, 2014, 9<sup>th</sup> Edition, Sweet & Maxwell.
2. S.N. Dhyani, "Fundamentals of Jurisprudence – The Indian Approach", 2015, 3<sup>rd</sup> Edition, Central Law Agency Publishers.
3. Avtar Singh, "Introduction to Jurisprudence", 2015, 4<sup>th</sup> Edition, LexisNexis Butterworths.
4. V.D. Mahajan, Jurisprudence and Legal Theory", 2017, 5<sup>th</sup> Edition, Eastern Book Company.
5. N.V. Paranjape, "Studies in Jurisprudence and Legal Theory", 2019, 9<sup>th</sup> Edition, Central Law Agency.

**Journals / Journal Articles:**

1. Anthony D'Amato, "On the Connection between Law and Justice, 26 U.C. Davis L. Rev.527-582 (1992-93)
2. Michael S. Green, "Legal Realism as Theory of Law", William & Mary Law Review, 2005, Volume 46, Issue 6, pp.1915-2000.
3. Herbert Hovenkamp, "Evolutionary Models in Jurisprudence", Texas Law Review, 1985, Volume 64, No.4, p.645.
4. Ruti Teitel, "Transitional Jurisprudence: The Role of Law in Political Transformation", 106 Yale L.J 2009 at <https://heinonline.org>
5. Howard T. Markey, "Jurisprudence or Juriscience?" 25 Wm & Mary L. Rev. 525 at <http://heinonline.org/HOL?Landingpage?handle=hein.journals/wmlr25&div=25&id=&page=>

**FURTHER READINGS:**

**Books**

1. Salmond on Jurisprudence, 2016, 12<sup>th</sup> Edition, Sweet & Maxwell.
2. Bruce D Sales, "The Psychology of Law: Human Behaviour, Legal Institutions and the Law", 2015, American Psychological Association.
3. Robert L. Hayman Jr., Nancy Levit and Richard Delgado, "Jurisprudence, Classical and Contemporary: From Natural Law to postmodernism, 2<sup>nd</sup> Edition, West Academic publishing
4. David Chan Smith, "Sir Edward Coke and the Reformation of the Laws: Religion, Politics and Jurisprudence", 2014, Cambridge University Press.

5. Paul Cliteur, Afshil Ellian, "A New Introduction to Jurisprudence: Legality, Legitimacy and the Foundations of the Law", 2019, 1<sup>st</sup> Edition, Routledge Publishers.
6. Jorg Kammerhofer and Jean D'Aspremont, "International Legal Positivism in a Post- Modern World", 2016, Cambridge University Press.
7. "Plato: The Complete Works", 2016, Titan Read Publishers.
8. "Aristotle: The Complete Works", 2017, Book House Publishing
9. Satis Chandra Vidyabhusana and Dr. Sukhram, "The Nyaya Sutras of Gautama", 2018, Parimal Publications.
10. James Christensen, "Global Justice", 2020, 1<sup>st</sup> Edition, Red Globe Press.

### **Journals/Journal Articles:**

1. Jeffrey Goldsworthy, "The Real Standard Picture, and How Facts Make it Law: A response to Mark Greenberg", The American Journal of Jurisprudence, December 2019, Volume 64, Issue 2, pp.163-211 available at <https://doi.org/10.1093/ajj/auz011>.
2. Marc R. Johnson, "Legislative Sovereignty: Moving from Jurisprudence towards Metaphysics" An International Journal of Legal and Political Thought available at <https://doi.org/10.1080/20403313.2020.1744990>.
3. Angela P. Harris, "The Jurisprudence of Reconstruction", California Law Review, 1994, Volume 82, Issue 4, p.741.
4. Richard A. Posner, "The Jurisprudence of Skepticism", Michigan law Review, 1988, Volume 86, No.5, pp.827-891.
5. Beryl Harold Levy, "Realist Jurisprudence and Prospective Overruling", University of Pennsylvania Law Review, 1960, Volume 109, No.1, pp.1-30.
6. Robert H. Jackson, "Quasi-states, dual regimes and neoclassical theory: International Jurisprudence and the Third World", Cambridge University Press, 1987, Volume 41, Issue 4, pp.519-549 available at <https://doi.org/10.1017/S0020818300027594>.
7. John Comaroff, "Reflections on the Rise of Legal Theology: Law and Religion in the Twenty-First Century", Journal of Social Analysis, 2009, Volume 53 No.1, pp.193- 216.
8. Harry W. Jones, "An Invitation to Jurisprudence", Columbia Law Review, 1974, Volume 74, No.6, pp.1023-1055
9. Fredrick Schauer, "The Jurisprudence of Reasons", Michigan Law Review, 1987, Volume 85. No.5/6, pp.847-870.
10. Edward Cavanagh, "Legal thought and empires: Analogies, Principles and Authorities from the ancients and the moderns", An International Journal of Legal and Political Thought, 2019, Volume 10, Issue 4, pp.463-501 available at <https://doi.org/10.1080/20403313.2020.1744990>

### **Learning Outcomes:**

After Completion of the course, students will be able to –

1. *To become reflective and self-fulfilled professional who are able to integrate legal professionalism, ethics, values, doctrine, theory and skills to become outstanding professional in a broad variety of settings.*
2. *To understand some level of depth rather than mere breadth, with an emphasis on analysis of primary theoretical literature correlating with the social history.*
3. *To demonstrate orally and in writing, a critical understanding of major schools of legal theory that influenced the development of the western legal tradition and Indian legal system.*
4. *To critically evaluate multiple and contrasting perspectives on law and engage in open-minded academic discussion of them in an applied context. \*\*\*\*\**

## LAW OF TORTS

### (Including Motor Vehicles Act and Consumer Protection Act)

#### Objectives of the Course:

*Law is growing and developing, adapting itself to the changing needs- social, economic, and so on. "Law of torts is no exception to this phenomenon. the courts, vested with jurisdiction to interpret and declare" what the law is", have been discharging their obligation, bringing the consistent with the changing global developments. In so doing, they have been rendering important and landmark judgements. In civil litigation, contract and tort claims are by far the most numerous. The law attempts to adjust for harms done by awarding damages to a successful plaintiff who demonstrates that the defendant was the cause of the plaintiff's losses. Torts can be intentional torts, negligent torts, or strict liability torts. Employers must be aware that in many circumstances, their employees may create liability in tort. This subject explains the different kind of torts, as well as available defences to tort claims in various parameters.*

#### ***After undergoing the study the student will be able to understand the following:***

- *Understand the sources and policy objectives of tort law.*
- *Identifying and analyzing the elements of various substantive torts and related privileges/defenses.*
- *To resolving torts cases including the role of Judge, Burden of Proof issues. □ To spot tort issues in everyday conduct.*

## COURSE OUTLINE

### MODULE I: The Nature of a Tort

- a) Evolution of Tort Law-Nature, Definition and Scope of Torts
- b) Foundation of Tortious Liability- Essential of Torts- Wrongful act, Legal damage and  
Remedy – Injuria Sine Damno and Damnum Sine Injuria – Ubi jus ibi remedium
- c) Distinction between Tort and Crime - Tort and Contract
- d) Relevance of intention, motive and malice in law of torts
- e) Parties- Capacity to Sue and be Sued -Joint and Several Tort-feasors-  
Malfeasance, Misfeasance, Nonfeasance

### MODULE II: Defences under Tort

- a) Specific Defences and General Defences
- b) Volenti non fit injuria- Act of God (Vis major)
- c) Inevitable Accident- Necessity
- d) Private Defense- Novus Actus Interveniens

- e) Statutory Authority- Judicial and Quasi-judicial Authority- Parental and Quasi-parental Authority.

### **MODULE III: Liability under Tort**

- a) Strict Liability
- b) Absolute Liability
- c) Vicarious Liability- Vicarious Liability of State
- d) Liability for Dangerous Premises- Liability for Dangerous Chattels
- e) Liability for Animals- Liability for Misstatements

### **MODULE IV: Nuisance -Negligence - Trespass**

- a) Essentials to constitute Nuisance- who may sue ?- who may be sued?
- b) Classification of Nuisance- Defences in Nuisance.
- c) Essentials of Negligence- Theories of Negligence- Medical and Professional Negligence
- d) Contributory Negligence- Composite Negligence- Proof of Negligence- Res ipsa loquitur
- e) Trespass- Trespass to Land- Trespass to Person- Trespass to Goods- Nervous Shock

### **MODULE V: Defamation- Malicious Prosecution - Remedies - Discharge of Torts**

- a) Essentials of Defamation- Kinds of Defamation- Rules to test a Defamatory Statement- Defences for an action of Defamation
- b) Malicious Prosecution- Distinction between false Imprisonment and Malicious Prosecution- Damages for Malicious Prosecution
- c) Remedies- Kinds of Remedies-Judicial Remedies of Torts-Damages- kinds of damages- Remoteness of Damages- test of Remoteness of Damages- Rules relating to Remoteness of Damages
- d) Injunction – kinds of Injunction- Specific Restitution– Constitutional Remedies- Extra-judicial Remedies- Self-help- Expulsion of trespasser- Re-entry on Land – Recaption of Goods – Distress damage feasant – Abatement
- e) Discharge of Torts- Waiver- Accord and Satisfaction- Release- Acquiescence- Judgment Recovered and Res Judicata- Statutes of Limitation- Death

### **MODULE VI: Motor Vehicles Act - Consumer Protection Act**

- a) Motor Vehicles Act- Types of Accident, At road intersections, collision, involving children, excessive speed, in floods, pedestrian, Running over cyclist and Hit and run case
- b) Compensation and Right to Just Compensation- Claims and Claim Tribunal – Composition, Powers, Procedure and appeal against its orders - Liability



- c) Insurance company, Third Party, Vicarious Liability Fault and no Fault liability, Right to fixed compensation.
- d) Consumer Protection Act- Concept and definition of Consumer and Service-Unfair trade practices- Supply of essential commodities and services-Enforcement of consumer rights
- e) Consumer protection redressal agencies-District forum- State commission-National commission- Working of consumer protection law-Deficiency in service

## **Recommended Reading**

### **Books**

1. Ramaswamy Iyer's The Law Of Torts, A Lakshminath , M Sridhar , LexisNexis India (2010)
2. Philosophy and the Law of Torts, Gerald J. Postema, Cambridge University Press, 2002
3. Gandhi, B.M., Law of Tort, 4th Edition, Reprinted 2019, Eastern Book Company.
4. Pillai, P.S.A., Law of Torts, 9 th Ed., Eastern Book Co., Lucknow (2017).
5. Salmond, Law of Torts, 17th Ed., (Rev. by R.F.V. Henston) London, Sweet and Maxwell (1979).

### **Journals/ Articles**

1. Philosophical Issues in Tort Law, John Oberdiek, Volume3, Issue 4, July 2008, Pages 734-748
2. Toward a Test for Strict Liability in Torts, Guido Calabresi and Jon T. Hirschoff, The Yale Law Journal, Vol. 81, No. 6 (May, 1972), pp. 1055-1085
3. Some Thoughts on Risk Distribution and the Law of Torts, Guido Calabresi, The Yale Law Journal, Vol. 70, No. 4 (Mar., 1961), pp. 499-553
4. Principles of Torts, Harvard Law Review, vol. 56 Harv. L. Rev. 72 (1942-1943), Heinonline,
5. A Critique of Torts, Richard. L. Abel ,vol 37 UCLA L. Rev. 785 (1989-1990), Heinonline,

## **Further Reading**

### **Books**

1. Harold Luntz et al, *Torts: Cases and Commentary* (LexisNexis Butterworths, 8th ed, 2017)
2. Carolyn Sappideen and Prue Vines (eds), *Fleming's The Law of Torts* (Lawbook Co, 12th ed, 2016);
3. Martin Davies and Ian Malkin, *Torts* (LexisNexis Butterworths, 8th ed, 2017);
4. Kit Barker et al, *The Law of Torts in Australia* (Oxford, 5th ed, 2012);
5. RP Balkin and JLR Davis, *Law of Torts* (LexisNexis Butterworths, 5th ed, 2013);
6. Horsey, K. & Rackley, E. *Tort Law*. (Oxford University Press, 2019).

7. Ratan Lal and Dhirajlal, The Law of Torts, 25th Ed., Wadhwa and Co. Nagpur, 2017.
8. Singh, S.P, Law of Tort, Fourth Edition, Universal Law Publishing Co. Reprint 2018
9. Chakraborty, C., Law of Consumer Protection, New Delhi, Dwivedi Law Agency (2007).
10. Lunney, M. and Oliphant, K. (2013) Tort law: text and materials. Fifth edition. Oxford, United Kingdom: Oxford University Press.

### Journal/ Articles

1. The Enterprise Liability Theory of Torts, Howard C. Klemme, Vol 47 U. Colo. L. Rev. 153 (1975-1976), Heinonline.
2. Conditional Fault in the Law of Torts, Robert E. Keeton, *Harvard Law Review*, Vol. 72, No. 3 (Jan., 1959), pp. 401-444
3. Causation, Valuation, and Chance in Personal Injury Torts Involving Preexisting Conditions and Future Consequences, Joseph H. King, Jr., *The Yale Law Journal*, Vol. 90, No. 6 (May, 1981), pp. 1353-1397
4. Advani, Poornima, "Duty to Care from Hippocrates to Consumer Forum." Global Health Law, Indian Law Institute & World Health Organization, South East Asia, New Delhi, 1998, pp. 160-168.
5. Bijawat, Mahesh, Medical Negligence – Medical Malpractice- A Medical Experience (NC), JILI 37, 1995 page 390-397.
6. The Strict Liability In Fault And The Fault In Strict Liability, John C.P. Goldberg, Benjamin C. Zipursky Harvard Law School
7. Toxic Gas Leak Leads to OSHA Fines- McCann & Wall, LLC, Pennsylvania, <https://www.hg.org/legal-articles/toxic-gas-leak-leads-to-osh-fines-52718>
8. [Harvard Law Review Forum](#), [New Private Law Theory and Tort Law: A Comment](#), Keith N. Hylton, 125 HARV. L. REV. 1757 (2012) May 18, 2012
9. Tort Law, Southern California Law Review <https://southerncalifornialawreview.com/tag/tort-law/>
10. Tort Law, Green, Leon – Hein Online [https://heinonline.org/HOL/AuthorProfile?collection=Journals&base=js&search\\_name=Green,%20Leon](https://heinonline.org/HOL/AuthorProfile?collection=Journals&base=js&search_name=Green,%20Leon)

### Cases for Guidance

1. Ashby vs. White (1703) 2 Lord Raym 938
2. Gloucester Grammar School case (1410) Y.B. 11 hen. IV of 47
3. Mayor of Bradford Corpn. vs. Pickles (1895) AC 587
4. Smith v. Charles Baker and Sons (1891) AC 325 (HL)
5. South Indian Industrial Ltd., Madras vs. Alamelu Ammal, AIR 1923 Mad. 565
6. Hall vs. Brooklands Auto Racing Club (1932) 1 KB 205
7. Rylands vs. Fletcher (1868) LR 3 HL 330.
8. M. C. Mehta vs. Union of India, AIR 1987 SC 1086.
9. State of Rajasthan vs. Vidyawathi (1962) Supp. 2 SCR 989
10. Donoghue vs. Stevenson (1932) All ER Rep. 1
11. Malton Board of Health vs. Malton Manure Co., (1879) 4 Ex D 302

12. White vs. Bailey 1861 10 C.B. (ns) 227
13. The Wagon Mound (No 1) (1961)
14. Kamta Prasad vs National Buildings Constructions Corporation Pvt Ltd, A.I.R. 1992 Delhi 275
15. *Livingstone vs Rawyards Coal Co (1880) 5 App Cas 25, 39*
16. Khenyei vs New India Assurnace Co.Ltd.& Ors on 7 May, 2015
17. Ajay Kumar & Anr. vs Most. Ruby Devi & Ors. on 27 July, 2016
18. Union Carbide Corporation Etc vs Union Of India Etc. Etc on 3 October, 1991
19. Stanley vs. Powell, (1891) 1 QB 86
20. Rural Transport Service vs. Bezlum Bibi (1980)

### **Learning Outcomes**

1. To analyze the term “tort”, determine those affected by the law of tort and assess the aims and rationale behind the law of tort.
2. To apply tort law to complex problems using appropriate legal problem-solving techniques.
3. To exercise judgment in the application of tort law to simulated client situations in an academic environment.
4. To analyze the impact of tort law from a policy perspective.
5. To undertake legal research at a foundational level and evaluate legal information.

# **LAW OF CONTRACTS - I**

## **Objectives of the Course**

*Contracts play a key role in carrying on commercial activities- be it trade, business, employment or even e-commerce hence study of Contract Act enables students to understand and facilitate the basic principles of commercial transactions with understanding of rights and obligations. A thorough understanding of concepts of Contract Law is foundation to a successful legal professional.*

*The general principles that affect these contracts, and that allow their enforcement in case of breach, are given in sections 1 – 75 of the Indian Contract Act, 1872 (commonly known as 'ICA'). Contract remedies are also provided in the Specific Relief Act 1963 (commonly known as 'SRA'). These two laws form the main course for this paper. In these topics, we will decipher all the vivid aspects of the Contract Act.*

*In this context, the course seeks to cover:*

- *the concepts of contract law and its relevance through decided cases;*
- *essential aspects of contract with reference to General principles; □*  
*Application of contract law in practical use cases.*

## **COURSE OUTLINE**

### **MODULE I: INTRODUCTION TO CONTRACT LAW**

- a) The nature of contractual obligations
- b) Discussion on contracts, related parties to the contract, remedies available in day to day life
  - Purchase of goods/ services
  - Employment contracts
  - Bank loan
  - Renting a Bank Locker
  - Lease contract
  - Insurance contract
  - Contract formed by online purchase of goods
- c) Enforcement - Primary purpose of contract law

### **MODULE II: FORMATION OF CONTRACT**

- a) Understanding the terms Agreement, Offer, Proposal, Acceptance and Contract

- b) Diversity between Agreement and Contract
- c) Proposal and Acceptance
  - Proposal - essential elements, forms, invitations for proposals and tenders, communication of proposal, floating offers, options
  - Acceptance - essential elements, forms, requirement of communication, silence as acceptance
  - Auctions - essential elements and the requirement of communication
  - Revocation of proposal and acceptance
  - E-contracts with reference to provisions of the Information Technology Act, 2000
- d) Express and Implied contracts
- e) Standard form contracts - advantages and disadvantages
- f) Formalities to be carried for a valid contract
  - draft of the contract,
  - signatures,
  - attestation,
  - registration,
  - notarization, - stamp duty.
- g) Difference between formalities of a contract with the Government and General contract – Refer to Article 299 of the Constitution of India

### **MODULE III: CONSIDERATION**

- a) Definitions, meaning, kinds and essential elements of consideration
- b) Theories of consideration
- c) Privity of contract and of consideration
- d) Present, past and future consideration
- e) Adequacy of consideration and effect of inadequacy
- f) Exceptions to the rule no consideration no contract
- g) Charity and doctrine of consideration

### **MODULE IV: COMPETENCY OF PARTIES**

- a) Age of majority under the Indian Majority Act 1875,
- b) Contracts with Minors - Doctrine of Necessaries-Estoppel- Restitution – Ratification  
(also refer to section 68 of ICA)

- c) Contract with Persons of Sound minds, incapacity arising out of Lunacy, Old age and other legally recognized incompetence's
- d) Competency of companies, statutory bodies, central and state governments

## **MODULE V: FREE CONSENT**

- a) Definition and Meaning of consent and free consent
- b) Factors vitiating free consent
- c) Coercion
  - Law Commission report on Coercion
- d) Undue Influence
- e) Misrepresentation
- f) Fraud
- g) Mistake:
  - mutual and common mistake,
  - unilateral and bilateral mistake,
  - mistake of law and fact
- h) Effect of absence of free consent
- i) Doctrine of Economic duress
- j) Remedies available to the party whose consent is not free:
  - rescission,
  - restoration - Loss of right of rescission.

## **MODULE VI: LEGALITY OF OBJECT AND VOID AGREEMENTS**

- a) Unlawful agreements, circumstances in which agreements enforced even if unlawful
- b) Void agreements: Restraint of marriage, trade and legal proceedings, uncertain agreements, wagers
- c) Effect of void and of unlawful agreements
- d) Contingent contracts and their enforcement
- e) Effect of non-happening of event
- f) Enforcement of contingent contracts
- g) Quasi Contracts
  - Types of Quasi Contract
  - Doctrine of restitution

- Effect of breach of quasi-contractual obligation

## **MODULE VII: PERFORMANCE OF CONTRACT**

- a) Obligation to perform or offer to perform; who must perform, effect of death, personal contracts, rights and liabilities under a contract
- b) Doctrine of privity, and exceptions to the doctrine
- c) Joint rights and liabilities
- d) Time of performance, right to terminate if time is of essence
- e) Liability to pay interest for delay
- f) Place of performance
- g) Reciprocal promises, effect of non-performance of one of reciprocal promises; unilateral and bilateral promises
- h) Appropriation of payments
- i) Discharge of contract
  - by performance;
  - by offer of performance:
  - by non-performance by one party
  - by breach and rescission
  - anticipatory breach
- j) Doctrine of impossibility and effect
- k) By agreement
  - novation,
  - alteration and
  - rescission
- l) By act of promise
  - dispensing,
  - remission and
  - waiver,
  - extension of time, accord and satisfaction
- m) Termination or discharge under contract provisions

## **MODULE VIII: REMEDIES UNDER THE CONTRACT**

Remedies under contract law through court or arbitration

- a. Compensation (damages): General and special, substantial and nominal, aggravated and punitive, liquidated and unliquidated –Causation - Contemplation and Remoteness - Duty of mitigation - Assessment
  - a) Claim for the agreed sum: viz. suit for price, return of loan amount
  - b) Claim in quantum meruit

Remedies of Specific Relief through court or arbitration under Specific Relief Act:

- a) Specific performance:
  - Cases in which it can and cannot be granted
  - Personal bars to relief
  - Discretionary relief
  - Who can claim specific performance
  - Against whom can specific performance be claimed
  - Claim for compensation and other reliefs in a suit for specific performance
- b) Injunctions in suits relating to contract:
  - Discretionary relief
  - Kinds - Temporary and perpetual, prohibitory and mandatory - When can injunction be granted?
  - When will injunction not be granted?
  - Injunction to enforce negative covenants
  - Claim for compensation in a suit for injunction
  - Rescission
  - Rectification of instruments
  - Cancellation of instruments

### **Recommended Readings:**

#### **Books:**

1. Avtar Singh, Law of Contract and Specific Relief, 12th ed, 2017, Eastern Book Company.
2. V Kesava Rao, Contract I: Cases and Materials, 2nd ed, 2014, Lexis-Nexis
3. Ritu Gupta, Law of Contract – includes the Specific Relief Act 1963, 2015, Lexis- Nexis
4. Anson's Law of Contract, Beatesen and Burrows ed. 29th ed., 2010, Oxford University Press.
5. Mulla, The Indian Contract Act, Anirudh Wadhwa ed., 15th ed., 2015, Lexis-Nexis

#### **Journals:**

1. Journal of Contract Law – Legal Publications / Lexisnexis
2. Corporate Law Journal – ISN 2581-3592
3. Company law Journal
4. Indian Journal of International Economic Law – NLSIU, Bengaluru, India
5. NLS Business Law Review

#### **Further Readings:**

#### **Books:**

1. Cheshire, Fifoot and Furmston's Law of Contract, Michael Furmston ed., 16th ed, 2012,



2. Sarkar on Specific Relief, Sudipto Sarkar and R Yasho Vardhan eds, 17th ed, 2016, Lexis Nexis
3. R K Singh, Law Relating to Electronic Contracts, 2nd ed, 2015, Lexis-Nexis.
4. Sachin Rastogi, Insights into E-Contracts in India, 2013, Lexis Nexis
5. Robert Cooter and Thomas Ulen, Law and Economics, 6th edition 2016, available for free download at <<http://scholarship.law.berkeley.edu/books>>, Chapters 1 and 9
6. Shubhashis Gangopadhyay and V Shantakumar, Law and Economics Vol I and II, 2013, Sage Publications, Chapter 5
7. M. Krishnan Nair, Law of Contracts, 1998.
8. Garima Tiwari, Understanding Laws – Contracts, 2014, Lexis-Nexis.
9. G.H. Treitel, Outline of Law of Contract, 6th rev ed, 2005, Oxford University Press
10. Atiyah's Introduction to the Law of Contract, Stephen Smith ed., 2nd ed, 1997 Oxford University Press

#### **Journals/Journal Articles:**

- 1) Offer and Acceptance in Modern Contract Law: A Needless Concept, Shawn J. Bayern, *California Law Review*, Vol. 103, No. 1 (February 2015), pp. 67-101, Published by: California Law Review, Inc.
- 2) Minors in Contract: An Analysis of Rules Relating to Minors in Indian Contract Act, 1872, *Journal of Constitutional Law and Jurisprudence* Volume 1, Issue 1 RETRIEVED
- 3) Standard form contracts and a smart contract future, Kristin B. Cornelius

Department of Information Studies, University of California, Los Angeles, USA

- 4) Contract, Consideration and the Critical Path, John Adams and Roger Brownsword, *The Modern Law Review*, Vol. 53, No. 4 (Jul., 1990), pp. 536-542
- 5) The great Indian privity trick: hundred years of misunderstanding nineteenth century English contract law, Shivprasad Swaminathan O.P. Jindal Global University, Sonapat, Delhi (NCR), India.
- 6) Doctrine of Privity of Contract Under Indian Law: Should it Be Abolished in Toto or Subject to Certain Proviso? , Ashalika Pandey, National Law School of India University
- 7) Enforcement of Business Contracts in India: An Analysis of The Reforms on Specific Relief , DR. S. SETHURAM Assistant Professor, SRIT Business School, Sri Ramakrishna Institute of Technology, Coimbatore, Tamil Nadu, India
- 8) The doctrine of frustration under section 56 of the Indian Contract Act, M. P. Ram Mohan, Promode Murugavelu, Gaurav Ray & Kritika Parakh, Pages 85-104 |
- 9) IMPLEMENTATION WITH CONTINGENT CONTRACTS, Rahul Deb and Debasis Mishra, *Econometrica*, Vol. 82, No. 6 (November 2014), pp. 2371-239
- 10) Remedies for Breach of Contract , Ruchi Tirkey, *International Journal of Scientific*

**Cases for Guidance:**

1. LalmanShukla v Gauridutt – [(1913) 11 ALJ 489]
2. Harvey v. Facey – [(1893) A.C. 552 Privy Council]
3. Balfour v Balfour - p [(1919) 2 K.B. 571]
4. MohoriBibee v Dharmodos Ghose - [(1903) 30 I.A. 114 (P.C.)]
5. Carlill v Carbolic Smoke Ball Co. - [(1892) EWCA Civ 1 : (1893) 1 QB 256]
6. Felthouse v Bindley - [(1862) 11 Cb (NS) 869 : EWHC CP J35 : 142 ER 1037 : (1863) 7 LT 835]
7. Kedarnath v. Gorie Mohamed – [(1887) ILR 14 Cal 64]
8. Tweddle v. Atkinson – [(1861) EWHC QB J57 : (1861) 1 B&S 393 : (1861) 121 ER 762]
9. Phillips v Brooks Ltd. – [(1919) 2 KB 243]
10. Cundy V Linsay – [(1878) 3 AC 459]
11. SatyabrataGohose v Mugneeram Bangur& Co. - [AIR 1954 SC 44 : 1954 SCR 310]
12. PannalalJankidas v Mohanlal - [AIR 1951 SC 144 : 1950 SCR 979]
13. Hadley v Baxendale - [(1854) 9 Ex Ch 341]
14. Donoghue v Stevenson - [(1932) UKHL 100 :(1932) SC (HL) 31 : (1932) AC 562 :(1932) All ER Rep 1]
15. Dutton v Poole - [(1678) 2 Lev 210 : 83 ER 523]

**Learning Out Come:**

After completion of the course students will be able to –

- appreciate and criticize the Indian statutory position relating to important elements of Contract Law
- Understand objects to a contract as an essential element and to understand the various case laws relating to it where the judiciary quashed enforceability of a contract.
- Learn other kinds of agreements which are expressly declared as void under Indian Contract Act, 1872.
- Understand the principles underlying the grant of specific reliefs and the different remedies provided under the Specific Relief Act.

## CONSTITUTIONAL LAW – I

### **Objectives of the Course:**

*The purpose of the course is to acquaint the students with the meaningful understanding of basic philosophical tenets of **Constitutional Law**, and to train them in the fundamental legal structures and concepts that are found in Constitutions across the world, such as Constitutional Supremacy, basic rights, rule of **law**, judicial review, systems.*

- 1. The Study emphasises the nature and fundamental principles enshrined in the Constitution.*
- 2. It helps to analyse critically the significant judicial decisions that highlights the development of Constitutional Jurisprudence.*
- 3. It enables the students to articulate their independent views over contemporary constitutional issues.*
- 4. It provides legal framework and the touchstone on the basis of which the constitutionality of laws are examined*

### **Course Outline**

#### **Module – I: Classification of Constitution and Governments**

- Definition and meaning of Constitution Kinds of Constitution,
- Meaning of Constitutionalism, features of Indian Constitution
- Conventions –Significance,
- Theory of Separation of Powers – Latimer House Principles –
- Co-operative Federalism – Essentials of Federalism ,
- Executive – Parliamentary, Presidential – Combination of Both

#### **Module – II: Preamble, Union and its Territories and Citizenship**

- Preamble: Meaning, Scope, Importance, Objectives and Values –
- Union and its Territories (Art1-4) –
- Citizenship: (Art 5-11) – Citizenship at the commencement of the Constitution
- Deprivation and the renunciation of the Citizenship
- Parliament power to regulate – Citizenship under the Citizenship Act.

#### **Module –III: Introduction to Fundamental Rights**

- UDHR:** Influence of UDHR on the Indian Constitution

- b. State:** Definition and meaning, Article 12, New Judicial trends on concept of State –
- c. Law:** Definition and Meaning of Pre- Constitutional and Post- Constitutional Laws,  
Various Doctrines like Eclipse, Severability and Ultravires,
- d. Judicial Review and Article 13 –**
- e. Amendment:** Constitutional Processes of Adaptation and Alteration (Article 368)- Methods of constitutional amendment- Power and Procedure to amend the Constitution - Limitations upon constituent power- Doctrine of Basic Structure - Development of the Basic Structure - Judicial Review of Legislations included in the Ninth Schedule

#### **Module – IV: Fundamental Rights - I**

- a. Right to Equality:** General Equality Clause under Article 14, Judicial Interpretation on Equality– Reasonable Classification.
- b. Protective Discrimination Clause, Reservation and Social Justice under Articles 15 and 16, Equality and Reservation,**
- c. Equality of opportunity in public employment – Art 16,**
- d. Constitutional Provisions on Untouchability and abolition of Titles.**
- e. Right to Freedom:** Freedom of Speech and Expression - Art 19, Scope and Ambit-  
Art 19(1) (a) and (2); other freedoms From 19 (1) (b) to (g) ,
- f. Balance between individual interest and collective interest,**
- g. Reasonable restrictions on Right to Freedom under Article 19(2) to 19(6)**
- h. Judicial interpretation on Right to Strike and Bandh - Right to Information.**

#### **Module – V: Fundamental Rights - II**

- a. Right to Liberty:** Art 21 - Right to Life and Personal Liberty, Meaning and Scope,  
Procedure established by law,
- b. Judicial Interpretation on Life and Liberty, Applicability of concept of reasonableness. Difference between Due Process and Procedure Established by Law**
- c. Rights of the Accused:** Article 20 - Rights of the arrested person, Ex-post Facto –  
Double Jeopardy – Self incrimination,
- d. Article 22 – Preventive Detention, Right against Preventive Detention, Exceptions, Safeguards against Preventive Detention.**
- e. Right against exploitation – Forced labour and child employment**

#### **Module – IV: Fundamental Rights - III**

- a. **Freedom of Religion:** Articles 25-28, Secularism, Judicial Interpretation, Restrictions on Freedom of Religion.
- b. **Cultural and Educational Rights:** Articles 29-30, Protection on Minorities, Recent trends on Minority Educational Institutions.
- c. **Right to Constitutional Remedies:** Article 32 and 226, Writ Jurisdiction – Definition, Nature, Scope and functions, PIL, Compensatory Jurisprudence, Various Writs

### **Module – VII: Directive Principles of State Policy and Fundamental Duties**

- a. Directive Principles- directions for social change- A new social order
- b. Fundamental Rights and Directive Principles - inter-relationship - judicial balancing -  
Constitutional amendments – to strengthen Directive Principles
- c. Reading Directive Principles into Fundamental Rights, Judicial Approach.
- d. **Fundamental Duties:** The need and status in constitutional set up, Interrelationship with fundamental rights and directive principles,
- e. Enforcement of Fundamental Duties.

### **Recommended Readings:**

1. H.M.Seervai, Constitutional Law of India, Vol.1-3, Universal Law Publishing - An imprint of LexisNexis; 4th edition (2015)
2. D.D.Basu, Commentary on the Constitution of India (1-10 Volumes) Lexis Nexis Butterworths, Wadhwa, Nagpur (2009)
3. M.P.Singh (ed.), V.N.Shukla's Constitution of India (EBC, Lucknow, 2017)
4. M. P. Jain- Indian Constitutional Law- (Lexis Nexis 2014)
5. Mahendra P. Singh (ed.) Comparative Constitutional Law- Festschrift in Honour of Prof.P.K.Tripathi, (EBC, Lucknow, 2011)

### **Articles From Journals**

1. Upendra Baxi, The Rule of Law in India, 6 SUR - Int'l J. on Hum Rts. 7 (2007).  
<https://heinonline.org/HOL/P?h=hein.journals/surij6&i=7>
2. Journal: 50 years (1958 – 2008) JILI Special Issue, Volume 50, Oct-Dec, (2008)
3. Soli J Sorabjee (1999) Introduction to Judicial Review in India, Judicial Review, 4:2, 126-129, DOI: 10.1080/10854681.1999.11427060.
4. S. P. Sathe, Judicial Review in India: Limits and Policy, 35 Ohio St. L.J. 870 (1974). <https://heinonline.org/HOL/P?h=hein.journals/ohslj35&i=880>

5. Ramaswamy R. Iyer. "Public Enterprises as 'State' and Article 12." *Economic and Political Weekly*, vol. 25, no. 34, 1990, pp. M129–M134. JSTOR, [www.jstor.org/stable/4396678](http://www.jstor.org/stable/4396678).

### **Further Readings:**

#### **Books:**

1. Dr. Narendra Kumar, *Constitutional Law of India*(Allahabad Law Agency,2019)
2. Uday Raj Rai, *Constitutional Law – I Structure*, (EBC, 2016)
3. Uday Raj Rai, *Fundamental Rights and Their Enforcement*(EBC – e-Book – Amazon)
4. *Constituent Assembly Debates Vol. 1 to 12* (1989)
5. Granville Austin, *Working a Democratic Constitution - A History of the Indian Experience* (Oxford University Press, 2014)
6. Mamta Rao, *Constitutional Law*, (EBC, Lucknow 2013)
7. Sathya Narayan (ed.), *Selected Works of S.P.Sathe & Constitutionalism* (2015), Oxford
8. M. Galanter, *Competing Equalities - Law and the Backward Classes in India* (1984) Oxford
9. N.A.Subramaniam – *Case law on the Indian Constitution*(1969)
10. *Report of the National Commission to Review the Working of the Constitution* (NCRWC)

#### **Journals:**

1. Bakshi, P. M. "Comparative Law: Separation of Powers in India." *American Bar Association Journal* 42, no. 6 (1956): 553-95..[www.jstor.org/stable/25719656](http://www.jstor.org/stable/25719656).
2. Kumar, Virendra. "Basic Structure of The Indian Constitution: Doctrine Of Constitutionally Controlled Governance [From KesavanandaBharati to I.R. Coelho]." *JILI* vol. 49, no. 3, 2007, pp. 365–398. JSTOR, [www.jstor.org/stable/43952120](http://www.jstor.org/stable/43952120).
3. Rao, P.P. "RIGHT TO EQUALITY AND THE RESERVATION POLICY." *Journal of the Indian Law Institute*, vol. 42, no. 2/4, 2000, pp. 193–203. JSTOR, [www.jstor.org/stable/43953811](http://www.jstor.org/stable/43953811)
4. Bhat, P. Ishwara. "Tracing Right To Property In The Bosom Of Right To Life And Personal Liberty : Comparative Reflection On Recent Constitutional Developments In America, Canada And India." *JILI*, vol. 38, no. 1, 1996, pp. 13–37. JSTOR, [www.jstor.org/stable/43951621](http://www.jstor.org/stable/43951621)

5. S. P. Sathe, *Judicial Activism: The Indian Experience*, 6 Wash. U. J.L. & Pol'y 29 (2001). <https://heinonline.org/HOL/P?h=hein.journals/wajlp6&i=33>.
6. Brian Z. Tamanaha, *The History And Elements Of The Rule of Law*, Singapore Journal of Legal Studies [2012]. <https://law.nus.edu.sg/sjls/articles/SJLS-Dec-12-232.pdf>.
7. Manoj Mate, *The Origins Of Due Process In India: The Role of Borrowing In Personal Liberty And Preventive Detention Cases*, 28 Berkeley J. Int'l L. 216 (2010). <https://heinonline.org/HOL/P?h=hein.journals/berkjintlw28&i=218>
8. Pillai, K. N. Chandrasekharan. "SUPREME COURT ON CASTE CONVERSION AND RESERVATION." *Journal of the Indian Law Institute*, vol. 47, no. 4, 2005, pp. 540–543. JSTOR, [www.jstor.org/stable/43952001](http://www.jstor.org/stable/43952001).
9. Lloyd I. Rudolph & Susanne Hoeber Rudolph (1981) *Judicial review versus parliamentary sovereignty: The struggle over stateness in India*, *The Journal of Commonwealth & Comparative Politics*. DOI: 10.1080/14662048108447387
10. Haqqi, S. A. H. "POSITION OF THE STATES UNDER THE INDIAN CONSTITUTION." *The Indian Journal of Political Science*, vol. 22, no. 1/2, 1961, pp. 43–52., [www.jstor.org/stable/41853869](http://www.jstor.org/stable/41853869)

#### **Landmark Cases for Guidance:**

1. *In re Berubari* AIR 1960 SC 858
2. *Kesavananda Bharati v. State of Kerala* AIR 1973 SC 1461
3. *R.D.Shetty v. International Airport Authority of India*, AIR 1979 SC1928
4. *Marbury v. Madison* , 21 Ed. 60
5. *Visakha v. State of Rajasthan*, AIR, 1997SC 3011
6. *Air India v. Nargesh Meerza*, AIR 1981 SC 1829
7. *A.K.Gopalan v. State of Madras*, AIR 1950 SC 27
8. *A.K. Roy v. Union of India*, AIR 1982,SC 710
9. *Balaji v. Sate of Mysore*, AIR 1963 SC 649
10. *Express Newspapers v. Union of India*, AIR 1958 SC 578
11. *Maneka Gandhi v. Union of India* AIR 1978 SC 597
12. *D.K.Basu v. State of West Bengal*, AIR 1997 SC 610
13. *Bachapan Bachao Andolan v. Union of India*, AIR 2011 SC 3361
14. *S.R. Bommai v. Union of India*, (1994) SCC 1
15. *Sarala Mudgal v. Union of India*, (1995) 3 SCC 635

#### **Learning Outcome:**

After the completion of the course the students will be able to -

1. The study of Constitutional Law as a Transformative Document enhances ability to apply law in addressing social problems.
2. The study of Mother Document upholds democratic spirit and constitutional values promoting good governance and cultivating constitutional morality
3. It develops ability to design new social legislations and suggesting amendments to the existing legislations.
4. The study enables the students as to how the Constitution tries to bring democracy out of Public and extend it to private sphere and also ensures clear understanding of professional and ethical responsibility



# **FAMILY LAW - I**

## **Objectives of the Course**

*India being a land of multi religious and multi-cultural, the course helps in understanding the meaning of the concepts that are involved in family system in the Personal Laws of the Hindus, Christians and Muslims. The syllabus revolves on the various aspects of family unit starting with the sources of personal laws, marriage, matrimonial reliefs, family courts, maintenance, legitimacy of children, custody of children and guardianship.*

Therefore the study helps the students to understand the following

1. *It equips the students with different personal Laws*
2. *It provides ability to the student community in realizing secular laws related to inter- religious marriage, dowry, adoption and maintenance.*
3. *Appreciate the Conglomeration of the uncodified aspects of unisex marriage and live- in- relationship.*
4. *Also motivates the students to equip with writing, reading and research skills.*

## **COURSE OUTLINE**

### **MODULE I: SOURCES AND SCHOOLS OF PERSONAL LAWS**

- a. Application of various Personal Laws
- b. Traditional and Modern Sources of Hindu Law and Muslim Law
- c. The Classical Schools of Hindu Law and Muslim Law - Origin of the Schools - Main Schools and Sub-Schools – Differences - Effect of Migration.

### **MODULE II: LAW ON MARRIAGE**

- a. Nature of Marriage - Various forms of marriage and requirements for a valid marriage on a comparative analysis – Ceremonies of marriage under various religious systems.
- b. Void, voidable and valid marriage in different religious texts and statutes-
- c. Laws and Issues on marriage under the Special Marriage Act –
- d. Unisex Marriage and question on living together –
- e. The demand of Dowry and the concept of Dower under the relevant Personal Laws -

### **MODULE III: LAW ON MATRIMONIAL RELIEFS**

- a. Restitution of Conjugal Rights,
- b. Judicial Separation,
- c. Nullity of Marriage and Divorce under various personal Laws –

- d. Various Grounds for Divorce and procedure on a comparative analysis –
- e. Court's jurisdiction and procedure for the issues raised on Marriage and Divorce- In Camera proceedings - Decree on Proceedings
- f. Domestic Violence - Structure, Procedure and Jurisdiction of Family Courts - The Family Courts Act.

#### **MODULE IV: LAW ON MAINTENANCE**

- a. Maintenance under Hindu, Muslim and Christian Laws - Permanent Alimony – Maintenance during pendency of the Suit –
- b. Maintenance under the Special Marriage Act,
- c. Maintenance under the Hindu Adoptions and Maintenance Act
- d. Maintenance under the Code of Criminal Procedure- Maintenance of Parents and Aged Persons.

#### **MODULE V: LAW ON LEGITIMACY OF CHILDREN AND ADOPTION**

- a. Legitimacy of children born of Void and Voidable Marriages under various religious laws- Their Rights and Legal Issues
- b. Adoption in different religious groups - Requisites, Conditions, Procedure of Adoption -Effect of Adoption
- c. Inter-Country Adoptions
- d. Adoption under the Juvenile Justice (Care and Protection of Children) Act, 2015

#### **MODULE VI: LAW ON MINORITY AND GUARDIANSHIP**

- a. Guardian under the Hindu Minority and Guardianship Act, 1956 - Definition-
- b. Types of Guardians- Guardianship under Muslim Law
- c. Procedure for appointment of Guardians and their powers
- d. Guardian under the Guardian and Wards Act, 1890.

#### **Recommended Readings:**

##### **Books:**

1. Mulla, Hindu Law, (Lexis Nexis 23<sup>rd</sup> Edition, 2018)
2. Tahir Mahmood & Saif Mahmood, *Introduction to Muslim Law*, (Universal Law Publishing Co., 2<sup>nd</sup> ed., 2017)
3. Kusum, *Family Law Lectures – Family Law – I*, (Lexis Nexis, 5<sup>th</sup> ed. 2019)
4. Paras Diwan, *Law of Marriage and Divorce*, ( A Comprehensive treatise on Matrimonial Law of ..... including Hindus, Muslims, Christians, Parsis and Jews) (Universal Law Publishing Co. 7th ed. 2017)

5. Prof. (Dr.) T. V. Subba Rao, Prof. (Dr.) Vijender Kumar, *Prof. G.C.V. Subba Rao's Family Law in India*, (Gogia & Co., 2018)

#### Articles from Journals:

1. **Family Law Special Issue**, *JILI* Vol. 45 (2003) (Full Journal July - Dec)
2. Kusum, *Is a Restitution Decree Sexploitative? Need for Relook?*, *JILI* Vol. 61 (2019) p.144 - 48
3. Vijendar Kumar, *Quest for Prenuptial Agreement in Institution of Marriage: A Socio- legal Approach*, *JILI* Vol. 60 (2018) p.406 - 26
4. Nanda Chiranjeevi Rao, *Marriage Agreements Under Muslim Law – A weapon in the Hands of Muslim Women*, *JILI*, Vol. 55 (2013) p.94 - 103
5. Lucy Carroll, *Religious Conversion and Polygamous Marriage*, *JILI* Vol. 39 (1997) p.272 - 80

#### Further Readings:

##### Books:

1. P.V. Kane, *History of Dharma Sasthra*, 5 Volumes, (1962)
2. Mulla, *Principles of Mahommedan Law*, (Lexis Nexis, 22<sup>nd</sup> ed.2017)
3. Mayne, *Treatise on Hindu Law & Usage* (Bharat Law House, 17th Ed.2014)
4. Kusum, *Cases and Materials on Family Law*, (Lexis Nexis, 4<sup>th</sup> ed. 2015)
5. Kumud Desai, *Indian Law of Marriage & Divorce* (11<sup>th</sup> ed. 2020)
6. Paras Diwan, *Law of Adoption, Minority, Guardianship and Custody*, (Univrsal Publishing Co. 2016)
7. P K Das, *Law Relating to Cruelty to Husband - Divorce and Maintenance to Wife*, (Universal Law Publishing Co. 4<sup>th</sup> ed. 2017)
8. Universal Concise Commentary, *Muslim Laws* (With Exhaustive Case Law) (Universal Law Publishing Co. 2016)
9. Hari Dev Kohli, *Supreme Court on Hindu Law*, (Universal Law Publishing Co. 2016)
10. Srinivasan M.N. ,*Commentaries on Hindu Law*, (Delhi Law House, 5th Revised New Edition in 2 Vols.)

##### Journals

1. Zoe Rathus (2020) *A history of the use of the concept of parental alienation in the Australian family law system: contradictions, collisions and their consequences*, *Journal of Social Welfare and Family Law*, 42:1, 5-

17, DOI: [10.1080/09649069.2019.1701920](https://doi.org/10.1080/09649069.2019.1701920)

<https://www.tandfonline.com/action/showCitFormats?doi=10.1080%2F09649069.2019.1701920>

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2. Justin Jones (2020) *Towards a Muslim Family Law Act? Debating Muslim women's rights and the codification of personal laws in India*, *Contemporary South Asia*, 28:1, 1-14, DOI: [10.1080/09584935.2019.1684444](https://doi.org/10.1080/09584935.2019.1684444)  
<https://www.tandfonline.com/doi/full/10.1080/09584935.2019.1684444>
3. Jaiswal & Arunima Singh, *Decoding Same-Sex Marriage Under the 'Holy' Hindu Marriage Act, 1955*  
<https://www.manupatrafast.com/articles/articleSearch.aspx>
4. Mahavir Singh Kalon, *DNA Technology and Legal Issues in India*, Delhi Law Review, Vol. XXV, 2003
5. Stellina Jolly & M.S.Raste, *Rape and Marriage : Reflections on the Past, Present and Future*, Vol. 47JILI, 2006
6. Jyoti Rattan, *Uniform Civil Code in India: A Binding Obligation under the International and Domestic Law*, Vol 46 JILI 2004
7. A.K.Bhandari, *Adoption Amongst Mohammedans- Whether Permissible in Law*, Vol.47 JILI 2005
8. Lucy Carroll, *Religious Conversion and Polygamous Marriages*, Vol.39 JILI 1997
9. Anjani Kant, *Right of Maintenance to Indian Women*, Vol.38,JILI 1996
10. M.S.Balaganesan, *Speedy Remedy or Murky Muddle? Tragedy of Divorce on Ground of Mutual Consent*, Vol. 36 JILI, 1994

### Cases for Guidance:

1. Danial Latifi and another v. Union of India (2001) 7 SCC 740
2. Sarala Mudgal v. Union of India, (1995)3 SCC 635
3. Mohd. Ahmed Khan v. Shah Bano Begum, 1985 (1) SCALE 767; AIR 1985 SC 945
4. Pratibha Rani vs Suraj Kumar & Anr, 1985, 1985 AIR 628, 1985 SCR (3) 191
5. Shoba Rani v. Madhukar Reddy, 1988 AIRSC 121
6. Shamim Ara v. State of U.P. (MANU/SC/0850/2002)
7. Shayara Bano v. Union of India and others, Writ Petition (C) No. 118 of 2016
8. Lata Singh v. State of Uttar Pradesh, 2006 (6) SCALE 583
9. Velusamy v. D. Patchaiammal, (2010) 10 SCC 469

10. Seema v. Ashwani Kumar, AIR 2006 S.C 1158
11. Dhanwanti Joshi v Madhav Unde (1998) 1 SCC 11
12. T. Sareeta v. T. Venkata Subbaih, AIR 1983 AP 356
13. Saroj Rani v Sudarshan Kumar, AIR 1984 SC 1562
14. Githa Hariharan v. Reserve Bank of India (1999) 2 SCC 228
15. N.G. Dastane v. S. Dastane, AIR 1975 SC 1534

**Learning Out Come:**

After the completion of the course the students will be able to:

1. A study of this course will enlighten the students on the factors that determine the legality of domestic relationship,
2. The learning of the subject gives an understanding of both the personal law and secular law that regulates domestic relationship.
3. The student will be able to compare the personal laws as it existed before codification and appreciate the welcoming changes after codification and subsequent developments.
4. The study helps to understand secularization of personal laws in the background of the Constitutional Law and to realize the feasibility of UCC

## SEMESTER -II INDIAN PENAL CODE (LAW OF CRIMES-I)

### Objective of the Course:

*The Indian Penal Code is a Substantive law containing 511 sections. It was Lord Macaulay who moved the House of Commons in 1833 to codify the whole of Criminal Law in India. The Criminal Procedure Code was passed in 1860 (Amended in 1973). These two together constitute 'Criminal Law' of India. This codification of both the substantive and adjectival (Procedural) Criminal law brought uniformity and definiteness to the Criminal jurisprudence in India. Definition of offences, containing many ingredients must be remembered with abundant caution. Even if one ingredient is slipped, it will not amount to an offence. Further, the illustrations play a dominant role and should be studied again and again to comprehend the essentials of the offences. 'Mens rea' which is the subject of great discussion in England, is much simplified by the I.P.C. The subject is heavy but is worth its weight in gold.*

***After undergoing the study the student will be able to understand the following:***

- Analyze criminal acts, their elements, parties to offenses, and application to the criminal justice system*
- Express an increased awareness of the legal principles of criminal law and its application*
- Students will demonstrate an understanding of the origins of criminal behaviour, society's response to crime, and the consequences of crime to our society, utilizing multiple perspectives*
- Students will articulate ethical implications of decision making in a professional capacity.*

### COURSE OUTLINE

#### Module I: Nature and Scope of Criminal Law

- History of Criminal Law- Development, Nature, Commencement, Extent & Applicability-Principles of Criminal Law -Crime Definition
- Elements of Crime: Mens Rea- Actus Reus Psychology of crime- Stages of Crime:  
Intention, Preparation, Attempt & Commission
- Classification of crime: General- specific- Group- Joint and Constructive Liability-  
Corporate Liability
- Jurisdiction: Territorial-Extra Territorial Jurisdiction
- Inchoate Crime- Criminal Conspiracy- Abetment-Attempt

## **Module II: General Exceptions**

- a) Object, Nature & Scope -Excusable & Justifiable-Whether Exhaustive-Burden of Proof
- b) Mistake-Judicial Acts –Accident-Necessity
- c) Infancy-Insanity-Intoxication –Consent
- d) Good Faith-Compulsion or Threat -Trivial Acts
- e) Right of Private Defence

## **Module III: Punishment**

- a) Punishments-Theories of punishment
- b) Types of punishment
- c) Commutation of sentence
- d) Solitary confinement-Limit of solitary confinement
- e) Enhanced punishment

## **Module IV: Offences against Human Body**

- a) Culpable Homicide and Murder
- b) Rash and Negligent Act-Attempt and Abetment to Suicide
- c) Hurt and Grievous Hurt- Criminal Force and Assault-Wrongful Restraint and Wrongful Confinement
- d) Kidnapping and Abductions
- e) **Offences against Women** -Outraging the Modesty of Women-cyber crime against women-Voyeurism-Stalking- Acid Attack-Rape and Unnatural Offences-Cruelty and Offences relating to Marriage

## **Module V: Offences against Property**

- a) Theft, Extortion, Robbery and Dacoity
- b) Criminal Misappropriation and Criminal Breach of Trust
- c) Cheating and Forgery-Mischief-Receiving Stolen Property
- d) Fraudulent Deeds & Disposition of Property-Criminal Trespass
- e) Offences Relating to Documents & to Property Marks.

## **Module VI: General Offences**

- a) Offences against State -Offences against Election
- b) Offence Relating to Coins & Government Stamps
- c) Offences Relating to Religion-Defamation- Criminal Intimidation, Insult &

Annoyance

- d) Offence Relating to Weights & Measures-Offence Affecting the Public Health, Safety, Convenience, Decency & Morals
- e) Offences Relating to the Army, Navy & Air Force-Offences against the Public Tranquillity-False Evidence & Offence against Public Justice.

## **Recommended Reading**

### **Books**

1. K.I. Vibhuti, PSA Pillai's Criminal Law, Lexis Nexis, Butterworths Wadhwa, Nagpur, 2017
2. K.D. Gaur, Textbook on Indian Penal Code, Universal Law Publishing Co., New Delhi, 2017
3. Ratanlal Dhiraj Lal, The Indian Penal Code, Lexis Nexis, Butterworths Wadhwa, Nagpur, 2017
4. The Indian Penal Code 1860 (IPC) Bare Act with Illustrations 2020  
Edition Paperback – 1 Jan 2020, [Government of India](https://www.mca.gov.in/)
5. Glanville Williams, Text Book of Criminal Law, Universal Law Publishing Co., New Delhi, 2016

### **Journals/ Article**

1. Murder-suicide: A review of the recent literature, Eliason S, Journal of the American Academy of Psychiatry and the Law (2009) 37(3) 371-376
2. Whose problem is it anyway? Crimes against women in India, Himabindu BArora RPrashanth N, Global Health Action (2015) 8(1)
3. Mens Rea, Hampton J, Social Philosophy and Policy (1990) 7(2) 1-28
4. Intention, Parkinson CWheatley T, Elsevier Inc., (2012), 452-457
5. Trafficking in women and children in India: nature, dimensions and strategies for prevention, Ghosh B, The International Journal of Human Rights (2009) 13(5) 716- 738

## **Further Reading**

### **Books**

1. Supreme Court on Penal Code Collection (in 5 Volumes), Surendra Malik and Sudeep Malik, 2018 Edition, Eastern Book Company
2. Indian Penal Code (IPC), C.K. Takwani, 2014 Edition, Eastern Book Company
3. Criminal Law (Indian Penal Code), K S N Murthy & K V S Sarma, 1<sup>st</sup> Edition, Lexis Nexis
4. Crime and Punishment– Trends and Reflections, N V Paranjape, 1<sup>st</sup> Edition, Lexis Nexis
5. Textbook on Criminal Law, Allen M, Oxford University Press, (2013)



6. The Language of Crime, Tiersma PSolan L, Oxford University Press, (2012)
7. Death sentence on taxonomy in India, Prathapan KRajan PNarendran TViraktamath CARavind, NPoorani JSee fewer, Current Science, 2008
8. Law of crimes: A hand book : a single volume commentary on Indian penal code,  
1860 (Act no. XLV of 1860), V. V Raghavan, Orient Law House : sole selling agents, Orient Sales Organisation; 1st edition (1980)
9. Codification, Macaulay and the Indian Penal Code: The Legacies and Modern Challenges of Criminal Law Reform (International and Comparative Criminal Justice), Ashgate; 1 edition (February 28, 2013)
10. . R.C. Nigam, Law of Crimes in India (Vol. I) New York, Asia Pub. House (1965).

### Journal/ Article

1. Macaulay and the Indian Penal Code of 1862: The Myth of the Inherent Superiority and Modernity of the English Legal System Compared to India's Legal System in the Nineteenth Century, David Skuy, *Modern Asian Studies*, Vol. 32, No. 3 (Jul., 1998), [Cambridge University Press](#), pp. 513-557
2. Justifiable Homicide: A Study of the Application of Nonculpable Deadly Force in Cuyahoga County (Cleveland), Ohio, 1958–1982, Challenger RAdelson LRushforth N, *Journal of Forensic Sciences* (1987) 32(5) 11186J
3. Proportionality in Sentencing and the Restorative Justice Paradigm: 'Just Deserts' for Victims and Defendants Alike?, Kirchengast T, *Criminal Law and Philosophy* (2010) 4(2) 197-213
4. Dignity and Defamation: The Visibility of Hate, Waldron J, *Harvard Law Review* (2009) 123(1596) 1596-1657
5. Sedition, Monét V, Taylor and Francis, (2013), 217-222
6. Indian Perspective on the legal Status of Marital Rape: An Overview, Sindhu SThakur M, *International Journal of Multidisciplinary Approach & Studies* (2015) 2(1) 235-250
7. Criminal Law - Cases and Materials, O'Daly M, *Criminal Behaviour and Mental Health* (1995) 5(1) 53-54
8. Criminal Conspiracy, Sayre F, *Harvard Law Review* (1922) 35(4) 393
9. Capital punishment, Aggarwal K, *Medico-Legal Update* (2010) 10(1) 7-8
10. Sentencing Sex Offenders in India: Retributive Justice versus Sex-Offender Treatment Programs and Restorative Justice Approaches, Gill AHarrison K, *International Journal of Criminal Justice Sciences* (2013) 8(2) 166-181

### Cases for Guidance

1. K.M. Nanavati v. State of Maharashtra, AIR 1962 SC 605
2. Tukaram v. State of Maharashtra, AIR 1979 SC 185
3. Suresh Kumar Koushal v. Naz Foundation, (2014) 1 SCC 1

4. Rawalpenta Venkalu v. State of Hyderabad, AIR 1956 SC 171
5. S.N. Hussain v. State of Andhra Pradesh, AIR 1972 SC 685
6. Ram Badan Sharma v. State of Bihar (2006) 10 SCC 115
7. Rambaran Mahton v. The State, AIR 1958 Pat. 452
8. S. Varadarajan v. State of Madras, AIR 1965 SC 942
9. State of Punjab v. Gurmit Singh (1996) 2 SCC 384
10. Bhupinder Singh v. UT of Chandigarh (2008) 8 SCC 531
11. Pyare Lal Bhargava v. State of Rajasthan, AIR 1963 SC 1094
12. Shri Bhagwan S.S.V.V. Maharaj v. State of A.P., AIR 1999 SC 2332
13. Indira Gandhi v Raj Narain– 1975
14. Priyadarshini Mattoo case - October 2006
15. Jessica Lal Murder Case - December 2006
16. **Nithari serial murders – 2009**
17. **Aarushi Talwar murder – 2008**
18. **Naz Foundation v Govt of NCT of Delhi) - July 2009**
19. **Ayodhya Ram Mandir Babri Masjid Case) - September 2010**
20. **Yakub Abdul Razak Memon V State of Maharashtra and Anr - July 2015**

### **Learning Outcomes**

1. To analyse the principles of criminal responsibility, undertake self-directed legal research using primary and secondary materials, and analyse and evaluate legal information relating to criminal law and legal theory.
2. To apply principles of criminal law to complex legal problems, and critique the operation of criminal law from both a policy and theoretical/principled perspective.
3. To prepare persuasive written and oral arguments for a legal and lay audience on issues relating to the drafting of new criminal laws and the application of existing criminal laws to common scenarios that arise in criminal practice.
4. To demonstrate awareness of principles of ethical professional judgement in the management and conduct of a criminal law matter, relevant to both prosecution and defence.
5. To analyse the impact of criminal law from a policy perspective, with a focus on the impact of the law on those people who are vulnerable or outside mainstream culture.

## CONSTITUTIONAL LAW– II

### Objectives of the Course

*This course aims at a better understanding of the legal issues involved in the working of the Constitutional Law and the role played by the three organs in the same. It introduces the students to the stormy Centre-State relations and the conduct of elections. It is designed to impart the students about the composition, powers and functions of the Union and State Executives. It aims at educating the students all about the Parliament and state legislatures. It throws light on the working of the Judiciary, Supreme Court and High Courts and their writ jurisdictions. It discusses the most contentious issue of the Centre-State relations. It is also designed to discuss government contracts and the all-important aspects of the power of Centre-State fiscal relations, emergency provisions and elections in detail.*

*After undergoing the study of this paper the student should be able to understand the following:*

- 1. Identify the role played by the three organs of the Government.*
- 2. Able to understand the relationship between the Centre and the States in various aspects.*
- 3. Learn about the Emergency Provisions and the Election Commission of India.*

### COURSE OUTLINE

#### MODULE I: EXECUTIVE STRUCTURE, POWERS AND FUNCTIONS

- a) The Union Executive – The President - Election, Qualifications & Terms of Office of President - Privileges, Powers and Duties of President - Impeachment of President.
- b) The Vice – President - Qualifications & Election of Vice-President – Functions & Terms of Office of Vice – President.
- c) Council of Ministers - Appointment of Ministers - Council of Ministers & Cabinet -  
The Individual, Collective, Legal & Ministerial Responsibility - President's relation with the Council of Ministers.
- d) Attorney General of India - Comptroller and Auditor General of India.
- e) The State Executive - Appointment, Powers & Qualifications of Governor - The Council of Ministers - The Advocate General.

#### MODULE II: PARLIAMENT AND THE STATE LEGISLATURE

- a) The Union Legislature – Parliament - Composition of Parliament & Houses of Parliament - Duration & Sessions of the Houses of Parliament - Qualification for Membership of Parliament.

- b) Powers of Speaker, Deputy speaker & Chairman.
- c) Ordinary, Money Bills & Financial Bills - Parliament's Control over Financial System.
- d) Committee on Estimates, Committee on Public Accounts, Consolidated Fund of India & Contingency Fund of India.
- e) The State Legislature - Composition & Duration of State Legislature - Qualification of Membership of State Legislature.

### **MODULE III: UNION & STATE JUDICIARY**

- a) The Union – Supreme Court - Composition of Supreme court - Qualifications & Appointment of Supreme Court Judges & National Judicial Appointment Commission - Impeachment of Judge of the Supreme court.
- b) Jurisdiction of Supreme court- Original, Writ, Appellate, Advisory - Powers to Punish for Contempt & Concept of Curative Petition.
- c) The State – High Court - Appointment, Transfer of Judge of High Court - Terms of Office & Removal of Judge of High Court.
- d) Jurisdiction & Powers of High Court.

### **MODULE IV: RELATIONS BETWEEN UNION & THE STATES**

- a) Distribution of Legislative, Administrative and Fiscal Powers & Freedom of Trade and Commerce.
- b) Legislative Relations - Doctrine of Territorial Nexus – Subject matter of laws made by Parliament and Legislatures of States - Doctrine of Harmonious Construction - Doctrine of Pith and Substance – Doctrine of Occupied Field – Doctrine of Colourable Legislation.
- c) Parliament's Power to Legislate in State List – Implied and Residuary Power - Doctrine of Repugnancy.
- d) Administrative relations – Full faith and credit clause – Centre and inter-state conflict management.
- e) Fiscal Relations – Sharing of tax – GST – Constitutional Limitations.

### **MODULE V: TRADE COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA**

- a) Freedom of Trade, Commerce and Intercourse - Meaning of Freedom of trade, commerce and intercourse.

- b) Power of the Parliament to impose restrictions on trade commerce and intercourse.
- c) Goods and Service Tax (GST) - Impact of Globalization.

## **MODULE VI: EMERGENCY PROVISIONS**

- a) National Emergency - Duty of the Union to protect the States against external aggression and internal disturbance - Power of Union Executive to issue directions and the effect of non- compliance.
- b) State Emergency - Imposition of President's Rule in States – Grounds, Limitations, Parliamentary Control, Judicial Review.
- c) Financial Emergency.
- d) Emergency and suspension of fundamental rights.

## **MODULE VII: OTHER CONSTITUTIONAL FUNCTIONARIES**

- a) Organisation, powers and function of Election Commission of India.
- b) Union Public Service Commission, State Public Commission – Constitutional safeguards for Civil Servants Art 311 - Protection against arbitrary dismissal, removal, or reduction in rank – Exceptions to Art 311.
- c) Role of Finance Commission – Planning Commission – Inter- state Council – National Development Council - Local Self Government (Panchayat Raj).

### **Recommended Readings:**

#### **Books:**

1. H.M. Seervai, Constitutional Law of India in 3 volumes, Universal Book Traders, 4<sup>th</sup> Edition 2019.
2. M.P.Jain Revised by Justice Jasti Chelameswar and Justice Dama Seshadri Naidu, Indian Constitutional Law, Lexis Nexis, 8<sup>th</sup> Edition 2018.
3. D.D.Basu, Commentary on the Constitution of India, Lexis Nexis, 9<sup>th</sup> Edition 2014.
4. Mahendra P. Singh, V. N. Shukla's Constitution of India (11<sup>th</sup> ed., 2008)
5. Granville Austin, Working a Democratic Constitution - A History of the Indian Experience (1999)
6. Constituent Assembly Debates Vol. 1 to 12 (1989)

#### **Journals/Journal Articles:**

1. Gary Jeffrey Jacobsohn , An unconstitutional constitution? A comparative perspective, INT'L J CON LAW 460, 474(2006).
2. Omar, I. (2002). Emergency powers and the courts in India and Pakistan (Vol. 53). MartinusNijhoff Publishers.

3. UpendraBaxi, The Indian Constitution as an Act of Theft and the Theft of the Indian Constitution: A Retrospect on Indian Constitutionalism’.
4. Dilip Dobb, India is Indira and Indira is India. Wholives if Indira dies?, India Today (Dec 26, 2005)
5. NilanjanMukhopadhyay, Past Continuous: How IndiraGandhi used Presidential Elections to cement her ownpower, THE WIRE(May25,2017).

### **Further Readings:**

#### **Books:**

1. D.D.Basu Revised by Justice A.K.Patnaik, Shorter Constitution of India, Lexis Nexis, 15th Edition 2018
2. P.M.Bakshi, The Constitution of India, Lexis Nexis, 17<sup>th</sup> Edition 2020.
3. Sudhanshu Ranjan, Justice versus Judiciary – Justice Enthroned or Entangled in India, Oxford University Press, 2019.
4. Samaraditya Pal, India’s Constitution Origins and Evolution, Lexis Nexis, 1<sup>st</sup> Edition, 2017.
5. ConstituentAssembly Debates Vol. 1 to 12 (1989).

#### **Journals:**

1. Soroor Ahmed, The role that Syria, Sinai and Oil Pricesplayed in triggering Emergency, NATIONALHERALD, (Jun 25, 2017).
2. A Study of the Emergency Provisions in the Indian Constitution, The Emergency of 1975 and the Possibility of Recurrence thereof, 15126<https://www.nationalheraldindia.com/opinion/the-rolesyria-sinai-oil-prices-played-in-triggering-emergency>.
3. Seniority as the Norm to Appoint India's Chief Justice isa Dubious Convention, THE WIRE (Dec 22, 2016),<https://thewire.in/law/seniority-norm-cji-appointmentthakur-khehar>.
4. Report of the Commission on Centre–StateRelations(Sarkaria Commission)(1987).
5. Report of the National Commission to Review the Working of the Constitution(2002).
6. Report of the Commission on Centre-State Relations (M.M. Punchhi Commission)(2010).

#### **Cases for Guidance:**

1. S.P. Anand v. H.D. Deve Gowda, AIR 1997 SC 272.
2. Samsher Singh v. State of Punjab, AIR 1974 SC 212.
3. M.P. Spl. Police Estab. v. State of M.P (2004) 8 SCC 788.
4. Epuru Sudhakar v. Govt. of A.P., AIR 2006 SC 338.
5. B. R. Kapur v. State of T. N. AIR 2001 SC 3435.
6. Anil Kumar Jha v. Union of India, (2005) 3 SCC 150.
7. Jaya Bachchan v. Union of India, AIR 2006 SC 2119.
8. In re Keshav Singh, AIR 1965 SC 745.

9. Raja Ram Pal v. Hon'ble Speaker, Lok Sabha (2007) 3 SCC 184.
10. D. C. Wadhwa v. State of Bihar, AIR 1987 SC 579.
11. A.K. Roy v. Union of India, AIR 1982 SC 710.
12. Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan, AIR 1962 SC 1406.
13. Jindal Stainless Ltd. v. State of Haryana, AIR 2006 SC 2550.
14. G.K. Krishnan v. State of Tamil Nadu, (1975) 1 SCC 375.
15. Shree Mahavir Oil Mills v. State of J. & K. (1996) 11 SCC 39.
16. Atiabari Tea Co. v. State of Assam, AIR 1961 SC 232.
17. State of Rajasthan v. Union of India, AIR 1977 SC 1361.
18. S. R. Bommai v. Union of India, AIR 1994 SC 1918.
19. Rameshwar Prasad v. Union of India, AIR 2006 SC 980.

### **Learning Out Come:**

After completion of the course students will be able to-

1. *Understand the structure of the Government in the Centre and in the States and its governance.*
2. *Appreciate the role of judiciary and the different kinds of jurisdictions that can be exercised by the Supreme Court and High Courts.*
3. *Examine the relationship between the Centre and the States in various aspects.*
4. *Identify the circumstances under which emergency can be proclaimed under the Constitution.*

## **LAW OF CONTRACTS - II**

### **Objectives of the Course**

*As established in Contracts I through detailed study of General Principles of Contract, the students by now know that the essence of all commercial contracts is regulated by the Indian Contract Act, 1872.*

*The focal point of this course is the special contracts detailed in the Indian Contract Act, 1872. Further the course deals with general principles that apply to each specific contractual relationship. Provisions relating to The Sale of Goods 1930, The Indian Partnership Act 1872 and The Negotiable Instruments Act 1881 are discussed alongwith the contracts of indemnity and guarantee, of bailment and pledge, and that of agency. The Law of Special Contracts can be classified under two very broad categories, viz. special contracts of personal relationships and special contracts of property related transactions.*

*In this context, the course seeks to cover:*

- the concepts and principles of special contracts and it's relevance thorough decided cases;*
- how to establish relationship of general principles with the special contracts;*
- understand the growing importance of special contracts and to have understanding of the new forms of special contracts including technology transfer agreements, e- contracts, software licensing agreements, government contract etc.*

## **COURSE OUTLINE**

### **MODULE I: CONTRACTS OF INDEMNITY - SECTIONS 124-125**

- a) Concept of indemnity in general
- b) Need for indemnity to facilitate commercial transactions
- c) Definition of the contract of indemnity
- d) Formation and essential features of indemnity
- e) Purpose of the contract of indemnity, and its use in facilitating and supporting transactions
- f) Nature and extent of liability of the indemnifier
- g) Commencement of liability of the indemnifier
- h) Rights and Duties of the Indemnifier and the Indemnified.



- i) Difference between Indian and English Law as to Indemnity
- j) Distinction between an indemnity, a warranty and a representation

## **MODULE II: CONTRACTS OF GUARANTEE - SECTIONS 126 TO 147**

- a) Definition of a contract of guarantee
- b) Formation and essential features of a contract of guarantee
  - Parties to the contract;
- c) Position of minor and validity of guarantee when minor is the principal debtor, creditor or surety
- d) Consideration for a contract of guarantee
- e) Continuing guarantee, and its revocation
- f) Difference between Guarantee and independent liability
- g) Comparison between guarantee and indemnity
- h) Nature and extent of surety's liability;
  - commencement
  - duration and
  - termination
- i) Surety's rights against
  - the principal debtor
  - the creditor
  - co-surety
- j) Special position of a surety: a privileged debtor
- k) Letters of credit and bank guarantees
- l) Co-surety and manner of sharing liabilities and rights
- m) Discharge of surety's liability

## **MODULE III: CONTRACTS OF BAILMENT - SECTIONS 71, 148-171, 180-181**

- a) Definition of a contract of bailment
- b) Formation and essential features of a contract of bailment
  - Parties to the contract
  - Creation of a contract of bailment
  - Obligations of bailment despite contract
  - Gratuitous bailments
- c) Lien:

- General and
- Particular Lien
- d) Types of Bailor and Bailee
- e) Examples of contracts of bailment: for benefit of bailor, for benefit of bailee
  - Rights, duties, disabilities and liabilities of a bailor and a bailee towards each other
- f) Termination of bailment, and consequences of termination
- g) Finder of goods as a bailee
- h) Liability towards the true owner
- i) Obligation to keep the goods safe
- j) Right to dispose off the goods

#### **MODULE IV: CONTRACTS OF PLEDGE - SECTIONS 172 – 179**

- a) Definition of a contract of pledge
- b) Essential features of a contract of pledge
  - Parties to the contract
  - Creation of a contract of pledge
- c) Distinction between contracts of pledge, lien, bailment, hypothecation
- d) Rights, liabilities, duties and disabilities of the
  - Pawnor (Pledger)
  - Pawnee (Pledgee)
  - Pawnee's right of sale
- e) Pledge by certain specified persons under sections 178, 178A, 179 of Contract Act, 1872.

#### **MODULE V: CONTRACTS OF AGENCY: SECTIONS 182 – 238**

- a) Definition of a contract of agency
- b) Identification of different kinds of agency transactions in day to day life
- c) Kinds of agents and agencies
- d) Tests for determining existence of agency relationship
- e) Essential features of a contract of agency
  - Parties involved
  - Kinds of agents and agencies
- f) Creation of agency

- g) Distinction between agent, servant or employee, and independent contractor h)

Agent's authority

- Scope and extent
  - Express or implied
  - apparent or ostensible authority and
  - authority in an emergency
  - Restrictions or limitations on authority
- i) Delegation of authority
- j) Relationship between a principal, agent, sub-agent and substituted agents.
- k) Doctrine of Unnamed, Undisclosed Principal and Foreign Principal
- l) Doctrine of Ratification and Relation back
- m) Duties, Rights and Liabilities of an Agent towards the Principal and Third Party
- n) Liability of the principal for acts of the agent including misconduct and tort of the agent
- o) Personal liability of an agent
- p) Pretended Agent
- q) Methods of termination of agency contract
- Effects of termination
  - Liability of the principal and agent before and after such termination

**MODULE VI: CONTRACTS OF SALE OF GOODS - THE SALE OF GOODS ACT**

**1930**

- a) Definition of a contract of sale of goods
- b) Goods – Meaning, Existing and future goods, Specific, ascertained, unascertained goods, Effect of perishing of goods
- c) Essential features of a contract of sale
- d) Formation of Sale contract
- e) Sale differentiated from other type of contracts
- f) Sale as a transfer of property
- g) Conditions and Warranties
- Implied conditions and warranties
  - Express conditions and warranties
- h) The rule 'caveat emptor' and exceptions thereto
- i) Passing of Property

- j) Transfer of Title-Nemo Dat Quod Non Habet
- k) Delivery of goods: various rules regarding delivery of goods
- l) Rights and liabilities of the buyer and seller
- m) Unpaid seller and his rights.
- n) Auction sales
- o) Remedies for breach of contract

## **MODULE VII: CONTRACTS OF PARTNERSHIP - THE INDIAN PARTNERSHIP ACT 1932 AND THE LIMITED LIABILITY PARTNERSHIP ACT 2008**

- a) Definition of a contract of partnership
- b) Essential features of a contract of partnership:
  - the firm and the partners,
  - Parties to the contract,
  - Minor as partner
- c) Kinds of partnership
- d) Registration of Partnership Firm and consequences of non-registration
- e) Rights, Duties and Liabilities of Partners
- f) Mutual relationship between partners: their rights, liabilities and duties against each other
- g) Relationship of partners to third parties
- h) Partner as agent of firm, Partners' authority, Implied authority, Mode of exercising authority, Liability of the firm for acts of partners
- i) Property of the firm
- j) Change in constitution of a firm
  - Admission, retirement, expulsion, death and insolvency of any partner.
  - Public notice
  - Effect of change in constitution of the firm
- k) Dissolution of a firm
  - Modes of dissolution
  - Effect of dissolution
  - Agreements in restraint of trade
- l) Limited Liability Partnership
  - Essential features
  - Distinction between LLP and ordinary partnership

## **RECOMMENDED READINGS:**

### **Books:**

1. Anson's Law of Contract, Oxford University Press, 13th Edition, 2016.
2. Law of Contract & Specific Relief, by Avtar Singh, Eastern Book Company, 12th Edition, 2017, reprinted 2019.
3. Law of Sale of Goods, by Avtar Singh, Eastern Book Company, 8th Edition, 2018.
4. Introduction to Law of Partnership, by Avtar Singh, Eastern Book Company, 11th Edition, 2018.
5. Palmer on Bailment, edited by Norman Palmer, Sweet & Maxwell Ltd, 03rd Edition, 2009.

### **Journals/Journal Articles:**

1. Journal of Contract Law – Legal Publications / Lexisnexus
2. Corporate Law Journal – ISN 2581-3592
3. Company Law Journal
4. Indian Journal of International Economic Law – NLSIU, Bengaluru, India
5. NLS Business Law Review

## **FURTHER READINGS:**

### **Books:**

1. The Law of Bailment, by Robert H. Tanha, Irwin Law Inc., 2019.
2. Law of Guarantees, by The Hon Mrs. Justice Geraldine Andrews; Richard Millett, QC; John Robb, Sweet & Maxwell, 08th Edition, 2008.
3. Principles of the Law of Agency, by Howard Bennett, Hart Publishing, 01st Edition, 2013.
4. Agency and Partnership Law, edited by Mark J. Loewenstein and Robert W. Hillman, Edward Elgar Publishing Ltd., 2018.
5. Bowstead & Reynolds on Agency, Sweet & Maxwell Ltd., 20th Edition, 2016.
6. The Sale of Goods, by M.G. Bridge, Oxford University Press, 02nd Edition, 2009.
7. Practical Guide to Limited Liability Partnership, by Pl. Subramanian, Snow White Publication, 14th Edition, 2018
8. Bhashyam and Adiga, The Negotiable Instruments Act (1995), Bharath,

9. Allahabad

10. M.S.Parthasarathy (ed.), J. S. Khargamvala, The Negotiable Instruments Act

**Journals/Journal Articles:**

1. Indemnities and the Indian contract act 1872, Wayne Courtney NATIONAL LAW SCHOOL OF INDIA REVIEW 27 NLSI Rev. (2015)
2. Condition and Warranty in Contract Law of India, Harvard BlackLetter Law Journal
3. Commercial Utility of Bailment, Kartik Mandloi, Published in International Journal of Trend in Scientific Research and Development (ijtsrd), ISSN: 2456-6470, Volume-2 | Issue-5, August 2018, pp.1093-1098,
4. Hire-Purchase Hardships and Hopes, J. W. A. Thornely, The Cambridge Law Journal, Vol. 20, No. 1 (Apr., 1962), pp. 39-68
5. Published by: Cambridge University Press on behalf of Editorial Committee of the Cambridge Law Journal.
6. Computing Damages in Hire purchase Agreements: A Re-Look BREACH OF CONTRACT, ICAI University Publications
7. Government Obligations in Public-Private Partnership Contracts, Journal of Public Procurement, Vol. 10, No. 4, Winter 2010, Sandeep Verma, Government of Rajasthan; Public Health Engineering & Ground Water Departments
8. Partnership Formation: The Role of Social Status, Haimanti Bhattacharya & Subhasish Dugar,  
<https://pubsonline.informs.org/doi/abs/10.1287/mnsc.2013.1818>.
9. Modes of Termination of Principal – Agent Relationship under the Indian Contract Act, 1872, Roshni Duhan and Vimal Joshi Department of law, B.P.S. Mahila Vishwavidyalaya, Khanpurkalan, Sonapat, International Research Journal of Social Sciences ISSN 2319–3565 Vol. 2(11), 46-48, November (2013)
10. Dissolution of Indian Firms - Various Modes, 33 Pages, SSRN, Raghvendra Singh Raghuvanshi, India, [papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1558970](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1558970)
11. Performance and Compensation: An Analysis of Contract Damages and Contractual Obligation, Charlie Webb, Oxford Journal of Legal Studies, Volume 26, Issue 1, Spring 2006.

**Cases for Guidance:**

1. Ultzen v. Nicols [1894 1 QB 92]

2. Morvi Mercantile Bank v. Union of India A.I.R. 1965 S.C. 1954
3. Kaliaporumal Pillai vs. Visalakshmi AIR [1938 Mad 32]
4. Adamson v. Jarvis (1827) 4 Bing.66:29 R.R.503
5. Dugdale v. Lovering (1874-75) L.R. 10 C.P. 196
6. Sheffield Corporation v. Barclay[1905] AC 392
7. State of Gujarat vs. Memon Mahomed [AIR 1967 SC 1885]
8. Duncan Fox & Co. v. North & South Wales Bank(1880) 6 AC 1, [1874-80] All ER Rep Ext 1406
9. Lasalgaon Merchants Co-op Bank vs. Prabhudas Hathibhai [AIR 1966 Bom 134]
10. Ram Gulam vs. Govt. Of Uttar Pradesh [AIR 1950 All 106]
11. Coouturier v. Hastie (1856) 5 HLC 673
12. Phillipson v. HayterL. R. 6 C. P. 41
13. Graff v. Evans(1882) 8 Q.B.D. 373, 73
14. Niblett v. Confectioners' Materials Co. [1921] 3 K.B. 387
15. Summer Permain & Co. v. Webb & Co. [1922] 1 K.B. 55.

### LEARNING OUTCOMES:

After completion of the course students will be able to –

1. grasp the nuances of the contractual transactions involving Special forms of contracts.
2. analyse the implications of a contractual arrangement falling under any of the discussed head of special contracts.
3. determine the legality of the transactions and also the rights and duties of the parties.
4. deal with the disputes arising out of such *contractual arrangements*.

## **FAMILY LAW-II**

### **Objectives of the Course**

*The main objective of the paper is to apprise the students with the laws relating to family matters governing inheritance, succession, partition, with practical approach. The subject makes the students to identify and understand the scheme of succession under the Hindu, Muslim and Christian Laws. Further, with reference to uncodified Hindu Law, the matters relating to Joint Family System, Coparcenary, Karta and his powers, partition and the Hindu Religions Endowments are given in the syllabus for understanding the changes effected after the passing of the Hindu succession Act, 1956 and other related Laws. Under Muslim Law students can understand the principles behind the matters relating to Wakfs, Wills, Gifts and Pre- Emption and also the Sunni and Shia Law of Inheritance. The students can learn the details of Christian Law, a Part of the Indian Succession Act, 1925 and Law of Wills with reference to Christian Law of Inheritance.*

*After undergoing the study of this paper the Student should be able to understand the following:*

- 1. Able to understand the personal laws relating to Succession, Partition and Religious Endowments.*
- 2. Identify the scheme of succession under various religious laws and able to understand the past and present legal systems.*
- 3. Analyse comparatively the testamentary and intestate succession under various religious laws and appreciate the limitations provided for the same.*
- 4. Able to understand the law relating to Hiba and Shuffa under Muslim Law.*

### **COURSE OUTLINE**

#### **Module I: HINDU JOINT FAMILY AND COPARCENARY**

- a) Hindu Joint Family and Coparcenary – Meaning – Characteristics & Distinction.
- b) Rights of Coparceners and Position of Female Coparceners.
- c) Distinction between Mithakshara & Dayabhaga Coparcenary and Changes introduced by The Hindu Succession (Amendment) Act, 2005.
- d) Karta – Position – Powers - Rights and Duties.
- e) Ancestral - Separate or Self Acquired Property & its Sources - Concept of Gains of

Learning - Alienation of Hindu Joint Family Property – Karta's & Coparcener's Power of Alienation-Right to Challenge unauthorised Alienation.

#### **Module II: PARTITION**

- a) Partition – Meaning - De Facto & De Jure Partition.



- b) Subject matter of Partition & properties not capable of partition.
- c) Persons having Right to Partition & Persons entitled only to Share in Partition.
- d) Partial Partition - Modes of effecting Partition.
- e) Re-opening and Re-union of Partition.

### **Module III: INTESTATE SUCCESSION UNDER HINDU LAW**

- a) General Principles of Succession under Hindu Law
- b) Succession to Separate/ Divided property of a Hindu Male dying intestate – class I - class II heirs - Agnates & Cognates.
- c) Succession to Mithakshara Coparcener's undivided interest.
- d) Disqualifications under the Hindu Succession Act & its effect on Succession.
- e) Hindu Woman's Right to Property under the Hindu Succession Act, 1956 with the changes effected by the Hindu Succession Amendment Act, 2005.

### **Module IV: INTESTATE SUCCESSION UNDER MUSLIM LAW & CHRISTIAN LAW**

- a) Muslim Law of Succession – Sunni Law of Inheritance – Shia Law of Inheritance –
- b) Christian Law of Inheritance – Relevant provisions under the Indian Succession Act, 1925.
- c) Comparative analysis of right to property of women under different Religious and Statutory Law.

### **Module V: TESTAMENTARY SUCCESSION**

- a) Testamentary Succession under Hindu, Muslim and Christian Law.
- b) Limitation to Testamentation under various Religious and Statutory Law.
- c) Will and Administration of Will - Codicil.
- d) Lapse, Abatement and Ademption of Legacies.
- e) Probate, Letters of Administration and Succession Certificate.

### **Module VI: GIFT AND PRE-EMPTION UNDER ISLAMIC LAW**

- a) Hiba - Nature and Characteristics of Hiba - Subject matter of Hiba – Effects of Hiba.

- b) Kinds of Hiba – Revocation of Hiba – Marz-ul-maut.
- c) Shuffa-Origin, Definition, Classification, Subject matter, Formalities, Procedure & Constitutional validity.

## **Module VII: RELIGIOUS ENDOWMENTS AND WAKF**

- a) Hindu Religious Endowments.
- b) Wakf. - Meaning - Formalities of Creation –Types and Administration of Wakf.
- c) Mutawalli and his powers - Muslim religious Institutions and Offices.

## **Module VIII: PSDA (Professional Skill Development Activities)**

- a) Exercises on Distribution of Property.
- b) Drafting a Deed of Hiba/Waqf/Wasiyat.
- c) Preparation of Pleading for a Partition Suit.

### **Recommended Readings:**

#### **Books:**

1. Dr. Poonam Pradhan Saxena, Family Law Lectures: Family Law II, LexisNexis Butterworth, India, 4<sup>th</sup> Edition 2018.
2. ASAF A.A.Fyzee , Edited and Revised by Tahir Mahmood, “Outlines of Muhammadan Law”, Oxford University Press, 5<sup>th</sup> Edition 2009.
3. Kusum, “Family Law Lectures”, 2003, Lexis Nexis, New Delhi.
4. Mulla, “Principles of Mahomedan Law” by Hidayatullah, 19<sup>th</sup> Edition. LexisNexis Butterworth, New Delhi.
5. Dr. Paras Diwan, “Modern Hindu Law”, Allahabad Law Agency, Faridabad (Haryana), 2018.

#### **Journals/Journal Articles:**

1. Hindu Law - Daughter: A Coparcenar, Kulkarni, K.V. All India Reporter, 2004 Mar.
2. Hindu Succession (Amendment) Act 2005: An Appraisal, Dash, U.N., All Indian High Court Cases, 2007.
3. Hindu Women’s Right to Property (with special reference to The Hindu Succession Act, 1956), Roy, Sujoy, PRP Journal of Human Rights, 2004, Oct. – Dec.
4. Law Commission of India: Proposal to amend The Hindu Succession Act, 1956 as amended by 39 of 2005: Editor- Madras Law Journal, Madras Law Journal, 2008, Feb.

5. Right of a Female Heir to claim Partition in a dwelling house under S.23 of the Hindu Succession Act, 1956, Kumar, M.R. Pradeep, Madras Law Journal, 1993 184(1).

### **Further Readings:**

#### **Books:**

1. Dr. Paras Diwan, "Muslim Law in Modern India", Allahabad Law Agency, Faridabad (Haryana), 2016.
2. Dr. Qureshi, M.A. - "Muslim Law", 3rd edn. 2007, Central Law Publications, Allahabad.
3. Dr. Tahir Mahmood & Dr. Saif Mahmood, Introduction to Muslim Law, Universal Law Publishing – An imprint of Lexis Nexis, 2014.
4. R.K. Agarwal, "Hindu Law", Central Law Agency, 2019.
5. B.M. Gandhi, "Family Law Vol II", Eastern Book Company, Lucknow, 2013.
6. Dr. Paras Diwan's Family Law, Allahabad Law Agency, 2018.

#### **Journals:**

1. S.23 of The Hindu Succession Act, 1956: A sober view point, Prasanna, C.Luxmi, All India High Court cases, 2006, Mar.
2. S.6 and 29-A of The Hindu Succession Act: A critic, Ramakoti, M., All India Reporter, 2003, Oct.
3. Some thoughts on Hindu Succession (Amendment) Act, Balasubramanian, K.G., Kerala Law Times, 2005 Oct.
4. State Amendment to Hindu Succession Act and conflict of Laws: Need for Law Reform, Bhadhhade, Nilima, Supreme Court Cases, 2001.
5. Status of women under The Hindu Succession Act, 1956, Gupta, Suman, All India Reporter, 2007, May.
6. Stridhana & Women's Property Rights critical view under Hindu Succession Act, 1956 and Customary Hindu Law, Chakravarty, Padmaja, Apex court Expression, 2003.
7. Study of the amendments made in The Hindu Succession Act, 1956, Davda, C.R., All India High Court Cases, 2008, Feb.
8. The Hindu Succession Act, 1956 should the legal riddle under S.14 of the Act continue forever? Kader, S.A., Madras Law Journal, 2008, Sep.
9. The Hindu Succession Act, 1956: Defects and anomalies in the Amending Act 39 of 2005, Murthy, A.S. Ramachandra, All India High Court Cases, 2007 Jul.
10. Whether the Right of a Female to claim partition in a dwelling house under S.23 of Hindu Succession Act, 1956 is a myth or reality, Jena, Krushna Chandra, Cuttack Law Times, 1999, Sep.
11. Women's Property Rights under traditional Hindu Law and The Hindu Succession Act, 1956: Some observations, Jain, Prakash Chand, Journal of the Indian Law Institute, 2003, Jul. - Dec.

### **Cases for Guidance:**

1. P.G.Reddy v. Golla Obulamma AIR 1971 A.P.,363(F.B.).
2. Narain Devi v. Ramo Devi AIR 1976 SC 2198.
3. Rajeshwari Rani v. Nirja Guleri AIR 1977 P&H, 123.
4. Thotappa v. G.Gurusiddappa AIR 1977 Kant, 175.
5. Nawazish Ali Khan v. Ali Raza Khan 75 I.A. 62.
6. Commissioner of Income Tax, West Bengal v. Sri Jagannathji AIR 1977 SC 1523.
7. Yousuf Rawther vs. Sowramma, AIR 1971 Ker. 261.
8. Sri Jiauddin Ahmed vs. Mrs. Anwara Begum, (1981) GLR 358.
9. Must. Rukia Khatun vs. Abdul Khaliq Laskar, (1981) 1 GLR 375.
10. Masroor Ahmed vs. State (NCT of Delhi) & Anr. 2008 (103) DRJ 137.
11. Vaddeboyina Tulasamma v. Vaddeboyina Shesha Reddi, 1977 SCR (3).
12. Jiauddin Ahmed v. Anwara Begum (1981) 1 Gau.L.R. 358.
13. Masoor Ahmed v. State (NCT of Delhi), 2008 (103) DRJ 137, para 27.
14. Nasir v. Sheena 2017 (1) KLT 300.
15. Shamim Ara vs State of U.P. & Anr. (2002) 7 SCC 518.

### **Learning Out Come:**

After completion of the course students will be able to-

1. *Understand the meaning and difference between intestate and testamentary succession under various religious laws.*
2. *Appreciate the Hindu Joint Family system and coparcenary and also learn about the Partition and its effects under Hindu Law.*
3. *Analyse comparatively the property rights of women in various Personal Laws.*
4. *Understand the concepts like Hiba and Shuffa under Muslim Law.*

# PROPERTY LAW

## Objectives of the Course

1. *The course intends to define the concept and nature of transfer of immovable property, and illustrate the different types of transfers and rules relating to it. It explains the transfer of immovable property between living persons.*
2. *The course covers various general principles of transfer and doctrines. Specific transfer explains about the transfer by way of sale, mortgage, lease, gift and actionable claims.*
3. *The Easement Act explains various modes of acquisition of easementary rights, rights and obligations of the dominant and servient owners, the extinction and suspension of the easementary right.*
4. *Registration Act explains the requirement to be complied for registration of any transfer of immovable property, and Stamp Act explains various kinds of stamps and mode of payment of stamp duties.*

## COURSE OUTLINE

### Module I: General Principles of Transfer

- a. Concept of Property – **possession**: essentials of possession – kinds of possession, modes of transfer of possession- **ownership**: rights of ownership- modes of acquisition of ownership- distinction between possession and ownership – theories of property
- b. Definition of Transfer of Property- Kinds of Interest- Conditional Transfer
- c. Doctrine of Election
- d. Transfer by Ostensible Owner
- e. Feeding the Grant by estoppel
- f. Improvement made by Bonafide Purchaser
- g. Lis Pendens
- h. Fraudulent Transfer
- i. Doctrine of Part Performance and other general principles of transfer.

### Module II: Specific Transfers – Transfer of Absolute Interest

- A. Sale – Definition of Sale- Rights and Liabilities of Seller and Buyer
- B. Gift - Definition- Onerous Gift- Universal Donee- Death Bed – Gift- Suspension and Revocation of Gift.
- C. Exchange

### Module III: Transfer of Limited Interest – Specific Transfer

- A. Mortgage: Different kinds of Mortgages- Redemption- - Clog on Redemption- Partial Redemption- Rights and Liabilities of Mortgagor and Mortgagee including Doctrine of Consolidation- Marshalling -Contribution- Subrogation.
- B. Charge

C. Lease: Different Rights and Liabilities of Lessor and Lessee- Determination of Lease- Doctrine of Holding Over.

D. Actionable Claim

#### **Module IV: Law Relating To Easementary Right**

- a. Definition-Acquisition of Easement
- b. Easement of Necessity and Quasi Easements
- c. Easement by Prescription
- d. Extinction, Suspension and Revival of Easements
- e. License.

#### **Module V: Law of Registration**

- a. Definitions - The Registration-Establishment
- b. The Duties And Powers Of Registering Officers, Enforcing The Appearance Of Executants And Witnesses, Refusal To Register
- c. The Fees For Registration, Searches And Copies Registrable Documents
- d. Time of presentation, place of registration, Presenting Documents for Registration
- e. Penalties.

#### **Module VI: Registration of Will**

Presenting Wills And Authorities To Adopt - The Deposit Of Wills- The Effects Of Registration And Non-Registration

#### **Module VII : Stamp Act**

Definitions – stamp duties - Adjudication as to Stamps - Instruments Not Duly Stamped- Allowances for Stamps in Certain Cases - Reference and Revision - Criminal Offences And Procedure

#### **Recommended Readings:**

##### **Books Prescribed**

- G. Sanjiva Row- Commentaries on Easements and Licence
- Vepa P. Sarathi- Law of Transfer of Property Act
- GCV Subba Rao- Transfer of Property
- Mulla, “The Transfer of Property Act”, by Poonam Pradhan Saxena, Lexis Nexis, 13th edition
- K.Krishnamurthy’s, “The Indian Stamp Act”, 12th edition, Lexis Nexis
- Mulla, “Registration Act”, 13<sup>th</sup> Edition, Lexis Nexis

##### **Statutory materials:**

1. Transfer of Property Act, 1882
2. Indian Easement Act, 1882

3. The Registration Act, 1908
4. Indian stamp Act, 1899

#### **Books Prescribed**

- G. Sanjiva Row- Commentaries on Easements and Licence
- Vepa P. Sarathi- Law of Transfer of Property Act
- GCV Subba Rao- Transfer of Property
- Mulla, “The Transfer of Property Act”, by Poonam Pradhan Saxena, Lexis Nexis, 13th edition
- K.Krishnamurthy’s, “The Indian Stamp Act”, 12th edition, Lexis Nexis
- Mulla, “Registration Act”, 13<sup>th</sup> Edition, Lexis Nexis

#### **Statutory materials:**

5. Transfer of Property Act, 1882
6. Indian Easement Act, 1882
7. The Registration Act, 1908
8. Indian stamp Act, 1899

#### **Books for reference:**

1. Goyle’s “A Commentary On The Transfer Of Property Act” , Eastern Law House
2. Darashaw’s Commentaries on the Transfer of Property Act” by Justice M.L.Singha, Lexis Nexis
3. B.B.Katiyar’s “Law of Easements and Licences”, Universal Law Publishing, 16th Edition
4. Sanjiva Row’s “Commentary On The Indian Easements Act, 1882 and Licences”, 6th Edition, Delhi Law House
5. Malik’s “Commentary On Registration Act, 1908 With State Amendments With Latest Case Laws, Delhi Law House, 2nd Edition
6. James E. Penner, Lecturer in Law J E Penner, “The Idea of Property in Law”, Clarendon Press Oxford, first edition, 1997
7. Cheshire and Burn's Modern Law of Real Property, by Edward Burn and John Cartwright, Eighteenth Edition, 4<sup>th</sup> edition 2011.
8. Barbara Bogusz and Roger Sexton, “Complete Land Law- texts, cases and materials”, oxford press, Sixth Edition, 2019.
9. Ben McFarlane and Sarah Nield, “Land Law - Text, Cases & Materials”, oxford press, Fourth Edition 2018

#### **Case Laws for reference:**

1. Marshall v. Green, 33 L.T.404
2. Thakur Paramanick Chunder v. Ram Dhone, 6 W.R. 228 (F.B)
3. Shamu Pattar v. Abdul Kadir, 35 Mad. 607 (P.C)
4. Rosher v. Rosher, (1884) 20 Ch.D. 801
5. Pannalal v. Fulmoni, AIR (1987) Cal 368

6. Sopher v. Administrator general of Bengal, (1944) P.C.67
7. Abdul Fata Mohommed v. Rasamaye, 22 Cal 619 P.C.
8. Whitby v. Mitchell,
9. Leake v. Robinson, 35 ER 979, Volume 35
10. Thalluson v. Woodford, (1805) 11 Ves. 112
11. Cooper v. Cooper, (1874) L.R. 7 H.L.53
12. Tulk v. Moxhay, [1848] 41 ER 1143
13. Ram Coomer v. McQueen, 11 B.L.R. 46
14. Bellamy v. Sabine, (1857) 1 Dc. G, and J., 566
15. Ebrahim v. Ful bai, 26 Bom 573
16. Walsh v. Lonsdale, (1882) 21 Ch.D 9
17. Webb v. Macpherson, 31 Cal 57 (P.C)
18. Muhammad Sher Khan v. Raja Seth Swami Dayal A.I.R. 1922 P.C. 17,
19. Noakes & Co v. Rice, (1902) A.C.24
20. Kreglinger v. New Patagonia Meat Gold Storage Co. Ltd. [1914] A.C. 25.

#### Articles:

1. Abraham Bell and Gideon Parchomovsky, *A Theory of Property*, 90 Cornell L. Rev. 531 (2005)  
Available at: <http://scholarship.law.cornell.edu/clr/vol90/iss3/1>
2. Exclusion and Exclusivity in Property Law Author(s): Larissa Katz Source: The University of Toronto Law Journal, Vol. 58, No. 3 (Summer, 2008), pp. 275-315  
Published by: University of Toronto Press Stable URL:  
<http://www.jstor.org/stable/20109850>
3. The Rule against Perpetuities and Gifts to Classes, W. Barton Leach, Harvard Law Review, Vol. 51, No. 8 (Jun., 1938), pp. 1329-1353,  
<https://www.jstor.org/stable/1333400>
4. Case Notes on Steadman v. Steadman, 10 Melb. U. L. Rev. 149 (1975-1976)
5. The Doctrine Of Part Performance In India by G. M. Sen, Journal of the Indian Law Institute, Vol. 11, No. 2 (APRIL-JUNE 1969), pp. 224-229, <https://www.jstor.org/stable/43950022>
6. Claeys, Eric R., Property, Concepts, and Functions (March 10, 2018). Boston College Law Review, Vol. 60, No. 1, 2019; George Mason Legal Studies Research Paper No. LS 18-04. Available at <http://dx.doi.org/10.2139/ssrn.3136041>
7. The Registration Act, 1908: Critical Analysis of Registration Act by Shivam Goel, Available at: <https://www.researchgate.net/publication/314424567>
8. Overview Of Stamp Duty Acts available at [https://shodhganga.inflibnet.ac.in/bitstream/10603/130517/9/09\\_chapter%203.pdf](https://shodhganga.inflibnet.ac.in/bitstream/10603/130517/9/09_chapter%203.pdf)
9. [Essert, Christopher \(2013\), 'The Office of Ownership,' University of Toronto Law Journal, 63: 418–461.](#)
10. Francis S. Philbrick, "Changing Conceptions of Property in Law", University of Pennsylvania Law Review And American Law Register, Volume 86 May, 1938 No.

#### 7 Learning Outcomes:



On successful completion of this course, students will be able to:

1. Analyse and define the concept and nature of transfer of immovable property, and illustrate the different types of transfers and rules relating to it.
2. Evaluate the rules relating to general transfer of immovable property 3. Determine and analyse the rules of specific transfer and easements.
4. Determine, explain and apply the principles of property law to resolve complex problems and theoretical questions.
5. Apply property law to complex problems and critically examine its operation from a range of theoretical and social perspectives and to Prepare convincing written arguments for a legal audience.

# **PROFESSIONAL ETHICS ACCOUNTANCY FOR LAWYERS AND BAR BENCH RELATIONS (CLINICAL COURSE: I)**

## **Objectives of the Course**

*Legal profession is a noble profession. Every profession must have an ethics particularly legal profession is most ethical because an advocate is socially responsible and accountable. Professionally advocacy is an art and they have accountability towards court, parties and community at large. The Advocates and Judges should work interdependently each other. Judiciary is an important organ of a state and guardian of basic rights of an individual. As a part and parcel of Judicial system Bar (Advocates) Bench (Judicial Officers) relations is inseparable. This course is enlightening code of conduct of an Advocate, accountability and responsibility of legal profession and the contribution of Bar and Bench towards access to justice.*

## **COURSE OUTLINE**

### **Module I: Introduction**

1. The meaning of Ethics
2. Professional Ethics
3. Code of Conduct
4. Misconduct
5. Importance of Legal Education and Legal Profession in India
6. Historical Background and Significance – judicial process in India

### **Module – II: Rights and Duties of a Lawyer / Lawyer's Accountability**

- A. Duties towards Court, Client, Opposite Attorney, himself, Public, etc., - duty towards legal fraternity and reforms, duty towards providing legal aid
- B. Rights towards right to practice, right to argue his case, right over his professional fees – certain limitation of rights such as restrictions on advertising, bar from carrying on any other profession etc.,

### **Module – III: Law relating to Legal profession and its accountancy**

#### **A. Advocates Act, 1961**

Advocate – Bar Council of India – Legal Practitioner – State Bar Council and its composition, powers and functions – Bar Council of India and its composition, powers and functions – Committees such as Disciplinary committee, Legal aid committee and other committees – Admission and Enrolment – Disqualification – Senior Advocate, Advocate on Record – Misconduct and its punishment for misconduct - Deficiency in Service and Negligent act of Advocacy – Liability and Remedy – Privileged Communication – Vicarious Liability – Advocate Clerk and his responsibility

- B. Bar Council of India Rules, - BCI and its Committees – Directorate of Legal Education – All India Bar Examination – Legal Education (amendment) Rules, 2016
- C. The Contempt of Courts Act, 1971 – Contempt of Court – Civil contempt and Criminal contempt  
Defences and Punishments – Appeal

#### **Module – IV: Bar – Bench Relations**

- A. Advocates and Judges – indispensable partners – composition of Bar Associations – Duties of the Bar
- B. Fair trial – Court Decorum, Discipline, attitude and sincerity – Duty of Judges – without bias, impartial and good conscience in justice delivery
- C. Academic Contribution – skills of lawyer seven lamps of advocacy

#### **Module – V: Modern era (Globalisation) and Legal services in India**

- A. Impact of Foreign Legal Studies and legal services in India – Legal aid – Law firm and legal services – Legal Outsourcing – Law school in India and its legal ethics - dress code, need of practical litigating lawyer
- B. Legal services in modern era: – Techno legal lawyering – Digital India and Legal profession E courts – video conferencing - Alternative Disputes Resolution – Mediation and Conciliation

#### **Module – VI: International concern on Legal profession and ethics**

- A. Private International Law and legal issues – international crimes and legal opinion under ethical manner – cross border terrorism – human trafficking – Drug trafficking –
- B. Pleading of Foreign lawyering and its issues – Italian Marine Case – Jurisdictional issues in India – Commission of Foreign Witnesses

#### **Module – VII: Contribution of Bar Council on Legal Education**

- A. Bar Council of India – Rules of Legal Education, 2019 – Centre of Legal Education – Legal Education Committee – Admission and Enrolment – Eligibility
- B. Maintenance of Standard of Legal Education – Inspection, Recognition and Accreditation – Inspectorate, Legal Education Inspection Board – Approval of Centre of Legal Education – Legal Education Accreditation Board – Directorate of Legal Education – Recognition of Foreign Law Degree – Equivalence –  
Miscellaneous provisions

Apart of class room teaching in this course, this course is a clinical course so the marks shall be allocated based on internal assessment only. For

two project submission 25 marks each, for case study 25 marks (High Court and Supreme Court Judgements), for mid-semester 20 marks and attendance 05 marks – total 100marks **Statue for Reading**

1. Advocates Act,1961
2. Contempt of Courts Act,1971
3. Bar Council of India Rules
4. Legal Education Rules,2008
5. Bar Council of India, Draft Rules on Legal Education,2019

#### **Rule framed cases**

1. Vishram Singh Raghubanshi v. State of UP (AIR 2011 SC 2275)
2. Vijay Singh v. Murarilal AIR 1979 SC 1719
3. S J Chaudhary v. state of Delhi AIR 1984 SC 618
4. Chandra Shekhar Soni v. Bar Council of Rajasthan AIR 1983 SC 1012
5. Ex- Capt Harish Uppal v. Union of India AIR 2003 SC 739
6. John D' Souza v. Edward Ani AIR 1994 SC 975
7. Himalayan Cooperative Group Housing Society v. Balwan Singh AIR 2015 SC 170
8. Vishwanath Swami v. Bar Council of India AIR 2013 SC 3589
9. A S Mohammed Rafi v. State of tamil Nadu AIR 2011 SC 308
10. D Saibaba v. Bar Council of India AIR 2003 SC 2502
11. Pushpaben v. Narandas V Badiani AIR 1979 SC 1536
12. L D Jaikwal v. State of UP AIR 1984 SC 1734
13. Charan Lal Sahu v. Union of India AIR 1988 SC 107
14. P N Duda v. V P Shiv Shankar AIR 1988 SC 1202
15. Dr. Subramanian Swamy v. Arun Shourie AIR 2014 SC 3020

#### **Recommended Readings:**

##### **Books:**

1. K V krishnaswamy Iyer – *Professional Conduct and Advocacy*, Ingram Short title, (2015).
2. Dr. Kailash Rai, *Legal Ethics- Accountancy for Lawyers and Bench and Bar Relations*, Central Law Publication, (Reprint-2016)
3. B R Aggarwala, *Supreme Court Practice and Procedure*
4. P Ramanath Iyer, *Legal and Professional Ethics*, (3<sup>rd</sup> ed.,)
5. Dr. S P Gupta, *Professional Ethics, Accountancy for Lawyers and Bench- bar Relations*

6. *M P Jain, Outline of Indian Legal History-Chapter : Development of Legal Profession*
7. *M R Mallick- The Advocates Act 1961 with Professional Ethics, Advocacy and Bar-bench Relationship*
8. *Dr. B Malik: The Art Of a lawyer*
9. *Nilendra Kumar and Neha Chaturvedi: M K Gandhi's : The Law and Lawyer*
10. *Saadiya Suleman: Professional Ethics & Advertising by Lawyers*

### **Learning Outcomes**

- After completion of this course the student will be able to perform as good lawyering
- The student of law must be oriented with disciplined, well performed and socially ethically trained professional.

## **II YEAR III SEMESTER**

### **LAW OF EVIDENCE**

#### **Objectives of the Course:**

*The Law of Evidence is one of the most important parts of the procedural law. The Law of Evidence plays a very important role in the effective functioning of the judicial system. The Law of Evidence is an indispensable part of both substantive and procedural laws. It imparts credibility to the adjudicatory process by indicating the degree of veracity to be attributed to 'facts' before the forum. This paper enables the student to appreciate the concepts and principles underlying the law of evidence and identify the recognized forms of evidence and its sources. The subject seeks to impart to the student the skills of examination and appreciation of oral and documentary evidence in order to find out the truth. The art of examination and cross-examination, and the shifting nature of burden of proof are crucial topics. The concepts brought in by amendments to the Law of Evidence are significant parts of study in this course.*

***After undergoing the study the student will be able to understand the following:***

- *To design, implement and review a plan for establishing each legal element of a given case to the required standard of proof with admissible evidence*
- *To plan and execute a witness examination that comports with evidentiary standards and that persuasively establishes a fact in issue in the case; anticipate and respond to evidentiary objections that may be raised during your examination*
- *To identify, articulate and assert appropriate evidentiary objections while listening to a witness examination, and respond appropriately to questions from the judge*
- *To draft and execute a witness examination for the introduction of a document or item of proof*

### **COURSE OUTLINE**

#### **Module I: Introduction to Evidence Law**

- a) Historical Evolution of the Law of Evidence- Scope, Object and Applicability of Indian Evidence Act- Indian Law of Evidence and English Law of Evidence
- b) Constitutional Perspective of Evidence-Golden Rule Evidence- Kinds of Evidence
- c) Facts & Relevancy of Facts-Interpretation Clause-Facts in Issue –Relevancy of Facts -  
Distinguish Between Relevancy and Admissibility
- d) Res Gestae -Occasion, Cause and Effect etc. -Motive, Preparation and Conduct -  
Facts Necessary to Explain or Introduce Relevant Facts
- e) Proof of Conspiracy -When facts not otherwise relevant become relevant

#### **Module II: Admission- Confession - Dying Declaration**

- a) Admission- An Exception to Hearsay Rule-Requisites of an Admission-Party to the Proceedings-Kinds of Admission-Admission Regarding State of Mind or Body
- b) Oral Admission as to Content of Documents -Admission in Civil Cases-Evidentiary Value of Admission
- c) Confession-Conditions as to Confession –Kinds of Confession -Confession to Police -Retracted Confession-Distinction Between Admission And Confession-Evidentiary Value of Confession
- d) Dying Declaration-English and Indian Law Difference On Dying Declaration – Essential Conditions for the Applicability of Dying Declaration -FIR as Dying Declaration
- e) Who can record a Dying Declaration -Multiple Dying Declarations -Evidentiary Value of a Dying Declaration-Difference Between a Dying Declaration and a Dying Deposition

### **Module III: Expert Evidence - Relevancy of Character**

- a) Opinion of Third Person When Relevant-Expert Witness- Value of Expert Witness
- b) Expert Opinion: Corroboration- Facts Bearing Upon Expert-Opinion
- c) Opinion as to Handwriting- Opinion as to Digital Signature
- d) Opinion as to Existence of Right or Custom- Opinion as to Usage , Tenets- Opinion on Relationship
- e) Character When Relevant- Relevancy of Character in Civil and Criminal Cases.

### **Module IV: Of Proof- Burden of Proof**

- a) Facts which need not be proved –Modes of Proof -Oral Evidence -Hearsay Evidence
- b) Exceptions to the Rule of Hearsay Evidence- Hearsay and Circumstantial Evidence- Difference Between Direct and Hearsay Evidence
- c) Primary and Secondary Evidence-Documentary Evidence-Public and Private Documents- Presumptions as to the Documents-Exclusion of Oral Evidence by Documentary Evidence
- d) Burden of Proof -Burden and Proof Distinction- Burden of Proof and Onus Probandi
- e) Proof of Fact On Which Evidence Becomes Admissible- Burden of Proving Exception In Criminal Cases

### **Module V: Presumption- Estoppel**

- a) Presumption- Kinds of Presumption- Proof and Presumption- Presumption as to Document-Presumption as to Survivorship-Presumption as to Death-Presumption of

Certain Offences-

- b) Presumption of Legitimacy- Presumption in Suicide Cases-Presumption of Existence of Certain Facts-Presumption in Rape Cases
- c) Doctrine of Estoppel- Kinds of Estoppel- Essential Conditions For Estoppel- Promissory Estoppel- Exception to the Doctrine of Estoppel-
- d) Estoppel by Tenants and Licensee- Estoppel of Acceptor of Bill of Exchange, Bailee and Licensee-
- e) Distinction Between Estoppel and Res Judicata- Distinction Between Estoppel and Waiver

#### **Module VI: Witnesses - Examination of Witness**

- a) Witnesses- Categories of Witnesses- Dumb Witness- Evidence of Prosecutix in Rape Case- Interested Witness- Parties to civil suit and their wives or husband etc- Judges and Magistrate as Witness
- b) Privileged Communications- Professional Communication-Order of Producing Witness- Judge to Decide Admissibility of Evidence
- c) Examination- In –Chief- Cross –Examination- Re –Examination- Distinction Between Examination -In- Chief, Cross- Examination And Re- Examination
- d) Order of Examination- Direction of Re Examination- Cross Examination of person called to produce as document- Question by party to his own witness
- e) Question tending to Corroboration- Former Statement as Corroboration- Refreshing Memory.

#### **Recommended Readings:**

##### **Books:**

1. M. Monir, Law of Evidence, Universal Law Publishing Co. Pvt. Ltd, 2018
2. Rattan Lal Dheeraj Lal, Law of Evidence, Lexis Nexis, 2018
3. Avtar Singh, Principles of Law of Evidence, Central Law Publications, 2016
4. Sarkar and Manohar, Sarkar on Evidence (1999), Wadha & Co., Nagpur 2017
5. Hong Kong Law of Evidence, Mike McConville, Dmitri Hubbard, and Arthur McInnis, 2nd Edition, 2014, Blue Dragon Press, Hong Kong

##### **Journals/ Journal Articles:**

1. Allen, R 1992, “The Myth of Conditional Relevancy”, Loyola of Los Angeles Law Review, 25: 871–884.
2. Allen, R 1994, “Factual Ambiguity and a Theory of Evidence”, Northwestern University Law Review, 88: 604–640.
3. Allen, R. and S. Jehl, 2003, “Burdens of Persuasion in Civil Cases: Algorithms v. Explanations”, Michigan State Law Review, 4: 893–944.
4. Accomplice Liability for Unintentional Crimes: Remaining within the Constraints of Intent by Audrey Rogers Loyola of Los Angeles Law Review (Vol 31:1351).



5. Dr. Nirpat Patel, "The Role of DNA in Criminal investigation – Admissibility in Indian legal system and future perspectives" IJHSSI Vol.2/Issue 7/July 2013/p. 15-21.

#### **Further Readings:**

##### **Books:**

1. Adrain Keane, Paul M.C. Keown, "The Modern Law of Evidence", 9th Edn, Oxford University Press.
2. Albert S. Osborn, "The problem of proof", 1st Indian reprint, Universal Law House, Delhi, 1998.
3. Bholeswar Nath, "Cases and Material on Evidence Act, 1872", Eastern Books Publishers and Book Sellers, Lucknow.
4. Bridges, B.C., Vollmer, August and Monir M., "Criminal Investigation Practical Fingerprinting, Thumb Impression, Handwriting expert testimony Opinion Evidence", The University Book Agency, Allahabad (2000).
5. M. Monir C.J., Dr. H.K. Saharay, "Law of Evidence" (Vol. I, II), 14 Edn, Universal Law Publishing Co. Pvt. Ltd.
6. P. Murphy, Richard Glover, "Evidence" 12 Edn, Oxford University Press.
7. Philips Edward, "Brief Case on Law of Evidence", Cavendish Publishing Limited, London, (1st Edn, 1996).
8. R.L. Gupta, "Law relating to identification and Expert Opinion" 4th Edn, Eastern Book Co, Lucknow.
9. R.S. Pillai, "Criminal Law", Lexis Nexis Butterworths Wadhwa Co., Nagpur, 10 Edn.
10. Sir Rupert Cross and Nancy Wilkins, "An Outline of the Law of Evidence", 4th Edn, London Butterworth, 1975.

##### **Journal/ Journals Articles**

1. Allen, R. and A. Stein, 2013, "Evidence, Probability and the Burden of Proof", Arizona Law Review, 55: 557–60
2. Allen, R, 1991, "The Nature of Juridical Proof", Cardozo Law Review, 13: 373–422.
3. Garrison, A.H. (2000). A review of the behavioural science theory and its admissibility in criminal trials" American Journal of Trial Advocacy, 23, 591-657.
4. Kristina L. Needham, "Questioning the Admissibility of Non Scientific testimony after Daubert: The need for increased Judicial Gatekeeping to ensure the reliability of all Expert Testimony" 1997 FULJ Vol. 25 Issue 3, Pg. 541-578.
5. Mathiharan K, "Emergency Medicare: its Ethical and legal aspects" National Medical Journal of India, Vol. 17, No.1 January/ Feb, 2004, 31-35 at p. 33.
6. Neeraj Tiwari, "Fair trial vis-a-vis Criminal Justice Administration: A critical study of the Indian Criminal Justice System JLCR Vol.2(4) pp. 66-73
7. Nivedita Grover, "Development of forensic science and criminal prosecution-India" IJSRP Vol.4 Issue 12
8. Sonia Dutt Sharma, "DNA-Dignity and Dissolution of Marriage", Helix Vol.2 : 101- 104 (2012).

9. Subhomoy Sarkar, "The Constitutional Mandate on the Right Against Self Incrimination: A Comparative Study on the Legitimacy of Narco Analysis 2009" Cr.L.J Vol 2 Journal/166.
10. Tess M.S. Neal, "Expert Witness preparation: What does the Literature tell us? American Society of Trial Consultants. 2009, pg. 82.

#### **Cases for Guidance**

1. State of Maharashtra vs. Prafulla B. Desai (Dr.) (2003) 4 SCC 601
2. R. M. Malkani vs. State of Maharashtra, AIR 1973 SC 157
3. Mirza Akbar vs. Emperor, AIR 1940 PC 176
4. Badri Rai vs. State of Bihar, AIR 1958 SC 953
5. Mohd. Khalid vs. State of W.B. (2002) 7 SCC 334
6. Jayantibhai Bhenkerbhai vs. State of Gujarat (2002) 8 SCC 165
7. Bishwanath Prasad vs. Dwarka Prasad, AIR 1974 SC 117
8. Central Bureau of Investigation vs. V.C. Shukla, AIR 1998 SC 1406
9. Veera Ibrahim vs. State of Maharashtra, AIR 1976 SC 1167
10. Aghnoo Nagesia vs. State of Bihar, AIR 1966 SC 119
11. Nageshwar Shri Krishna Ghobe vs. State of Maharashtra (1973) 4 SCC 23
12. National Textile Workers' Union vs. P.R. Ramakrishnan (1983) 1 SCC 228, 255
13. CIT v. Podar Cement (P) Ltd (1997) 5 SCC 482
14. State v. S.J. Choudhary (1996) 2 SCC 428
15. SIL Import, USA v. Exim Aides Silk Exporters (1999) 4 SCC 567

#### **Learning Outcome:**

After completion of the course students will be able to -

- *To identify, assert and support objections to items of proof, using appropriate evidentiary rules and tailoring objections to the facts at hand.*
- *To identify and use a range of legally specific research principles, methods and tools to make a coherent and persuasive argument for the admission or exclusion of a specific item of evidence, incorporating factual information and legal standards drawn from both evidentiary rules and substantive law .*
- *To research, analyse and apply evidentiary standards to complex issues and present a persuasive written and oral argument for the admission or exclusion of the evidence.*
- *Articulate the processes for the adversarial examination of evidence and differentiate between the roles of the district attorney and defense counsel in the presentation of evidence.*

## COMPANY LAW

### Objectives of the Course:

*Globalization has reduced the barriers to the movement of people, capital and technology across the globe. Today corporates are able to penetrate economies in virtually every part of the world. The result has been a fundamental shift in the relationship of corporate to both law and public policy. In today's globalised economy is governed by corporates wherein most of the enterprises are either private or public limited companies instead of partnership or proprietorship as in olden days.*

*In view of the developments that have taken place in the corporate sector this course is designed to understand the following:*

- 1. The functions, management and other activities of the companies.*
- 2. Equipping the students to understand the corporate management control, possible abuses, the remedies and government regulations governing companies.*

## COURSE OUTLINE

### Module I Introduction – General principles of Company law

- a) Definition- Evolution, meaning and Functions of corporate law;
- b) Historical Development of Concept of Corporate Law in India
- c) Meaning and Nature of Company with Emphasis on its Advantages and Disadvantages over other forms of Business organizations. Types of companies.
- d) Comparison between Company and Partnership and Company and Limited Liability Partnership;
- e) Theory of 'Corporate Personality'; concept under common law and statutory law; the company as a corporate body; ignoring of corporate personality; statutory exceptions to corporate personality;

### Module II Promotion and Formation of Company

- a) **Promotion:** Promotion of Company, Promoters their position, Powers, Duties and Liabilities.
- b) **Formation:** Formation of Company Procedure of registration including online registration of a company- Effects of Certificate of Incorporation - pre incorporation contracts- Liability of company.
- c) Company's Constitutional Documents- *Memorandum of Association and Articles of Association, Doctrine of Ultra vires* – A critical analysis of doctrine of Ultra Vires Alteration of Memorandum of Association and Articles of Association.

- d) Binding Nature of Articles of Association between members/shareholders *inter se* and also outsiders; Rule of Constructive Notice; Doctrine of Indoor Management and its exceptions.

**Module III Corporate financing**

- a) Shares –Nature of shares- Application and allotment of shares
- b) share capital- kinds of share capital, equity, preferential difference
- c) prospectus – golden rule in issuing prospectus – Remedies against misrepresentation in the prospectus- -members and shareholders,
- d) -debentures, charges and debenture holder, crystallisation of floating charge, dividends.

**Module IV Corporate Governance**

- a) Directors-independent directors, women directors and managerial personnel, meetings
- b) Role of directors – Board of directors- duties and responsibilities- Insider Trading – Role of SEBI
- c) accounts and audits-internal auditing, National financial reporting authority, E-filing,
- d) majority powers and minority rights, prevention of oppression and mismanagement, investigation, powers of inspectors,

**Module V Winding Up of Companies**

- a) Winding up and kinds of winding up.
- b) Procedure for different kinds of winding up - powers of liquidators
- c) Insolvency and Bankruptcy - Defunct companies and restoration, revival and rehabilitation of sick companies

**Module VI Adjudicatory Bodies**

- a) National Company Law Tribunal; National Company Law Appellate Tribunal – Administration of NCLT, CLAT Constitution, Powers, Jurisdiction, Procedure, Judicial Review

**Module VII Corporate Governance and Social responsibility**

- a) Importance of Corporate Governance; Legal Reforms of Corporate Governance in India; Reports of the various Committees on Corporate Governance;
- b) Corporate crimes; Corporate social and environmental Responsibility – theories and justification;

- c) CSR and multinational corporations; regulation of multinational corporations in India;
- d) Corporate ethics and human rights – corporate governance in a human rights perspective; UN corporate Human Rights framework.

### **Recommended readings:**

#### **Books:**

1. A. Ramaiya, Guide to the Companies Act (17th ed., 2010)
2. Paul L. Davies, Gower and Davies Principles of Modern Company Law (Latest edition)
3. Palmer : Company Law, Stevens and sons, London
4. Hicks, Andrew & Goo S H, Cases and Material on Company Law, Oxford University Press (8th ed., 2008)
5. Avatar Singh: Company Law, Eastern Book Company, 16<sup>th</sup>ed 2018.

#### **Articles:**

1. David Millon, “Theories of the Corporation” Vol. 1990: 2001 Duke Law Journal 262
2. Harvard Law Review, 1982. Piercing the Corporate Law Veil: The Alter Ego Doctrine under Federal Common Law. 95(4), pp.853-871.
3. Franklin Gevurtz, “The Globalization of Corporate Law: The End of History or a Never Ending Story?” Vol. 86: 475 Washington Law Review 475-521 (2011).
4. Azfer A. Khan, BlurringTheEdgesOfCorporate Law: Insider TradingAndTheMartoma Decision, Harvard Business Law reviewOnline,2018volume 8,PP.48-56.
5. Human rights through a corporate governance lens Posted by George s. Dall international corporate governance network, on Friday, may 22, 2015

### **Further Readings:**

#### **Books:**

1. Gower’s and Davies’ *Principles of Modern Company Law*, (8th ed., 2008)
2. Kershaw, David, *Company Law in Context*, Oxford University Press, UK, (2nd ed., 2012)
3. Mayson,French&Ryamn:Company Law, Oxford, 31<sup>st</sup> edition, 2014-15
4. Saleem Sheikh & William Rees, Corporate Governance & Corporate Control, Cavendish Publishing Ltd., 1995
5. Charles Wild & Stuart Weinstein Smith and Keenan, Company Law, Pearson Longman, 2009
6. Institute of Company Secretaries of India, Companies Act 2013, CCH Wolter Kluwer Business, 2013.

#### **Journals:**

1. A Reassessment of the Fraud Exception. Cambridge Law Journal, 2(56), pp.284-290.
2. Hayton, D., 1977. Contractual Licences and Corporate Veils. The Cambridge Law Journal, pp.12-15.
3. Katharina Pistor, Yoram Keinan\* , Jan Kleinheisterkamp, Mark D. \_West The Evolution of Corporate Law.
4. Sanger, A., 2012. Crossing the Corporate Veil: The Duty of Care Owed by a Parent Company to the Employees of Its Subsidiary. Cambridge Law Journal, pp.478-481.

#### **Cases for guidance:**

1. Ashbury Railway Carriage & Iron Co. Ltd. v. Riche, (1875) L.R. 7 H.L. 653,
2. Bharat Insurance Ltd. v. Kanhya Lal, A.I.R. 1935 Lah. 792
3. Case Study on Satyam Scandal
4. Daimler Co. Ltd. v. Continental Tyre & Rubber Co., (1916) 2 A.C. 307
5. *Erlanger v. New Sombrero Phosphate Co.* (1878) 3 AC 1218: (1874-80) All ER Rep. 271
6. Foss v. Harbottle 67 E.R. 189;
7. Household Fire And Carriage Accident Insurance Co. Ltd. Grant (1879) 4 E.D. 216]
8. *Kotla Venkataswamy v. Chinta Ramamurthy*, AIR 1934 Mad. 579
9. Life Insurance Corporation of India v. Escorts Ltd., (1986) 59 AIR 1986 SC 1370
10. Menier v. Hooper's Telegraph Works, (1874) L.R. 9 Ch. App. 350
11. New Brunswick, etc., Co. v. Muggeridge, (1860) 3 LT 651
12. Peek v. Gurney (1873) 43 L.J. Ch. 19
13. *Percival v. Wright* (1902) 2 Ch. 421
14. Royal British Bank v. Turquand (1856) CI & B 327)
15. Salomon v. Salomon & Co. Ltd., (1897) A.C. 22

#### **Learning Outcomes:**

After completion of the course students will be able to:

1. To examine and develop an understanding of the characteristics of a business corporation when compared to other forms of business structure.
2. To consider the conceptual framework within which companies operate, Corporate personality and the extent of the personal liability of members of corporations.
3. To acquire the cognitive skills to analyse evaluate and synthesise information about corporations, corporate officers, shareholders and creditors so as to identify and resolve legal and business related issues.
4. To develop a commitment to engendering lawful, ethical and socially reasonable corporate behaviour

## ADMINISTRATIVE LAW

### Objectives of the Course:

*The State's multifarious responsibilities have resulted in a vast array of functions devolving on state functionaries. In this bureaucratic raj, more powers, both quasi-legislative and quasi-judicial, vest in bureaucrats to enable them to ensure effective administration. Administrative Law is the branch of law that concerns itself with good governance that is based on compliance with the law, transparency and non-arbitrariness in the exercise of discretion and also with the delivery of administrative justice. This course lays emphasis on understanding the evolution, nature and scope of Administrative Law and its relation with Constitutional Law. Adequate systems of checks and balances, safeguards for procedural fairness, the availability of judicial review and remedies to aggrieved persons, and the general modus operandi of administration form the subject matter of this branch.*

This course has been designed to:

- I. Investigate the historical development of the concept of administrative law;
- II. Explore and probe the evolution and current status of administrative law across various jurisdictions, both in civil and common law countries, such as UK, USA, France and India;
- III. Scrutinize the role, scope and intricacies involved in delegated legislation;
- IV. Ponder the basic requirements of procedural fairness and natural justice in administrative procedures;
- V. Survey the concept of judicial review and understand state accountability;
- VI. Critically analyse remedies available in case of maladministration and Provide a detailed study of public undertakings and the role of ombudsmen

The following syllabus prepared with this perspective will comprise of 6 modules.

### COURSE OUTLINE

#### Module I - Introduction to Administrative Law and Constitutional Concepts

- (a) Role of State From Laissez-Faire to welfare State – Expansion Role of State - as Enabler, facilitator and Regulator.
- (b) Definition, Nature and Scope of Administrative Law.
- (c) Administrative Development Patterns in U.K., U.S.A., France and India
- (d) Relationship Between Administrative Law and Constitutional Law.
- (e) Basic Constitutional Principles - Rule of Law - Doctrine of Separation of Powers - System of checks and balances.

(f) Parliamentary Sovereignty in U.K., Limited Legislative Powers in U.S.A. and India.

(g) Classification of Administrative Action - Nature of Powers; Executive, Legislative and Judicial - Legislative function and Quasi Legislative functions – Judicial function and Quasi-Judicial functions - Administrative Directions.

## **Module II - Rule Making Power of the Administration**

(a) Need for Delegated Legislation.

(b) Delegated Legislation in UK and USA.

(c) Delegated Legislation in India- Pre and Post Constitutional Period.

(b) Constitutionality of Delegated Legislation.

(b) Types of Delegated Legislation - Administrative directions.

(c) Permissible and Impermissible Limits of Delegation.

(d) Control over Delegated Legislation – Judicial, Procedural and Legislative Control.

## **Module III - Administrative Adjudication and Procedural Fairness**

(a) Need for Administrative Adjudication.

(b) Reason for growth of Administrative Tribunals

(c) Franks Committee.

(d) Mechanism for administrative Adjudication – Quasi – Judicial Bodies, Tribunals.

(e) Merits and Demerits of Administrative Tribunals.

(f) Procedure and powers of Administrative Tribunal.

(g) Tribunal under Constitution.

(h) High Court's Superintendence over Tribunals.

(i) Appeal to Supreme Court by Special Leave.

(j) Administrative Tribunals under Administrative Tribunals Act, 1985

(k) Domestic Tribunal.

(l) Principles of Natural Justice – Concept - Rule against Bias - Audi Alteram Partem –



Ingredients of Fair Hearing - Institutional Decision - Post-Decisional Hearing - Reasoned Decisions - Exceptions to the Rule of Natural Justice - Effects of Breach of Natural Justice.

#### **Module IV – Judicial Review and Liability of the State**

- (a) Need for Judicial Review.
- (b) Scope of Judicial Review Jurisdiction of the Supreme Court -Writ Jurisdiction- Appeal by Special Leave (Art. 136) - Scope and Object of Article 136.
- (c) Jurisdiction of the High Court.
- (d) Judicial Review of Administrative Action through Writs.
- (e) Scope of the Writ Jurisdiction - *Locus-standi* - Kinds of Writ - Grounds for issue of Writs - Alternative Remedy-Laches or Delay-*Res Judicata*.
- (f) Public Interest Litigation.
- (g) Statutory and Equitable Remedies – Injunction - Declaration against the Government - Exclusion of Civil Suits.
- (h) Administrative Discretion - Nature and need of Administrative discretion - Grounds and  
Extent of Judicial Review - Doctrine of Proportionality - Fundamental Rights and Discretionary Powers
- (i) Privileges and Immunities of Government in Legal Proceedings – Privilege to withhold documents – Miscellaneous Privileges of the Government - Notice, Limitation, Enforcement of Court Order - Binding nature of Statutes over the States action.
- (j) Promissory Estoppel.
- (k) Doctrine of Legitimate Expectation.
- (l) Right to Information.
- (m) Liability of the State - Liability of the State in Torts and Contracts.

#### **Module V -Maladministration and Alternative Remedies**

- (a) Need and Utility.
- (b) Origin and development of the Institution.
- (c) Ombudsman in England (Parliamentary Commissioner).
- (d) Ombudsman in India – Lokpal - Lokayukta in States.

(e) Central Vigilance Commission.

## **Module VI – Public Undertakings**

(a) Object, Importance and Characteristics of Public Corporation.

(b) Classification of Public Corporations.

(b) Rights, Duties and Liabilities of Public Corporations.

(c) Controls over Public Corporations, Government Control, Parliamentary Control, Judicial Control, Public Control.

(d) Role of Ombudsman in Public Undertaking.

## **Recommended Reading**

### **Books Prescribed:**

- 1.M.P.Jain & S.N. Jain, “Principles of Administrative Law” (Gurgaon: Lexis Nexis, 2013).
- 2.S.P. Sathe, “Administrative Law” (Butterworths, India 1998).
- 3.De Smith, “Judicial Review of Administrative Action” (Sweet and Maxwell, 1995).
- 4.I.P.Massey, “Administrative Law”, (Lucknow: Eastern Book Company, 2008).
- 5.C.K.Takwani, “Lectures on Administrative Law” (Allahabad law Agency, 2014).
- 6.Kailash Rai, “Administrative Law” (Allahabad law Agency, 2014).

### **Journals Prescribed**

1. Chauhan,(V.S), “Reasoned Decision: A Principle of Natural Justice” JILI, Vol.37, (1995) pp. 92-104.
2. Saad Abdulbaqi Sabti and YP Rama Subbaiah, “Conceptual analysis of sub Delegation: An overview” International Journal of Law, Vol.3, Issue 3, (2017) p.75.
3. Seema Dalal, “Administrative law and judicial review of administrative action with a special emphasis on the writ of Certiorari” International Journal of Law, Vol.3, Issue 3, (2017) p.01.
4. Jarnail Singh and Dr. RK Gupta, “Doctrine of legitimate expectation: The emerging trends in Indian Judiciary” International Journal of Law, Vol.3, Issue 5, (2017) p.135.

5. Dr. Rahul Tripathi, "Judicial Review: A Study in Reference to Contemporary Judicial System In India" International Journal of Research – Granthaalayah, Vol. 4, No. 5 (2016), p.5.

### **Further Reading**

#### **Reference Books:**

- 1.Durga Das Basu, "Administrative Law" (Kamal Law House, 2016).
- 2.C.K. Thakker, "Administrative Law" (Lucknow: Eastern Book Company, 2012).
3. William Wade and Christopher Forsyth, "Administrative Law" (Oxford University Press, 11<sup>th</sup> ed., 2014).
4. De Smith, "Constitutional Law and Administrative Law" (Penguin, 2000).
- 5.Foulkes, "Administrative Law" (Oxford University Press, 1995)
- 6.Indian Law Institute, "Cases and Material of Administrative Law" (1996).
- 7.Michael T Molan, "Administrative Law ( London: Old Bailey Press, 2001).
8. David Stott & Alexandra Felix, "Principles of Administrative law" (London: Cavendish Publishing Limited, 1997).
9. Paul Craig, "Administrative Law" (London: Sweet & Maxwell, 2011).
- 10.J.A.G. Griffith and H. Street, "Principles of Administrative Law" (Sir Isaac Pitman, 1963).

#### **Articles:**

1. Seemeen Muzafar, "Doctrine of Legitimate Expectation in India: An Analysis", International Journal of Advanced Research in Management and Social Sciences, ISSN: 2278 – 6236.
2. A.Beula Chrimak Darius and Ms.R.Dhivya, "Applicability of Principles of Natural Justice to The Administrative Proceedings" International Journal of pure and Applied Mathematics, Vol.120, No.5, (2018), p.2013.
3. S. Saran and Ms. R. Dhivya, "Administrative Tribunals Under Indian Constitution" International Journal of pure and Applied Mathematics, Vol.120, No.5, (2018), p.1939.
4. Siddharth.R and Prof. Dr. A. Sreelatha, "Principle of Natural Justice and Its Application in Indian Legal System" International Journal of pure and Applied Mathematics, Vol.120, No.5, (2018), p.1669.

5. S.Shruthi Taarana and Ms.R.Dhivya, “Administrative Tribunals in India the Lights of the

Decided Cases-In Constitutional Analysis” International Journal of pure and Applied Mathematics, Vol.120, No.5, (2018), p.1921.

6. Ambuj Mishra, “Legitimate Expectations in India” IJJSR, Vol.1, Issue 1, (2019), p.30.

### **Cases for Guidance:**

1. Express Newspapers Ltd v. Union of India, AIR 1986 SC 872.
2. Ridge v. Baldwin, 1964 AC 40.
3. Rampur Distillery Co. Ltd. v. Company Law Board, AIR 1970 SC 1789
4. Delhi Laws Act,1912, re , AIR 1951 SC 332.
5. Hamdard Dawakhana v. Union of India, AIR 1960 SC 554.
6. Chintamanrao v. State of M.P., AIR 1951 SC 118.
7. Hiranath Mishra v. Rajendra medical College, AIR 1973 SC 1260.
8. Dhakeshwari Cotton Mills Ltd. v. CIT, AIR 1955 SC 65.
9. Union of India v. H.C.Goel AIR 1964 SC 364.
10. ADM Jabalpur v. Shivkant Shukla, AIR 1976 SC 1207.
11. SP Gupta v Union of India 1981 supp SCC 87.
12. N. Nagendra Rao v. Status A.P., (1994) 6 SCC 205.
13. Vineet Narain v. union of India AIR 1998 SC 889.
14. Sunil Kumar v. State of West Bengal, 1980 AIR 1170
15. Vishwarao v. Lok ayukta, Maharashtra, AIR 1985 Bom 136

### **Learning Outcome**

Upon completing this course, the student will be able to:

1. Grasp the historical development of administrative law and gain conceptual clarity of this branch of law across various civil and common law jurisdictions;
2. Ponder the importance, powers, and limitations of delegated legislation;
3. Master the crucial concept of natural justice and the touchstone requirements of administrative procedures;
4. Perceive the criticality of judicial review and state accountability, and understand the available remedies;
5. Develop a keen understanding of the applicability of administrative law to public companies and be deeply aware of the importance of ombudsmen

## MEDIATION AND CONCILIATION

### Objective of the Course:

*Judicial delay and arrears are the greatest form of causality in adversarial process. Adjudication through Court of Law are high in terms of time, expense and damage to relationships. With the introduction of Section 89, CPC and amendment in the Arbitration and Conciliation Act 1996 in 2015 and setting up of in-house mediation centers focus is shifting on noncoercive and consensual processes of Mediation and Conciliation is the fastest growing dispute resolution remedy worldwide. Mediation and Conciliation shall provide for a Win-Win situation for the parties to the dispute, as the resolution takes place with the characteristic of amicability, peacefulness and mutual settlement between parties thus, finality, without intervention of the Court. There is a need of blending judicial and non-judicial dispute resolution mechanism and bring mediation a primary method of resolution of dispute to the center of the Indian Judicial System. The subject is old but needs reassurance and learned in theory and practice, to be looked upon more as primary option than as Alternate dispute resolution (ADR) mechanism. This course will be learned under two basics. First, the theoretical understanding of the concepts and, the ethical and legal provisions relating to, mediation and conciliation. Secondly, the course is geared to train the students in the practical skills required to effectively participate and practice, mediation and conciliation processes.*

***After undergoing the study, the student will be able to understand the following:***

- *Law on the subject and the precedents laid down by court annexed mediation in India and abroad are exhaustively dealt with.*
- *Nature of dispute, conflicts and make choice of appropriate settlement technique to and resolve them.*
- *Identification of real needs and interests resolves the disputes without undergoing arduous trial procedures.*
- *Enhancing the practical skills apart from theory, in long run shall reduce backlog and docket explosions before the Court of Law.*

## COURSE OUTLINE

### Module I: Introduction: Nature and Scope of Conflict and Disputes:

- a) Causes for conflict, Kinds of conflict, Escalation and De-escalation of conflict. Dispute as a manifestation or starting point of conflict. The role of Law and Society in ensuring settlement of disputes and effective conflict resolution.
- b) Negotiation, Mediation, Arbitration and Adjudication: scope and relative merits. Limitations of the adversarial process and need for consensual resolution. Mediation as the preferred ADR mode.

- c) Pendency of cases in India, its causes and consequences. The need for Alternative Dispute Resolution. Mediation as a flexible, timely, cost-effective mode of alternative dispute resolution.

#### **Module II: Comparative study : Genesis of Mediation and Restorative Justice:**

- a) Promoting dialogue, reconciliation, healing and mutual agreement in the pursuit of justice. Concept of *Ubuntu* and South Africa's Truth & Reconciliation Commission; The *Abunz* mediators and the *Gacaca* courts of Rwanda.
- b) Mediation by *Mahajans*, *Panchas* and religious leaders. *Ahimsa*, *Satyagraha* and Gandhian principles of pragmatic, non-violent conflict resolution.
- c) Village elders in ancient Greece and interlocutors under Roman law, influence of Confucianism and Taoism on Mediation in China, the role of community/religious leaders: the *Ketua Kampong* (village headman) and the Imams in Malaysia, the *Ting* (local assembly) in Nordic countries.

#### **Module III: ADR: Characteristics and Conceptual Analysis:**

- a) Definitions and key characteristics, Fastest growing ADR mode. Nature of mediation as voluntary, consensual, non-coercive, confidential and risk-free. Parties retain control of the process.
- b) Problem-defining, Problem-solving and settlement stages. Opening round, joint sessions and private caucus. Gathering information, analysing issues and interests, generating options and proposals, resolving disagreements, reaching agreement.
- c) Facilitative, Evaluative and Transformative Mediation. Role of the Mediator as a neutral facilitator, impartial moderator, trusted interlocutor but never a legal advisor.

#### **Module IV: Techniques: Communication:**

- a) Communication styles, Communicative behaviour, Compassionate or Collaborative Communication.
- b) Choice of words, clarity of thought and expression, right pitch, tone and emphasis, body language.
- c) Active listening skills, building rapport, empathy not sympathy. Use of open-ended questions, neutral rephrasing, factual summarizing.

#### **Module V: Skill: Enhancement for Cumulative Efficiency:**

- a) Summarizing the facts, understanding respective positions, discussing issues rationally, recognizing both individual and common interests, empathizing with underlying emotions and asking relevant open-ended questions.
- b) Neutral reframing of issues, identifying interests, moving parties away from issues towards interests, generating and exploring options, formulating

objective criteria, conveying offers and proposals, applying reality checks. Assessing the alternatives to a negotiated settlement (BATNA, WATNA, MLATNA)

- c) Causes for impasse and effective intervention techniques: time-out, calculated adjournment, deadlines, refocusing attention, emphasizing relationships, brainstorming, using expert valuation, using other dispute resolution modes.
- d) Distributive v Integrative negotiation. Expanding the pie and developing win-win solutions.

#### **Module VI: Process: Character Building**

- a) Being neutral, impartial, objective, communicative, open-minded, quick-thinking, patient, amicable, diplomatic, honest and empathetic. Learning how to build rapport, gain trust, formulate creative solutions and deal with impasse.
- b) Importance of ethical conduct during Mediation. Ensuring impartiality and neutrality, no conflict of interest, dealing with power imbalance, preventing abuse, encouraging parties to reach their own solutions without any coercion or undue influence.
- c) Confidentiality extends to all case info, identity of parties, proposals and offers made by parties, confidential revelations during private sessions, terms of the settlement and all case-related documents

#### **Module VII: Drafting Settlement and Agreements**

- a) Identifiable parties, unambiguous terms, clear language, specific outcomes, measurable commitments, provision for monitoring implementation and accepted mode for resolving future conflicts
- b) Enforceability of arbitral agreements under Section 36 of the Arbitration and Conciliation Act of 1996. Court decree for court-annexed mediation settlements. Vitiating factors: fraud, coercion, corruption, incapacity of a party or the settlement being contrary to public policy or Indian law. Need for Mediation-specific legislation to regulate and give legal sanctity to mediated settlements.

#### **Module VIII: Legislations and Statutory Authorities:**

- a) All statutes and regulations on Mediation and Alternative Dispute Resolution; This includes: The Arbitration and Conciliation Act, 1996; Conciliation--Relevant Provisions and Case Law (sections 61-81); Arbitration--Relevant Provisions and Case Law (sections 30-37); Sec 89, CPC 1908; Model Rules under Sec 89: Model Civil Procedure ADR and Mediation Rules, 2003 (Parts I and II). Other Provisions of the CPC, 1908: Order X (Rules 1, 1A, 1B, 1C); Order XXIII
- b) Rules 3, 3A and 3B. Order XXVII (Rule 5B), Order XXXIIA (Rule 3); Commercial Courts Act 2015; The Commercial Courts (Pre-Institution Mediation and Settlement) Rules 2018 (the PIMS Rules). The Consumer Protection Act 2019 and relevant regulations.

- c) Panchayats, Lok Adalats, Ombudsmen, Police Authorities, Bureaucrats, Grievance Cells, Conciliation Officers

### **Module IX: Hybrids UNCITRAL and ICT Enabled ADR**

- a) Arbitration and Conciliation Act, 1996 read with Information Technology Act, 2000 and Indian Evidence Act, 1872. And its advantages
- b) Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018. Speedy settlement of commercial cases through mediation. Settlement enforceable as deemed arbitral award (under Section 30(4) of Arbitration and Conciliation Act, 1996)
- c) UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation, 2018; United Nations Convention on International Settlement Agreements Resulting from Mediation (the Singapore Convention on Mediation). Mediation training and skill development, international accreditation and development of global mediation standards.

### **Recommended Reading:**

#### **Books:**

1. R.S. Bachavat : Law of Arbitration & Conciliation Act, Vol – I & II; LexisNexis Butter Worth, 5th Edition (2013)
2. Sriram Panchu ,Mediation Practice & Law: The Path to Successful DisputeResolution, LexisNexis ( 2015)
3. Mediation and Conciliation Project Committee, Supreme Court of India, Mediation Training Manual of India,(available at.<https://main.sci.gov.in/pdf>)
4. Roger Fisher, William Ury and Bruce Patton,Getting to Yes: How to Negotiate Agreement Without Giving In, RHUK (2011)
5. Anuroop Omkar and Kritika Krishnamurthy ,The Art of Negotiation and Mediation - A Wishbone, Funnybone and a Backbone, Lexis Nexis (2015)
6. Rahul Banerjee and Amita Chatterjee, Indian Philosophy and Meditation: Perspectives on Consciousness (Routledge Studies in Asian Religion and Philosophy) Routledge (2015)
7. Joel Lee and The HweeHwee ,An Asian Perspective on Mediation Singapore. Academy ( 2009) (available at. <http://www.review.upeace.org/pdf> )
8. Christopher Moore,The Mediation Process: Practical Strategies for Resolving Conflict, Wiley, (2014)
9. Ramin Jahanbegloo, Introduction to Non-Violence, Red Globe Press (2014)

#### **Reports:**

1. 222nd Report of the Law Commission of India on “Need For Justice-Dispensation Through ADR, etc.” (2009).



2. 246th Report of the Law Commission of India on Amendments To The Arbitration And Conciliation Act 1996 (2014)

#### **Key Cases:**

1. Afcons Infrastructure v Cherian Varkey., (2010) 8 SCC 24
2. National Insurance Co. Ltd. v BogharaPolyfab Pvt. Ltd., (2009) 1 SCC 267.(p.65)
3. ONGC Limited Vs Western Geco International Limited (2014) 9 SCC 263.

#### **Further Reading:**

#### **Books:**

1. P. C. Markanda, Law relating to Arbitration and Conciliation. LexisNexis, ISBN – 8180388131, India; 8 th Edn. (2013)
2. O.P. Malothra, The law and practice of Arbitration & Conciliation ,2nd edn, LexisNexis Butterworths , New Delhi (2006)
3. P.C. Rao & William Sheffield, ed., Alternative Disputes Resolution- What it is and how it works? ,Universal Law Publishing Co. Pvt. Ltd., New Delhi, (2006).
4. P.C. Markanda, Law relating to Arbitration and Conciliation, 7th edn., LexisNexis Butterworths, Nagpur, (2009)
5. Basu. N.D, Law of Arbitration and Conciliation( 9th edn., Universal Law Publishing Co. Pvt. Ltd., New Delhi, 2000).
6. G.K.Kwatra , The Arbitration and Conciliation Law of India, Universal Law Publishing Co. Pvt. Ltd., New Delhi, (2000).
7. Surendra Malik, Supreme Court on Arbitration, Eastern Book Co, Lucknow, (2003).
8. A. Redfern and M. Hunter, Law and Practice of International Commercial Arbitration, Student Edition, Sweet and Maxwell, London, (2003).

#### **Journal/ Article:**

1. Annual Survey of Indian Law, (ILI, New Delhi).Cases for Guidance
2. Need for Alternatives to the Formal Legal System (Special Address by Muralidhar S., International Conference on ADR, Conciliation, Mediation and Case Management Organised By the Law Commission of India at New Delhi on May 3- 4, 2003)p.01
3. ‘Comparison of Adjudication with ADR’, Mediation Training Module of India Chapter 4 (2011) SC of India,p.08
4. ‘Development of Mediation in India’, Mediation Training Module of India Chapter 1 (2011) SC of India,p.11

#### **Learning Outcomes:**

At the end of the semester, the students will be:

*Competent to practice Mediator skills and undertake legal research and promote legal reforms in theory and practice.*

1. *Gain skill and competency to decide and resolve ethical hitches in Conciliation and Mediation as settlement mechanism.*
2. *To analyze and apply the substantive techniques of mediation and conciliation*
3. *Choose right techniques and effective communication, gain success by bringing about consensus and draw up settlement agreement.*
4. *Practical trained via internship and training as observers at court-annexed mediation centers, at private mediation centres, with sitting/former Judges of Supreme Court and/or High Courts, and/or by senior and/or experienced Advocates (duly approved by Bar Council of India)*

## **INTERPRETATION OF STATUTES**

### **Objectives of the Course**

*Interpretation as a branch of legal science emerges out of the necessity triggered by the element of fallibility of human communications. It is part of laws of nature. The increase in the creation of human legislations further validates the role of interpretation as a consistent source of legislation. The primary aim of all interpretation is to provide clarity to the existing legislations. Judiciary as the custodian of statutes interprets the legislation. Thus, the students of law on a need based approach will be trained to learn the implications of the schools of textualism and purposivism in the context of statutory construction as a tool of social change.*

## **COURSE OUTLINE**

### **Module I: Statutes: Philosophy, Principles and Process of Legislation**

- (a) Separation of powers-principles of utility-social justice- welfare and development approach-Good Governance-Public Opinion-Social Control-Indigenous Influence (Native laws)-Morals;
- (b) Kinds of Statutes-Perpetual and Temporary-Penal-Taxing-Remedial-Concept of Statute Law-Interplay between Public Opinion-Legislators-Executives-Judiciary-Ancient Indian Philosophy on Interpretation.

### **Module II: Foundational Perspectives of Interpretation**

- (a) Concept, Meaning and Object of Interpretation-Values of Clarity and Analytical Ability-Textualism and Purposivism- Human Communication and Limitations;
- (b) Nature of Man Made Legislations-Common Sense-Linguistic deficiencies-Ambiguity- Interpretation and Construction;
- (c) Comparative Legal Philosophy-Skills of Interpretation-Stages of Interpretation.

### **Module III: Nature and Parts of Statutes**

- (a) Statutory, Non Statutory, Codified, Uncodified, State made and State Recognised Laws -Parts of a Statute - Commencement, Operation, Amendments and Repeal and Revival of Statute;

- (b) Basic Sources of Statutory Interpretation-The General Clauses Act, 1897: Nature, Scope and Relevance-Definitional Clause-Fundamental Concepts on Commencement, to Repeal of Statutes.

#### **Module IV: Internal and External Aids to Interpretation**

- (a) Short Title-Preamble-Statement of Objects and Reasons-Long Title- Definitional or Interpretative Clause-Punctuations-Marginal Notes-Proviso-Explanations-Exceptions-Illustrations-Schedules-Removal of Difficulties Clause-Non Obstante Clause-Ouster Clause-Savings and Repeal Clauses;
- (b) Parliamentary History-Dictionaries (General and Specific)-Foreign Decisions-Text Books-Law Commission of India's Reports on Amending the General Clauses Act.

#### **Module V: Rules of Statutory Interpretation**

- (a) Literal and Logical Rules of Interpretation-Statute must be read as whole- every word to be given a meaning-Legalism and Creativity-Legal Language, Legal Riddles and Logic-Golden Rule and Mischief Rule;
- (b) Strict construction of Penal Laws and Taxation Laws-Judicial Activism, Judicial Process and Judicial Restraint-Beneficial Construction of Social Security Legislations.

#### **Module VI: Subsidiary Rules**

- (a) *Ut res magis valeat quam pereat-Noscitur a sociis-Ejusdem generis*;
- (b) *Casus omissus-Reddendo singula singulis-Contemporaneo expositio est optima fortissima sine lege*.

#### **Module VII: Interpretation of Constitution**

- (a) Principles and Theories-Preamble as a Tool-Reading Directive Principles and Fundamental Duties with Fundamental Rights;
- (b) Interpretation of International Instruments-Presumptions: Presumption against Ousting Established Jurisdiction-Presumption against Exceeding Territorial Nexus-Presumption against Ouster of Jurisdiction of Courts-Presumption against changes in Common Law-Presumption against including what is Inconvenient or Unreasonable-Presumption against Intending Injustice or Absurdity-Presumption against Retrospective Operation of Law-Presumption against Violation of International Law- Presumption in favour of Constitutionality of a Statute.

#### **Module VIII: General Rules of Treaty Interpretation**

- (a) Statist and Principle based Approaches towards International Law-Sources of

- International Law-Interface between Custom and Treaty-International Treaty based Legal Framework-Supremacy of the UN Charter Obligations;
- (b) Law of Treaties and Vienna Convention on the Law of Treaties (VCLT)-Concept of Treaty of Treaties-Articles 31, 32 and 33 of VCLT-Principles of Treaty Interpretation- Relevant works of International Law Commission and Judicial Decisions of International Court of Justice on Treaty Interpretation.

## **Module IX: Legislative Drafting**

- (a) Principles and Process of Legislative Drafting-Qualities of Legislative Drafters-Simplicity, Preciseness, Consistency, Alignment with Existing Law, Brevity;
- (b) Drafting General Laws-Special Laws-Rules-Orders-India and Legislative Drafting and Research Movement in India-Department of Legislative Drafting-Ministry of Law and Justice.

## **Statutory Materials**

1. General Clauses Act, 1897
2. Constitution of India, 1950
3. Charter of United Nations and Statute of the International Court of Justice, 1945
4. Statute of the International Law Commission, 1947
5. Vienna Convention on the Law of Treaties, 1969

## **Recommended Readings:**

### **Books**

1. Maxwell (1969), Interpretation of Statutes, Sweet & Maxwell, United Kingdom.
2. Vepa Sarathi (2003), Interpretation of Statutes, Eastern Book Company: India
3. N.S Bindra, Revised by M.N. Rao and Amita Dhanda (2007), Interpretation of Statutes, Lexis Nexis Butterworths Wadhwa: India
4. P.M. Bakshi (2010), Interpretation of Statutes, Orient Publishers: India.
5. A.B. Kafaltiya (2017), Text Book on Interpretation of Statutes, Universal Law Publishing Ltd.: India.

### **Journals**

1. Surendranath Ray (1913), Rules of Interpretation of Statutes, The Allahabad Law Journal, Vol. No. 11, Issue No. 5, Pp. 97-103.
2. Abdur Rahman Seoharvi (1916), The Interpretation of Law, The Allahabad Law Journal, Vol. No. 14, Issue No.1, Pp. 1-13.
3. H.M. Thornton (1994), Contrary Intention, Statute Law Review, Vol. No. 15, Issue No.3, Pp. 182-191.

4. Jack Stark (1995) Legislative Sentences, Statute Law Review, Vol. No. 16, Issue No.3, Pp. 187-194.
5. V.C.R.A.C. Crabbe (1997), *Liversidge v. Anderson on the Anvil of Pepper v. Hart: An Exercise in Interpretation and Construction*, Statute Law Review, Vol. No. 18, Issue No. 2, Pp. 113-149.

### **Further Readings:**

#### **Books**

6. P.M. Bakshi (1993), *Legal Interpretation: Ancient and Modern*, The Indian Law Institute: India.
7. V.C.R.A.C. Crabbe (1993), *Legislative Drafting*, Cavendish Publishing: United Kingdom.
8. V.C.R.A.C. Crabbe (1994), *Understanding Statutes*, Cavendish Publishing: United Kingdom.
9. N.S.Bindra (2002), *The General Clauses Act: Central and States*, Lexis NexisButterworths: India.
10. Aharon Barak (2005), *Purposive Interpretation in Law*, Princeton University Press: United States of America.
11. Ulf Linderfalk (2007), *On the Interpretation of Treaties*, Springer Publications: The Netherlands.
12. Luc J. Wintgens (Editor) (2007), *Legislation in Context: Essays in Legisprudence*, Ashgate Publishing Limited: United Kingdom.
13. James Holland and Julian Webb (2010), *Learning Legal Rules*, Oxford University Press: United Kingdom.
14. Justice G.P. Singh (2016), *Principles of Statutory Interpretation*, Lexis Nexis: India.
15. Oliver Dorr and Kirsten Schmalenbech (Editors) (2012), *Vienna Convention on the Law of Treaties: A Commentary*, Springer Publications: Heidelberg.

#### **Journals**

1. Roscoe Pound (1907), *Spurious Interpretation*, Columbia Law Review, Vol. No. 7, Issue No.6, Pp. 379-386.
2. Frederick J. DeSloovere (1936), *Contextual Interpretation of Statutes*, Fordham Law Review, Vol. No.5, Pp. 219-239.
3. R.C. Beuthin (1965), *General Principles of Interpretation of Statutes*, Annual Survey of South African Law, Pp. 489-501.
4. Justice Vinelott (1982), *Interpretation of Fiscal Statutes*, Statute Law Review, Vol. No. 2, Pp. 78-86.
5. Jack Stark (1994), *Should the Main Goal of Statutory Drafting Be Accuracy or Clarity*, Statute Law Review, Vol. No. 15, Issue No.3, Pp. 207-213.
6. Stefan Vogenauer (1997), *What is the Proper Role of Legislative Intention in Judicial Interpretation*, Statute Law Review, Vol. No. 18, Issue No.3, Pp. 235-243.

7. Michael P. Healy (1999), Legislative Intent and Statutory Interpretation in England and the United States: An Assessment of the Impact of *Pepper v. Hart*, Stanford Journal of International Law, Vol. No. 35, Pp. 231-254.
8. Nirmal Kanti Chakrabarti (2012), Legislative Drafting and Law Reform: The Role of Indian Judiciary, International Journal of Legislative Drafting and Law Reform, Vol. No.1, Issue No.2, Pp.207-218.
9. Elizabeth M. Bakibinga (2015), A Global Perspective of Standardising Statutory Writing: Lessons from the Developing World, International Journal of Legislative Drafting and Law Reform, Vol. No. 4, Issue No.1, Pp. 60-90.
10. Khagesh Gautam (2019), The Use of International Law in Constitutional Interpretation in the Supreme Court of India, Stanford Journal of International Law, Vol. No. 55, Issue No.1, Pp. 27-68.

### **Cases for Guidance**

25. Heydons Case (1584), 76 ER 637.
26. Keshav Mills Company Limited v. CIT, Bombay North, AIR 1965 SC 1636.
27. Santa Singh v. State of Punjab, AIR 1976 SC 2386.
28. Bangalore Water Supply and Sewerage Board v. A. Rajappa, AIR 1978 SC 548
29. K.P. Varghese v. Income Tax Officer, Ernakulam, AIR 1981 SC 1922.
30. B. Prabhakar Rao and Others v. State of Andhra Pradesh & Others, AIR 1986 SC 120.
31. State of Kerala v. Mathai Verghese & Others, AIR 1987 SC 33.
32. General Electric Co. v. Renuagar Power Co. (1987) 4 SCC 137.
33. U.P. Bhoodan Yagna Samiti v. Braj Kishore, AIR 1988 SC 2239.
34. *Pepper v. Hart* (1993), 1 ALLER 42 (HL).
35. Institute of Chartered Accountants of India v. Price Waterhouse, AIR 1998 SC 74.
36. Mr. 'X' v. Hospital 'Z', AIR 1999 SC 495.
37. S.R. Chaudhuri v. State of Punjab & Others (2001) 7 SCC 126.
38. Distt. Mining Officer v. Tata Iron and Steel Co. (2001) 7 SCC 358.
39. Rupa Ashok Hurra v. Ashok Hurra & Another, AIR 2002 SC 1771.

### **Learning Outcome**

After the course students will be able to-

1. Understand the concerns of human communication and relevance of interpretation.
2. Learn the necessity of principles of interpretation as consistent source of man-made laws.
3. Develop the skills of reading and writing legislations and deducing hidden assumptions with accuracy.
4. Visualise the significance of principles of interpretation as tools of social change.

## **SPECIALIZED HON'S COURSE**

### **(a) -INTERNATIONAL LAW AND INTELLECTUAL PROPERTY RIGHTS**

## **INTERNATIONAL ECONOMIC LAW**

### **Objectives of the Course:**

*International Economic Law as a branch of law is interested in the development of states through trade, investment and economic legal policies. In the quest for development, many states have caused damages to the ecosystem which now constitutes a threat to humanity. This subject helps to understand the role played nations of North-South and East- West hemisphere. It consolidates the finer version of International Economic Law, the object of economic integration with that of the pragmatic approaches of the international trade regime. International Trade Agreements and Conventions explore the balanced growth with the regulatory effect in transacting international trade in municipal spheres. This subject provides the basic understanding of the theory and practical application of International Economic Law in balanced movement of the world economy forward.*

## **COURSE OUTLINE**

### **Module - I : Genesis of International Economic Law**

- (a) Origin and Development – International Trade and Customary Law – Concept and Scope of International Economic Law – Significance of International Economic Law – Unification of International Trade Law
- (b) Theories of International Trade - Economic Fundamentals – New International Economic Order (NIEO) – Economic Sovereignty
- (c) UN Conventions – Charter of Economic Rights and Duties of States – North-South Dialogue and East-West Dialogue – Global Economic Forums.

### **Module - II : International Economic Institutions**

- (a) Structure and Functions of International Economic Institutions – International Trade Organisation (ITO) – General Agreement on Tariff and Trade (GATT) (b) Brettonwood Conference – Various Rounds of WTO and its impact.
- (c) International Monetary Fund (IMF) – International Bank for Reconstruction and Development (IBRD) – Millennium Development Goals

### **Module - III : Institutional Framework of World Trade Organisation (WTO)**

- (a) Structure and Functions of WTO – WTO and Covered Agreements – Protection of Domestic Industries – Dumping and Anti-dumping – Subsidies and countervailing measures

- (b) Most Favoured Nation (MFN) Clause – National Treatment – Trade Related Aspects of Intellectual Property Rights (TRIPS) – Trade Related Investment Measures (TRIMs) – Trade in Agriculture – Regulation of Non-Tariff Barriers – Import Licensing – Technical Barriers of Trade (TBT)
- (c) General Agreements of Trade and Services (GATS) – Expanding horizons of WTO

#### **Module – IV : Trade and Environmental Protection**

- (a) Historical Overview of International Environmental Protection – Permanent Sovereignty over Natural Resources – Agreement on Sanitary and Phytosanitary (SPS) Measures
- (b) United Nations Committee on Trade and Environment (UNCTE) – United Nations Committee on Trade and Development (UNCTAD) – Summits of the WTO
- (c) Trade and Environment Controversies – Sustainable Development – Environmental Exemptions under Article XX of GATT – Doha Round – Enforcement and Compliance.

#### **Module – V : Regulation of Foreign Investments**

- (a) International Investments – Foreign Direct Investments (FDI) – Foreign Institutional Investors (FII) – Transnational Corporations
- (b) International Commercial Contracts – International Sale of Goods – Electronic Business Transactions – Crypto Currencies – Monetary System – Exchange Rates – Balance of Payments
- (c) Elements of International Taxation – Risk Analysis in International Trade.

#### **Module - VI :Bilateral and Regional Trade**

- (a) Regional Trade Agreements (RTA) and Free Trade Area (FTA)
- (b) Regional Arrangements under the United Nations – Multilateralism – European Union (EU) – South Asian Association for Regional Cooperation (SAARC) – Association for South Eastern Asian Nations (ASEAN)
- (c) Organisation for Petroleum Exporting Countries (OPEC) – North American Free Trade Agreement (NAFTA) – South Asian Free Trade Agreement (SAFTA)

#### **Module - VII :Settlement of Disputes in International Trade**

- (a) Methods of Dispute Settlement – Alternative Dispute Resolution (ADR) and International Trade
- (b) UNCITRAL – International Arbitration, Conciliation, Mediation and Litigation
- (c) Dispute Settlement Body in WTO – Appellate Body (AB) – Consultation – Online Dispute Resolution



## **Recommended Readings**

### **Books**

1. Indira Carr & Peter Stone, “International Trade Law”, 2017, 6<sup>th</sup> Edition, Routledge Publishers.
2. Ralph Folsom, “Principles of International Trade Law”, 2017, 2<sup>nd</sup> Edition, West Academic Publishing.
3. Peter Van Den Bossche and Warner Zdouc, “The Law and Policy of the WTO: Texts, Cases and Materials, 2017, 4<sup>th</sup> Edition, Cambridge University Press
4. Oumar Arabov and Lea Recasens, “International Trade Law: Lecture Notes”, 2019.
5. Simon Lester and Bryan Mercurio, “World Trade Law: Text, Materials and Commentary”, 2018, 3<sup>rd</sup> Edition, Hart Publishing.
6. Autar Krishen Koul, “Guide to the WTO and GATT”, 2018, Springer

### **Further Readings**

1. Raj Bhala, “International Trade Law: Interdisciplinary Theory and Practice, 3<sup>rd</sup> Edition, Lexis Nexis.
2. Daniel Bethlehem and Van Damme, “The Oxford Handbook of International Trade Law”, Oxford.
3. Peter Van Den Bossche and Denise Prevoost, “Essentials of WTO Law”, 2016, Cambridge University Press.
4. Jayanta Bagchi, “World Trade Organisation: An Indian Perspective”, Eastern Law House
5. David Collins, “Foundations of International Economic Law”, 2019 Edward Elgar Publisher
6. Adamu Kyuka Usman, “Theory and Practice of International Economic Law”, Malthouse Law Books
7. Paul Kragman, “International Trade: Theory and Policy”, 2017, Pearson Publication.
8. David Collins, “The Public International Law of Trade in Legal Services”, 2018, Cambridge University Press.
9. Dani Rodrik, “Straight Talk on Trade: Ideas for a Sane World Economy”, 2017, Princeton University Press.
10. Mitsuo Matsushita, “The World Trade Organisation: Law, Practice and Policy”, 2017 3<sup>rd</sup> Edition, Oxford University Press.

### **Recommended Journals:**

1. “Indian Journal of International Economic Law” by NLSIU Publication.
2. “Trade, Law and Development Journal” by NLU, Jodhpur
3. “Indian Journal of Law and Economics”, by NALSAR Publication.
4. “Journal of International Economic Law” by Oxford University Press
5. “Global Trade and Customs Journal” by Wolters Kluwer
6. “World Trade and Arbitration Materials” by Wolters Kluwer

7. "International Trade Law and Regulation" by Westlaw UK
8. "World Trade Review" by Cambridge University Press
9. "Trade, Law and Development" by Hein Online Law Journal
10. "Common Market Law Review" by Wolters Kluwer law

#### **E-JOURNALS with ARTICLES and WEBSITE sources**

1. Steve Charnovitz, "What is International Economic Law?" 14 J. Int'l. Econ. L. 3 (2011) available at [http://scholarship.law.gwu.edu/faculty\\_publications](http://scholarship.law.gwu.edu/faculty_publications)
2. John H. Jackson, "Reflections on International Economic Law", Published by Penn Law, Legal Scholar Repository, 2014.
3. James Bacchus, "The Willing World: Shaping and Sharing a Sustainable Global Prosperity" Cambridge University Press, 2018 pp 515.
4. Collin Picker, "International Trade and Development Law: A Legal Cultural Critique" Article 4 in Volume 4, Number 2, The law and Development Review, 2011 available at <http://www.bepress.com/ldr/vol4/iss2/art4>
5. C.O.Neal Taylor, "Interrelationships: International Economic Law and Developing Countries", Number 2, Volume 7, Boston College International and Comparative Law Review, 2004 pp.187 – 194
6. Aleksander Savanovic, "Economic Sovereignty", IISES, September 2014  
<http://proceedings.iises.net/index.php?action=proceedingsIndexConference&id=7>
7. Pang Zhongying, "Globalisation Vs. Economic Sovereignty", Yale Global Online, December 2005.
8. Jong Bum Kim, "Cross-Cumulation Arrangement as FTA under GATT Article XXIV", Journal of International Economic Law, published by Oxford Academic, 2019.
9. Malcolm Langford, "The Revolving Door in International in International Investment Arbitration", Journal of International Economic Law, Oxford, June 2017, Volume 20, Issue 2, pp 301-332.
10. Anne Van Aaken, Chad P Bown, Andrew Lang, "Introduction to the special issue on Trade Wars", Journal of International Economic Law, Oxford, December 2019, Volume 22, Issue 4, pp 529-533.
11. Anthea Roberts, "Toward a Geoeconomic Order in International Trade and Investment", December 2019, Volume 22, Issue 4, pp 655-676.
12. Ehring.L, "De facto Discrimination in World Trade Law, National Treatment and Most- Favoured Nation Treatment - or Equal Treatment?", Journal of World Trade, 2002, pp 921-977.
13. A. K. Sanders, "Principle of National Treatment in International Economic Law: Trade, Investment and Intellectual Property", Edward Elgar publishing, 2014.
14. M. Krajewski, "Legal Issues of Economic Integration", Kluwer Law, 2005.
15. Jeanho, "State Responsibility for Breaches of Investment Contracts", Cambridge University Press, 2018, pp 330.

16. Fredrick M. Abbott, "The Doha Declaration on the TRIPS Agreement and Public Health: Lighting a Dark Corner at the WTO", *Journal of International Economic Law*, June 2002, Volume 5, Issue 2, pp 469-505.
17. Csongor Istvan Nagy, "Clash of Trade and National Public Interest in WTO Law: The Illusion of 'Weighing and Balancing' and the Theory of Reservation", *Journal of International Economic Law*, Oxford, January 2020.
18. Anne Van Aaken, Jorgen Kurtz, "Beyond Rational Choice: International Trade Law and The Behavioural Political Economy of Protectionism", Oxford, December 2019, Volume 22, Issue 4, pp 601-628.
19. Gilles Muller, "Troubled Relationships under the GATS: Tensions between Market Access (Article XVI), National Treatment (Article XVII) and Domestic Regulation (Article VI)", Cambridge University press, July 2017, Volume 16, Issue 3, pp 449-474.
20. Pauwelyn, "Distinguishing Domestic Regulation from Market Access in GATT and GATS", *World Trade Review*, 2005, pp 131-170.
21. Sabrina Shaw, Risa Schwartz, "Trade and Environment in the WTO State of Play", *Journal of World Trade*, 2002, 36(1), pp 129-154.
22. Brian R Copeland, "Trade and the Environment", Palgrave handbook of International Trade, 2013, pp 423-496.
23. Micheal Aklin, "Re-exploring the trade and environment nexus through the diffusion of pollution", *Environmental and Resource Economics*, Springer, 2016, 64(4), pp. 663-682
24. Diane A. Desierto, "Shifting sands in the International Economic System: 'Arbitrage' in International Economic Law and International Human Rights, *Georgetown Journal of International Law*, 2018 Volume 49, pp 1019 – 1115.
25. Anne van Aaken and Jorgen Kurtz, "Beyond Rational Choice: International Trade Law and the Behavioural Political Economy of Protectionism, *Journal of International Economic Law*, 2019, Volume 22, Issue 4, pp. 601-628.

### **Learning Outcomes:**

By the end of this course, the students have advanced knowledge in the field of International Economic Law and must be able –

1. To analyse the various functional and theoretical bases for organizing economic relations at the international level;
2. To evolve the context in which the processes of and actors within international economic law operate;
3. To apply the rules and principles to solve problems presented in class and hypotheticals or cases decided by international dispute settlement bodies;
4. To appreciate the relationship between WTO law and bilateral and regional trade agreements;
5. To assess international economic law from multiple perspectives; in particular of individuals and organisations; in the public, private and third sectors; in relatively rich and relatively poor economic contexts; in terms of calm and crises; and on local, national, regional and global levels.

## **b) CONSTITUTIONAL LAW AND PROPERTY LAW COMPARATIVE CONSTITUTIONAL LAW**

### **Objectives of the Course:**

*A Constitution is being the supreme Law of the Land. It derives its directives from various aspects. Hence, it is obligatory on the part of a constituent assembly to refer the various customs and precedents that are in existence within an side the country. Hence an inquiry in the basic structural aspects and the differences that exist between the various constitutional perspectives need to be studies to give an understanding of the significance of the dictums of a constitution. For studying the subject it has following objectives.*

- 1. To study a wide variety of approaches to constitutional issues in order to identify best practices that can be adopted everywhere;*
- 2. The comparative federalism uses a comparative approach to explore the contemporary nature and meanings of federalism and federation.*
- 3. The comparative judicial review helps to strengthen the liberty and fundamental freedom of individual and to understand the transnational migration of constitutional ideas*
- 4. The constitutional design on emergency powers & parliamentary privileges helps to understand the reflections of democracy*

## **COURSE OUTLINE**

### **Module 1:Introduction:**

- a) The significance and importance of Study of Constitution
- b) Types of Constitutions
- c) Forms of government-Parliamentary-Presidential-Monarchial forms

### **Module 2:Federalism: Comparative Study**

- a) Principles of federalism
- b) Legal features of federalism.
- c) Co-operative federalism
- d) Transition from competitive federalism to co-operative federalism.
- e) Distribution of legislative and financial power in a federal system.

### **Module 3:Judicial Review**

- a) Evolution and Concept of Judicial Review

- b) Meaning of Judicial Review
- c) Characteristics of Modern Constitutions and their impact on Judicial Review
- d) Constitutional growth in India under judicial Review and its impact
- e) Migration of Constitutional Ideas

#### **Module 4: Impact of emergency under Indian Constitutions**

- a) Express emergency provisions under constitutions
- b) Justiciability of the proclamation of emergency.
- c) Impact of Emergency on the rights

#### **Module 5: Parliamentary Privileges**

- a) Parliamentary privileges-comparative study with different countries
- b) Parliamentary privileges and anti-defection Law
- c) Need for Legislation on Parliamentary privileges in India

#### **Module 6: Amenability of Constitution – Amendment under different Constitutions**

- a) Process of amendment
- b) Types of Amendment
- c) Judicial scrutiny of Amendments to the constitution.

#### **Books suggested:**

1. Dr. Durga Das Basu – Comparative Constitutional Law, Second Edition Revised 2008 Wadhwa Nagpur.
2. Dr. Durga Das Basu – Comparative Federalism, Second Edition Revised 2008, Wadhwa Nagpur.
3. Dr. CD Jha's - Judicial review of Legislative Acts, Second Edition Revised 2009 Lexis Nexis, Butterworth, Wadhwa Nagpur.
4. Mahendra P. Singh, Comparative Constitutional Law (Eastern Book Company, 1989).
5. Sunil Khilnani, Vikram Raghavan, Arun Thiruvengadam, Comparative Constitutionalism in South Asia (Oxford University Press, 2013).
6. Vikram David Amar, Mark Tushnet, Global Perspectives on Constitutional Law (Oxford University Press, 2009).
7. Surjit Choudhry, The Migration of Constitutional Ideas, (Cambridge University Press, 2009).

### Articles Suggested:

- 1) Saunders, Cheryl (2006) "The Use and Misuse of Comparative Constitutional Law (The George P. Smith Lecture in International Law)," *Indiana Journal of Global Legal Studies*: Vol. 13: Iss. 1, Article 2. Available at: <http://www.repository.law.indiana.edu/ijgls/vol13/iss1/2>.
- 2) Tom Ginsburg & Rosalind Dixon, "Comparative Constitutional Law: Introduction" (University of Chicago Public Law & Legal Theory Working Paper No. 362, 2011).  
Available at: [http://chicagounbound.uchicago.edu/public\\_law\\_and\\_legal\\_theory](http://chicagounbound.uchicago.edu/public_law_and_legal_theory).
- 3) Antonia Baraggia, "Challenges in Comparative Constitutional Law Studies: Between Globalization and Constitutional Tradition. Special Issue - Comparative Law", *LaM* October 2017, DOI: 10.5553/REM/000026.
- 4) Dann, Philipp. "Federal Democracy in India and the European Union: Towards Transcontinental Comparison of Constitutional Law." *Verfassung Und Recht in Übersee / Law and Politics in Africa, Asia and Latin America*, vol. 44, no. 2, 2011, pp. 160–176. JSTOR, [www.jstor.org/stable/43239605](http://www.jstor.org/stable/43239605).
- 5) Parikh, Sunita, and Barry R. Weingast. "A Comparative Theory of Federalism: India." *Virginia Law Review* 83, no. 7 (1997): pp.1593-615.
- 6) Uddin, Mohammad Moin, and Rakiba Nabi. "Judicial Review of Constitutional Amendments in Light of the "Political Question" Doctrine: A Comparative Study of the Jurisprudence of Supreme Courts of Bangladesh, India and the United States." *Journal of the Indian Law Institute* 58, no. 3 (2016): pp. 313-36.
- 7) Roznai, Yaniv. "Unconstitutional Constitutional Amendments—The Migration and Success of a Constitutional Idea." *The American Journal of Comparative Law* 61, no. 3 (2013): pp. 657-719.
- 8) Roznai, Yaniv. "The Theory and Practice of 'Supra-Constitutional' Limits on Constitutional Amendments." *The International and Comparative Law Quarterly* 62, no. 3 (2013): pp. 557-97.

**Learning outcomes:**

After completion of the course the student will be able to

- Understanding the variety of constitutional systems across the world;
- Identifying reflection on the potentialities and limits of constitutional law in regulating the exercise of public power in contemporary society.
- Compare different government structures and their corresponding ways of protecting human rights;
- Gain knowledge on different types of government, federalism, judicial review, emergency and amendment practiced in other constitutions.

## **(c) CRIMINAL LAW AND FORENSIC SCIENCE**

### **CORRECTIONAL PROCESS**

#### **Objectives of the Course:**

*The object of the Criminal Justice Administration is to award penal sanctions to the offender. The primary aim of this discipline is to reform the offender rather than inflicting pain on them. The theories of punishment, various types of punishments, degrees of punishments are part of this course. The effective functionaries executing the punishments are Police and Prison Institution. The involvement of various correctional institutions such as Probation, Parole etc also included in the course. Though the criminal justice system mainly focusing on penal sanctions, the application of Criminology along with Penology will bring the expected outcome of the reformation.*

### **COURSE OUTLINE**

#### **Module I Introduction:**

- a. Concept of Penology – Punishments and its objective
- b. Historical evolution
- c. Theories of Punishments
- d. Types of Punishments
- e. International scenario on punishments – Death Penalty – Imprisonment – Fines –  
Transportation – Indeterminate Sentence
- f. International Instruments on Death Sentence
- g. Indian Perspective – Law Commissions Report - Arguments of Death Sentence
- h. Judicial approach
- i. International Criminal Justice System and Death Sentence – Other sentences.

#### **Module II- Correctional Process and Law Enforcement:**

- a. Correctional Philosophy
- b. Rehabilitation methodology – Rules and Regulations
- c. Prisons Act –Prison Manuals
- d. State Prison Manual
- e. Reformatory laws – Prison Reform Commissions
- f. Individualization of Offenders
- g. Significance of prison systems
- h. Alternative mechanism for punishment.

#### **Module III- The Police System:**

- a. Police Administration
- b. Types of Police System
- c. Women, Home Guard, Rural policing, Friend of Police



- d. Problems of Police
- e. Principles of Police System
- f. NHRC/SHRC & Police
- g. Judiciary & Police
- h. Functions of Police
- i. Malimath Committee Report - National Police Commission.

#### **Module IV- Prison Administration:**

- a. Prison Authorities
- b. Prisoner's Rights
- c. Prison Commission
- d. Prison Problem – Over Crowding – Prison Discipline
- e. Rehabilitative Measures – Prison Education
- f. Therapeutic Approach – Individualization & Imprisonment
- g. Vocational Training
- h. Prison Reform
- i. Women Prison
- j. Open Prison
- k. United Nations Standard Minimum Rules on Treatment of Prisoners – After care rehabilitation
- l. Role of Society – Judiciary – NGO.

#### **Module V- Correctional Process – Probation& Parole**

- a. After care process – Dr. Julius Augustus
- b. The Probation of Offenders Act – Probation Officer
- c. Functions of Probation Officers – Procedures of Probation
- d. Significance of Probation Officers Report
- e. Conditions to be released on Probation – Effects of violations of conditions
- f. Rights and Duties of Sureties
- g. Role of NGO's – Role of Family members – Role of Society
- h. Parole – Definition - Object
- i. Probation and Parole
- j. Parole in India – Legal Procedure
- k. Judiciary & Parole
- l. Parole Board – Functions of Parole Board – Conditions
- m. Parole Violations – Judicial Trends
- n. Parole & Indeterminate Sentence – Parole & Furlough
- o. International Scenario – USA & Parole

#### **Module VI- Recidivism & Crime Prevention:**

- a. Recidivist – Causes of Recidivism

- b. Mechanism to combat Recidivism
- c. Recidivism in India – Crime Prevention
- d. Distinguish Crime prevention and treatment
- e. Prevention of White-Collar Crimes
- f. Prevention of traditional crimes
- g. Prevention of Juvenile delinquency
- h. Challenges in crime prevention
- i. International perspectives – Role of the UN & Crime Prevention
- j. UN Congress on Crime Prevention 1955 – 2015.

### **Recommended Readings:**

#### **Books:**

1. Ahmed Siddique, 2017, “*Criminology-Problems and Perspectives*” II<sup>nd</sup> Edition, Eastern Book House, Lucknow.
2. Prof N. V. Paranjape, 2014, “*Criminology and Penology with Victimology*” 16<sup>th</sup> Edition, Central Law Publications, Allahabad.
3. William Katharine.S, 2004, “*Criminology*”, Oxford University Press.
4. Pifferi Michele 2016, “*Reinventing Punishments – A Comparative History of Criminology & Penology in the 19<sup>th</sup> and 20<sup>th</sup> Century*” Oxford University Press, UK.
5. Zara Georgia & Farington P. David 2016, “*Criminal Recidivism – Explanation, Prediction and Prevention*” Routledge Publications, New York.

#### **Journals/Journal Articles:**

1. Amy Deline & Adair Crosley 2010, “A Century of Criminal Law and Criminology” *The Journal of Criminal Law and Criminology* Vol. 100, No:1, pp.1-6.
2. Malcom. M, Feeley & Jonathan Simon, 1992 “The New Penology: Notes on the Emerging Strategy on Corrections and its Implications”, *Criminology*, VI.30, Issue.4, pp.449-474 <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1745-9125.1992.tb01112.x>
3. Bruce R. Jacob & K.M. Sharma, 1969, “Justice After Trial: Prisoners Need for Legal Services in the Criminal Correctional Process”, *Kansas Law Review*, pp.1270
4. Arie Freiberg, 2010, “Post Adversarial & Post Inquisitorial Justice: Transcending Traditional Penological Paradigms”, *European Journal of Criminology*, Vol.8, Issue.1, pp.82-101.
5. Jean Paul Brodeur, 2007, “Comparative Penology in Perspective”, *Crime and Justice*, Vol.36, Issue.1, pp.49-91
6. Lisa L. Miller, 2001, “Looking for Postmodernism in all the Wrong places: Implementing a New Penology”, *The British Journal of Criminology*, Vol.41, Issue.1, pp.168-184

#### **Further Readings:**

#### **Books:**

1. Chakrabarthi. N.K., 2016, Institutional Corrections, Deep & Deep Publications, New Delhi.
2. Chaturvedi. JC. 2006, “*Penology & Correctional Administration*” Asha Books, New Delhi.
3. Haris Robert, 1992, “*Crime, Criminal Justice & The Probation Service*” Routledge Publications.
4. Guharoy Jay Tilak, 1999, “*Role of Police in Changing Society*”, APH Publications, New Delhi.
5. Master Ruth, “*Counselling Criminal Justice Offenders*”.
6. Pollack Joycelyn. N, “*Counselling Women in Prison*”
7. Sultan Adams, “*Crime Prevention*”
8. Stuttmann. H.S, “*Crime and Punishment*” 9. Malimath Committee Report 10. Bare Acts:

(i) The Prisons Act, 1984.

(ii) Model Prison Manual, 2016 – BPR&D

(iii) The Probation of Offenders Act, 1958 **Journals:**

1. Criminology, Criminal Justice, Law & Society
2. Death Penalty Reporter
3. European Journal of Criminology
4. Federal Prison Journal
5. Federal Probation
6. Federal Sentencing Reporter
7. International Journal of Restorative Justice
8. Journal of Delinquency
9. Prison Law Reporter
10. Prison Journal **Cases for Guidance:**

1. Bachan Singh v. State of Punjab AIR 1980 SC 898
2. P. Rathinam v. Union of India AIR 1994 SC 1844
3. Mithu v. State of Punjab AIR 1983 SC 473
4. Rajendra Prasad v. Union of India AIR 1979 SC 916
5. T.V. Vatheeswaran v. State of TN 1983 SCC CrI 481
6. Machi Singh & Others v. State of Punjab AIR 1983 SC 957
7. Dhananjay Chatterji v. State of West Bengal AIR 2003 SC 3131
8. C. Muniyappan & Others v. State of TN (2010) 9 SCC 567
9. Priyadarshini Mattu Rape case (2010) 9 SCC 747
10. Tukaram v. State of Maharashtra AIR 1979 SC 185
11. Nilabati Behra v. State of Orissa AIR 1993 SC 1960
12. D. K. Basu v. State of West Bengal AIR 1997 SC 3017
13. Sheela Barse v. Union of India AIR 1988 SC 224

14. Sunil Batra II case 1980 CrLJ 1099
15. Sanjay Dutt v. State of Maharashtra AIR 2013 SC 2682
16. Laxmi v. Union of India (2014) 4 SCC 427

**Learning Outcomes:**

**After completing the course, the students will able to:**

- *Understand the theories of punishments and development of concept of penology*
- *Analyze the concept of punishment and discuss about different perspective of punishment.*
- *Examine the legal framework on penal sanction and correctional process*
- *Understand the Principles of Sentencing and examine the scope of correctional process in reforming the wrong doer.*

(d) **INDUSTRIAL AND COMMERCIAL LAW**

(e) **CORPORATE SECURITISATION**

**Objectives of the  
Course:**

*Since 1991, when from liberalisation policy has been adopted by India, the financial sector has evidenced much reforms, majorly allowing and encouraging foreign investment into the country. The legal structuring on securitisation began in 1991, leading to the enactment of the Securitisation and Reconstruction of Financial Assets & Enforcement of Securities Interest Act, 2002. Securitisation augments the benefits available to financial establishments, investors and on a broader spectrum to the society's economic progress, as a whole. It enables highly non-performing assets such as mortgages, vehicle loans and credit card non- payments to be transformed into more liquid financial instruments. Further, securitisation acts as a significant source of financing various businesses ranging from commercial real estate development to manufacturers and dealers. This area of Law plays a pivotal role in the economic progress of the nation.*

*The objective of the study of this subject is to provide the Students -*

- i. Detailed understanding of the markets for asset-backed securities ii. Knowledge of the Legal dimensions of the Law relating to Corporate Securitisation and allied matters.*
- iii. Comprehension and appreciation of the significance of how securitisation is a tool of utility to corporates dealing with finances. iv. Significance of securitisation in relation to rehabilitation of sick companies etc.*

**COURSE OUTLINE**

**MODULE – I: INTRODUCTION:**

- a. Historical development.
- b. Objectives and Concept of Corporate Securitisation.
- c. Legal provisions Governing the recovery of debts in India.
- d. Meaning, nature and scope of securitisation.
- e. Securitisation as a funding and salvaging from non-performing assets mechanism.

**MODULE – II: REHABILITATION OF SICK COMPANIES:**

- a. Revival, reconstitution and rehabilitation of sick companies.

- b. Sick Companies and their Revival.
- c. The Law relating to sick companies.
- d. Procedure for rehabilitation of sick companies.

### **MODULE – III: SECURITISATION & RECONSTRUCTION:**

- a. Securitisation and debt recovery.
- b. Overview of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and its amendment till the year 2013.
- c. Special Purpose Vehicle (SPV)
- d. Asset Reconstruction Companies (ARC)
- e. Qualified Institutional Buyers (QIB)
- f. Role and functions of the Board of Industrial & Financial Reconstruction (BIFR)
- g. Recovery of Debts due to Banks & Financial Institutions Act, 1993. h. Tribunal.
- i. Procedure, compromises and arrangements with Banks and creditors.

### **MODULE – IV: WINDING-UP OF COMPANIES:**

- a. Winding-up companies.
- b. Modes and administrative machinery for winding-up of corporates.
- c. Liquidation procedure, meeting of members (shareholders) and creditors, managing the interests of stakeholders, managing the estate of the companies.
- d. Outsourcing of responsibilities relating to winding-up to professional service providers such as valuers and security agencies.
- e. Best practices adopted in performing liquidation and administrator functions, accountability, role of liquidators.
- f. Winding-up of unregistered companies – Consequences of winding-up.

### **MODULE – V: CROSS-BORDER INSOLVENCY:**

- a. Cross-Border Insolvency.
- b. UNCITRAL Model Law on Cross-Border insolvency.
- c. UNCITRAL Legislative Guide to insolvency law.
- d. World Bank principles for effective insolvency and creditor rights.
- e. Asian Development Bank principles of corporate rescue and rehabilitation.
- f. Winding up of companies.

### **RECOMMENDED READING:**

1. Introduction to Securitization, by Frank J. Fabozzi, John Wiley & Sons, 2008.
2. Law & Practice Relating to Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest, by M.R.Umarji, Taxmann, 7th Edition, 2017.
3. Securitisation & Debt Recovery Laws, by Justice A.B. Srivastava, Law Publishers (India) Pvt. Ltd. Allahabad, 10th Edition, 2018.
4. Securitization, Vols. I & II, by Tamar Frankel, Fathom Publishing Company, 2nd Edition, 2016.
5. Narasimham Committee II on Banking Sector Reforms -  
<https://rbidocs.rbi.org.in/rdocs/PublicationReport/Pdfs/24157.pdf>

### **JOURNALS:**

1. Buchanan, Bonnie, Securitization: A Financing Vehicle for All Seasons?, Bank of Finland Research Discussion Paper No.31/2016.
2. Slaughter and May, Model guide to securitisation Techniques, PLC Cross-border Structured Finance and Securitisation Handbook, 2010  
[https://www.slaughterandmay.com/media/1429118/model\\_guide\\_to\\_securitisation\\_techniques.pdf](https://www.slaughterandmay.com/media/1429118/model_guide_to_securitisation_techniques.pdf)
3. Ilham Riachi and Armin Schwienbacher, Overcollateralization in Corporate Securitisation, Finance, Vol.36, 2015, pp.7-52.
4. Diamond Hill, Mechanics and Benefits of Securitization, 2016 -  
<https://www.diamond-hill.com/mechanics-benefits-securitization/>
5. Suman Chakraborty, Securitization in India: A Strategic Tool for Competitiveness, Indian Journal of Applied Research, Vol.III, Issue.III, 2013, pp.29-32.
6. Vinod Kothari and Abhirup Ghosh, Indian Securitization Market: A Primer, the Journal of Structured Finance, Vol.23, Issue 1, 2017, pp.23-31.
7. Akhil M.P., Structured Finance and Securitization in India, SSRG International Journal of Economics Management Studies, Vol.5, Issue.6, 2018, pp.26-31.

### **FURTHER READING:**

8. Securitization and the Global Economy-History and Prospects for the Future, by Buchanan, Bonnie, Palgrave Macmillan, 1st, Edition, 2016.
9. Securitization, Structured Finance and Capital Markets, by Steven L. Schwarcz, Bruce A. Markell, Lissa L. Broome, LexisNexis, 2001.

10. Securitization, by David G. Glennie, E.C. De Bouter, Randall D. Luke, Kluwer Law International, 1998.
11. The Mechanics of Securitization, by Moorad Choudhry, John Wiley & Sons Inc., 1st Edition, 2013.

**CASE LAW:**

- a) Mardia Chemicals Ltd. v. Union of India & Others (2004 D.R.T.C 1(SC3))
- b) Collector of Customs, Madras v. Nathella Samapathu 1962 (3) SCR 786 at pp.829-30.
- c) Transcore v. Union of India & Another. AIR 2007 SC 712, MANU/SC/5319/2006
- d) Ionic Metalliks v. Union of India no. 645 of 201 & 10120 of 2014
- e) Sicom Ltd. v. Padmashri Mahipatrai J. Rajiv Subramaniyan & Another Civil Appeal No.3866/2014 S.L.P© No.25448/2012 SC2005 (64) SCL 18 (Bom)
- f) Indian Bank v. Nippon Enterprises 2011 (2) CTC 474 HC Madras
- g) Arun Jagannath Gedam v. State Bank of Hyderabad (2005) BC 217 DRT Nagpur
- h) Indian Oil Corporation Ltd. Nagpur v. Shikshak Sahakari Bank Ltd (2005) BC 50 DRT Nagpur
- i) M. Nagarajan v. The Deputy Commercial Tax Officer & Another MANU/TN/1292/2009
- j) ICICI Bank Ltd. v. The Official Liquidator, Liquidator of Vibrant Investments and Properties Ltd (2005) 124 Compas 550(Mad), (2005) 1 MLJ 309
- k) UTI Bank Ltd. v. The Deputy Commissioner of Central Excise & Another MANU/TN/0188/2007, 2007(115)ECCC323
- l) Baleshwar Dayal Jaiswal v. Bank of India & Others Supreme Court of India Civil Appeal No.5924 of 2015 (arising out of SLP (c) no.27674 of 2011)
- m) Kaveri Marketing, Bangalore v. Saraswathi Co-operative Bank Ltd., Koramangala Branch, Bangalore (2013 (1) D.R.T.C.804 (Knt.)) (HC Karnataka - Single Bench)
- n) Central Distillery & Chemical Works Ltd. v. Gurbharajeet Singh AIR 1993 P&H 25
- o) Union of India v. Debt Recovery Tribunal Bar Association & Ans Civil Appeal Nos.617- 618 of 2013 SC

**LEARNING OUTCOMES:**

After completion of the Course, Students will be able to -



- 1. Gain the capacity to interpret statutory provisions, identify legal issues impacting financial risk affecting business, for purposes of risk avoidance, to establish control mechanisms & evaluate alternative financing options.*
- 2. Analyse and evaluate financial markets, how securities are traded, mutual funds, investment companies, and investor behaviour*
- 3. Analyse relevant case law for the purpose of finding legal precedents.*
- 4. Gauge the economic environment and the impact of governmental economic policies on consumers and financial institutions and make investment policy recommendations.*

# **(a)-INTERNATIONAL LAW AND INTELLECTUAL PROPERTY RIGHTS**

## **INTERNATIONAL TREATIES AND CONVENTIONS ON INTELLECTUAL PROPERTY**

### **Objectives of the Course:**

*International Intellectual Property is a part of public international law as one of many specialized areas within the universe of Public International Law. The purpose of the course is to examine rules on intellectual property in the wider context of international law. The standards laid down in various intellectual property treaties and conventions to harmonize the laws of different countries and to promote international trade.*

### **COURSE OUTLINE**

#### **Module I Structural Framework, Basic Principles and Policies**

- a) The International IP as a discipline-Trends in the International IP System - Harmonization, Integration and Countervailing
- b) International IP Institutions- WIPO, WTO and other Multilateral Institutions;
- c) Basic Principles-National Treatment, MFN, Exhaustion of Rights, Uniform Standard, Independence, Public Interest Doctrine, Territoriality and Extraterritoriality, Human Rights and Sustainable Development-Policies

#### **Module II: International Copyright System**

- a) Copyright as an Intellectual Property Form- Changing Technologies;
- b) Multilateral Copyright Norms- Berne Convention, Universal Copyright Convention, Rome Convention TRIPS Agreement- TRIPS Agreement and its relationship to the Berne Conventions, The WIPO Copyright Treaty (WCT)- Neighbouring Rights and the WIPO Performance and Phonograms Treaty (WPPT)-Beijing Treaty on Audio visual Performance -The Marrakesh Treaty to facilitate Access to Published Works for Persons who are Blind, Visually Impaired or otherwise Print Disabled;
- c) Exhaustion and the Movement of Copyrighted works in Trade;
- d) Copyright in Software and Open Source.

#### **Module III International Patent System**

- a) The Multilateral Patent Agreements-Paris Convention-Independence of Nation, Compulsory Licensing; The Patent Cooperation Treaty (PCT), Budapest Treaty, European Patent Convention, TRIPS Agreement- Safeguards and exceptions, Doha Declaration on Public Health,;
- b) Patent and the Convention on Biological Diversity;
- c) Patent Licensing, Transfer of technology and Competition.
- d) Plant Variety as an IP-Multilateral Agreements-TRIPS Agreement, The International Union for the Protection of New Varieties of Plants (UPOV) 1991, 1978 &1961 Act, International Treaty on Plant Genetic Resources for Food and Agriculture 2001 (ITPGRFA).

#### **Module IV International Trademark and Identifier System**

- a) Basic Characteristic of the Trademark, Domain Name and Geographical Indication- Trademark at the Multilateral level-Paris Convention and Trademarks, and Well Known Mark, Paris Convention and Indication of Source and Appellation of Origin - TRIPS Agreement-The Interface Between Trademarks and GI
- b) Trademark Exhaustion and International Trade;
- c) Trademark Registration at the Multilateral Level-The Madrid Agreement and Protocol Relating to the Madrid Agreement- Madrid Agreement on false and deceptive indication of source- Lisbon Agreement on registration of Appellation of Origin. Trademark Law Treaty
- d) Internet Domain Name at the Multilateral Level- UDRP.

#### **Module V: International Designs System**

- a) The Multilateral System for Protection of Design- Paris Convention TRIPS Agreement-registered, unregistered and functional design-layout design;
- b) The Hague Agreement Concerning the International Deposit of Industrial Designs
- c) TRIPS Agreement and Washington Treaty on Intellectual Property in respect of Integrated Circuit, 1989.

## **Module VI: International System for the Protection of Trade Secret and Regulatory Data**

- a) Trade secret and TRIPS Agreement – Regulatory Data and The TRIPS agreement
- b) Regional System for the protection of Regulatory data -Protection of Regulatory data & Pharmaceutical Regulatory data in the European Union.

## **Module VII: The International System for Enforcement of Intellectual Property Rights**

- a) Multilateral IPRs Enforcement Agreements-the TRIPS Agreement- Enforcement Obligation- Enforcement in WTO Dispute Settlement Mechanism and Dispute Settlement Understanding- Violation and Non Violation Complaints, Withdrawal of Concession;
- b) Other Multilateral Agreement on Enforcement-Berne and Paris Convention, Activities of WIPO Arbitration and Mediation Centre, World Custom Organization, OECD Project on Counterfeiting and Piracy- EU Enforcement Regime- IP Enforcement Directive
- c) United States Sec 377 of The Tariff Act of 1930 – Sec 301 and Special 301 of US Trade Representative Act.

### **Recommended Readings**

#### **Books:**

1. Grosse Ruse Khan, The Protection of Intellectual Property in International Law, University Press Oxford, United Kingdom (2016).
2. Jon O. Nelson, International Patent Treaties, Oxford, United Kingdom (2007).
3. Dennis Cohen, The International Protection of Designs, Kluwer Law International (2000).
4. Carlos M. Correa and Abdulaawi A. Yusuf, Intellectual Property and International Trade: The TRIPS Agreement, Wolters Kluwer Law International (2008).
5. Prof. P. R. Trivedi WIPO, WTO, GATT, TRIPS & IPR, Indian Institute of IP Rights, New Delhi (2017).

#### **Journals/Articles:**

1. John H Barton, The Economics of TRIPS: International Trade in Information - Intensive Products, 33 Geo. Wash. Int'l L. 473 (2001)

2. Keith E. Maskus & J. H. Reichman, The Globalization of Private Knowledge Goods and the Privatization of Global Public Goods, 7 J. Int'l Econ. L. 279 (2004)
3. Pamela Samuelson, The US Digital Agenda at WIPO, 37 Va. J. Int'l L. 369 (1997)
4. Frederick M Abbott, The Doha Declaration on the TRIPS Agreement and Public Health: Lighting a Dark Corner at the WTO, 5 J. Int'l Econ. L. 469 (2002)
5. Frederick M. Abbott, Non Violation Nullification or Impairment Causes of Action under the TRIPS Agreement and the Fifth Ministerial Conference: A Warning and Reminder, Quaker United Nations Office, Occasional Paper No 11 July 2003,

### **Further Readings:**

#### **Books**

1. India- Patent Protection for Pharmaceutical and Agricultural Chemical Products, AB- 1997-5, WT/DS50/AB/R, 15 Dec 1997.
2. Davidson Wilson, International Patent Litigation: Developing an effective Strategy, Global Law and Business, London (2009).
3. Frederick M Abbott, Thomas Cottier and Francis Gurry, International Intellectual Property in an Integrated World Economy, Wolter Kluwer, Aspen Publishers, (2007)
4. UNCTAD-ICTSD Resource Book on TRIPS Agreement and Development, Cambridge University Press (2004)
5. Frederick M. Abbott, TRIPS and Human Rights: Preliminary Reflections, In International Trade and Human Rights Foundation and Conceptual Issues (F.M.Abbott, C Breining-Kaufmann & T Cottier eds.) (U. Mich. Press 2006)
6. Edith Tilton Penrose, The Economic of the International Patent System: Chapter IX Summary and Conclusion Pp:162-169 , John Hopkins Press 1951.
7. John Perry Barlow, The Economy of Ideas: A Framework for Patents and Copyrights in the Digital Age , Wired 2.03, March 1994.
8. Sam Ricketson, The Birth of the Berne Union, the Centenary of the Berne Convention, Conference (Intellectual Property Law Unit, University of London and British Literary and Artistic Copyright Association London) April 17-18 1986.

9. Thomas Cottier, The Agreement on Trade Related Aspects of IPR, in the World Trade Organization: Legal, Economic and Political Analysis, Vol I -1040-1120 at 1082-1085 (P Macroy, A Appleton and M. Plummer eds. 2005) (Springer: New York)
10. Lawrence Lessig, Open Source Baselines: Compared to what? In Govt Policy Toward Open Source Software (Robert W Hahn ed., 2003), at 50

### **Journals/Articles**

1. Melvyn J. Simburg and et al., International Intellectual Property (2005) 39 International Lawyers, pp. 333-350.
2. Battling HIV -AIDS: A Decision Makers Guide to the Procurement of Medicines and Related Supplies, Y. Tayler, Ed., World Bank 2004
3. Sisule F. Musungu & Graham Dutfield, Multilateral Agreements and a TRIPS Plus World: The World Intellectual Property Organization (WIPO), TRIPS Issues Papers 3, Quaker United Nations Office (QUNO) Geneva Quaker International affairs Programme (QIAP) Ottawa.
4. John Barton, New Trends in Technology Transfer: Implications for National and International Policy, ICTSD Intellectual Property and Sustainable Development Series, Issue Paper No 18, Feb 2007
5. The Recognition of Rights and the Use of Names in the Internet Domain Name System, Report of the Second WIPO Internet Domain Name Process September 3, 2001, Available at <http://wipo2.wipo.int>
6. Office of United States Trade Representative 2006 Special 301 Report, Available at <http://www.ustr.gov>
7. Pamela Samuelson, The US Digital Agenda at WIPO, 37 Va. J. Int'l L. 369 (1997)
8. Frederick M Abbott, The Doha Declaration on the TRIPS Agreement and Public Health: Lighting a Dark Corner at the WTO, 5 J. Int'l Econ. L. 469 (2002)
9. Frederick M. Abbott, Non Violation Nullification or Impairment Causes of Action under the TRIPS Agreement and the Fifth Ministerial Conference: A Warning and Reminder, Quaker United Nations Office, Occasional Paper No 11 July 2003, available at <http://www.quno.org>

10. Carsten Fink & Patrick Reichenmiller, Tightening TRIPS: The Intellectual Property Provision of Recent US Free Trade Agreements, World Bank Trade Note 20, Feb7, 2005

**Case for Guidance:**

1. Revlon, Inc., and Others v. Cripps & Lee Ltd and Others [1980] FSR 85
2. NTP v. Research in Motion, 418 F.3d 1282 (Fed. Cir. 2005)
3. Canada -Patent Protection of Pharmaceutical Products, Report of the Panel, WT/DS114/R, March 17, 2000
4. Qualtex Company v Jacobson Products Company Inc, 514 US 159 (1995)
5. K Mart v Cartier, 486 US 281 (1988)
6. Pfizer Inc v. Martin Marketing Case No. D 2002-07793 WIPO Arbitration and Mediation Centre Administrative Panel Decision
7. Pfizer Inc v. Martin Marketing Case No. D 2003-0399 WIPO Arbitration and Mediation Centre Administrative Panel Decision
8. Metro Goldwyn- Mayer Studios v. Grokster 545 US 913 (2005)
9. John Wiley and Sons Inc v. Prabhat Chander Kumar Jain (2010)
10. Kapil Wadhwa v. Samsung Electronics Co. Ltd (2012) 53 PTC 112 (Del)
11. Quality King distributors v. L'anza Research International 523 US 135 (1998)
12. Computer Associates International v. Altai 982 F.2d 693 (2<sup>nd</sup> Cir. 1992)
13. Monsanto v Nuziveedu (2019)
14. J E M AG Supply v Pioneer Hi -Breed 534 US 124 (2001)
15. Akzo Chemie BV and Akzo Chemie UK Ltd v. Commission of the European Communities, Judgment of the Court (Fifth Chamber) of 24 June 1986 Case 53/85, Court of justice of European Commission

**Course Outcomes:**

After completion of the course students will be able to –

- Learn the various international system that regulates Intellectual Property Rights
- Discuss the different Multilateral Organizations where rules are negotiated and applied with subject matter interest in IPRs.
- Equip with the basic principles and policies underlying the protection of IPRs at the multilateral level to protect IP and harmonize the laws of the member nations.
- Examine the significant developments regarding the enforcement of IP at the international level.

## **(b): CONSTITUTIONAL LAW AND PROPERTY LAW INTRODUCTION TO LAND LAWS**

### **Objectives of the Course:**

*The objective of this specialized paper is to know about the*

- 1. land system in pre-independence and the right to property under constitution of India, The right of the government to acquire land for public purpose under the doctrine of eminent domain and the right of the person interested to claim compensation*
- 2. Laws relating to acquisition of land for companies, industrial purpose in the name of special economic zone and the rights of tribal over their property.*
- 3. Land reform constitutes the most important package of measures to improve the economic condition of agricultural tenants.*

### **Course                  Outline**

#### **Module– I: Concept of land and land movements in India:**

Concept of land and real property –concept of ownership -land system in ancient India - Panchami Land – Gramdhan Land - Boodan Movement – Tamil Nadu Boodan Act, 1958

#### **Module – II: Land Tenure System in Pre-Independent India:**

Zamindari system- permanent settlement, Inamwari, Mahalwari, Ryotwari-melwaram-kudiwaram-rights and responsibilities of Ryotwari pattadar.

#### **Module – III: Significance of land laws and constitutional provisions:**

Constitutional protection relating to property –Eminent Domain- Article 31A – Article 31 B- Article 31 C- Article 300 A- Ninth Schedule- land and governance in the fifth schedule- legislative powers of center and state in enacting land laws.

#### **Module – IV: Acquisition of Land:**

- a. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [LARR Act]
- b. Establishment of Special Economic Zone- Constitution of Board of Approval – functions of Development Commissioner - Special Economic Zone Authority
- c. Acquisition Of Lands For Industrial Purposes

#### **Module– V: Land rights of Tribes:**

Definition of tribes, scheduled tribes- Title rights- use rights – forest management rights of tribes – process of recognition of rights – scheduled area – V schedule – prohibition of alienation of tribal land.

#### **Statutory materials:**

1. Constitution of India
2. LARR Act, 2013
3. Special Economic Zones Act, 2005



4. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
5. Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997

#### **References:**

##### **Books**

1. Salmond on Jurisprudence, by P J Fitzgerald, Sweet & Maxwell, Universal Law Publishing co pvt ltd, 2016
  2. Right to property in India by Naveen Sharma, Deep & Deep Publications
  3. Baden Powell, "The Land Systems of British India", 1892
  4. Land Reforms in India by M. L. Dantwala, 66 Int'l Lab. Rev. 419 1952, Heinonline
  5. Land System in India: A Historical Review, Rekha Bandyopadhyay, Economic and Political Weekly, Vol. 28, No. 52 (Dec. 25, 1993), pp. A149-A155
- Articles:**
1. Indian Law on Special Economic Zone (SEZ) by Mr. Anand Singh <https://www.conservationindia.org/resources/facts-about-the-forests-rights-act>
  2. Lovleen Bhullar, 'The Indian Forest Rights Act 2006: A Critical Appraisal', available at <http://www.lead-journal.org/content/08020.pdf>
  3. Sanjana, "Forest Dwellers as Deemed Homeless", 4 J. Indian L. & Soc'y 130 2012- 2013, Heinonline
  4. E. Washburn Hopkins, "Land-Tenure in Ancient India", Political Science Quarterly, Vol. 13, No. 4 (Dec., 1898), pp. 669-686 available at <http://www.jstor.org/stable/2139978>
  5. Rekha Bandyopadhyay, "Land System in India: A Historical Review", Economic and Political Weekly, Vol. 28, No. 52 (Dec. 25, 1993), pp. A149-A155 available at <http://www.jstor.org/stable/4400592>

##### **Learning outcome:**

On successful completion of this course, students will be able to:

1. Understand the concept of real property and the various movements of India
2. Determine the right to property under Indian constitution
3. Evaluate various land reformatory systems exists in pre-independence
4. Understand the doctrine of eminent domain and the power of acquisition of land by the government
5. Analyze the circumstances under which land can be acquired for industrial purposes
6. Understand the land rights of tribals.

## **(C) CRIMINAL LAW AND FORENSIC SCIENCE CRIMINOLOGY**

### **Objectives of the Course:**

*Studying Criminology is essential for understanding crime and its impact on individuals and society. Criminology provides a comprehensive understanding of the criminal justice system, including law enforcement, courts, and corrections. Policymakers use criminological research to design and implement effective crime prevention and control strategies. Additionally, criminology provides insights into the causes of crime and the most effective ways to prevent it. This knowledge is critical for developing and implementing strategies that address the root causes of crime. Studying criminology also provides insights into the experiences of victims of crime and the impact crime has on their lives. Furthermore, the critical thinking skills and analytical abilities developed through studying criminology are transferable to a variety of careers and are highly valued in many fields. Ultimately, studying criminology can empower individuals to make informed decisions about their own safety and security, reduce their risk of victimization, and protect themselves and their communities.*

### **After undergoing the study the student will be able to understand the following:**

- *The impact of crime on individuals and society, including the physical, emotional, and economic effects of victimization.*
- *The various strategies and programs used to prevent and control crime, including situational crime prevention, community policing, and restorative justice.*
- *The ethical issues and dilemmas that arise in the study of criminology and the criminal justice system, including the rights of offenders and victims and the role of punishment in society.*
- *The skills and techniques used in criminological research, including data analysis, survey methods, and experimental design.*

## **COURSE OUTLINE**

### **Module 1: Introduction to Criminology**

- a) Definition and scope of criminology.
- b) Theoretical perspectives in criminology.
- c) Historical development of criminology.
- d) Relationship between crime and society.
- e) Emerging trends in criminology.

### **Module II : Schools of Criminology**

- a) Classical School of Criminology- Key thinkers and ideas (e.g., Cesare Beccaria and Jeremy Bentham)
- b) Positivist School of Criminology- Key thinkers and ideas (e.g., Cesare Lombroso and Enrico Ferri).
- c) Chicago School of Criminology- Key thinkers and ideas (e.g., Robert Park and Ernest Burgess).
- d) Strain Theory- Key thinkers and ideas (e.g., Robert Merton and Albert Cohen).

- e) Social Learning Theory- Key thinkers and ideas (e.g., Edwin Sutherland and Ronald Akers).
- f) Critical Criminology- Key thinkers and ideas (e.g., Karl Marx and Michel Foucault).

### **Module III : Crime Causation**

- a) Biological and Psychological Theories-The role of genetics, hormones, and brain chemistry in criminal behavior.
- b) Sociological Theories- The role of social structures, institutions, and culture in crime causation.
- c) Rational Choice Theory- The concept of rational decision-making in criminal behaviour- The role of opportunity, cost-benefit analysis, and deterrence in criminal decision-making.
- d) Social Learning Theory- The role of socialization, peer influence, and modeling in criminal behavior.
- e) Integrated Theories- The integration of biological, psychological, and sociological factors in explaining crime causation.

### **Module IV: Contemporary Issues in Criminology**

- a) White collar crime
- b) Terrorism: nature and scope.
- c) Cybercrime: trends and challenges.
- d) Hate crimes: types and consequences.
- e) Globalization and transnational crime.
- f) The role of technology in crime and crime prevention.

### **Module V: Comparative and International Criminology**

- a) Comparative criminology: nature and scope.
- b) Cross-national patterns in crime.
- c) Comparative analysis of criminal justice systems.
- d) International criminology: nature and scope.
- e) Transnational crime and global criminal justice.

### **Module VI: Crime Prevention and Control**

- a) Situational Crime Prevention- How the design of physical environments can influence criminal behaviour- target hardening, access control, and surveillance to prevent crime.
- b) Social Crime Prevention- Social policies and interventions to crime rates- education, employment programs, and community development initiatives to prevent crime.
- c) Community Crime Prevention- use of neighborhood watch programs, community policing, and problem-oriented policing to prevent crime.
- d) Restorative Justice- mediation, restitution, and community service to repair harm caused by crime.

### **Recommended Reading Books**

1. "Criminology" by Larry J. Siegel (2019). Cengage Learning.

2. "Criminological Theory: Context and Consequences" by J. Robert Lilly, Francis T. Cullen, and Richard A. Ball (2018). SAGE Publications.
3. "Criminology: A Sociological Understanding" by Steve E. Barkan (2020). Pearson Education.
4. "The Oxford Handbook of Criminology" edited by Alison Liebling and Shadd Maruna (2017). Oxford University Press.
5. "Crime and Criminology" by Rob White (2019). Oxford University Press.

### **Journals/ Articles**

1. Sampson, R. J., & Laub, J. H. (1993). Crime in the making: Pathways and turning points through life. Harvard University Press.
2. Braithwaite, J. (1989). Crime, shame, and reintegration. Cambridge University Press.
3. Wilson, J. Q., & Kelling, G. L. (1982). Broken windows: The police and neighborhood safety. *The Atlantic Monthly*, 249(3), 29-38.
4. Hirschi, T. (1969). Causes of delinquency. University of California Press.
5. Sykes, G. M., & Matza, D. (1957). Techniques of neutralization: A theory of delinquency. *American Sociological Review*, 22(6), 664-670.

### **Further Reading**

#### **Books**

1. "Crime and Punishment" by Fyodor Dostoevsky (1866). Penguin Classics.
2. "The Social Reality of Crime" by Richard Quinney (1970). Little, Brown and Company.
3. "The New Jim Crow: Mass Incarceration in the Age of Colorblindness" by Michelle Alexander (2010). The New Press.
4. "Punishment and Inequality in America" by Bruce Western (2006). Russell Sage Foundation.
5. "Theories of Crime" by John Muncie and Eugene McLaughlin (2001). Sage Publications.
6. "The Birth of the Prison" by Michel Foucault (1975). Penguin Books.
7. "Discipline and Punish: The Birth of the Prison" by Michel Foucault (1977). Vintage Books.
8. "The Crime of Punishment" by Karl Menninger (1968). Viking Press.
9. "Just Mercy: A Story of Justice and Redemption" by Bryan Stevenson (2015). Spiegel & Grau.
10. "The Anatomy of Violence: The Biological Roots of Crime" by Adrian Raine (2013). Pantheon Books.

### **Journals/ Articles**

1. Cohen, A. K. (1955). Delinquent boys: The culture of the gang. Free Press of Glencoe.
2. Gottfredson, M. R., & Hirschi, T. (1990). A general theory of crime. Stanford University Press.
3. Cullen, F. T., & Agnew, R. (2006). Criminological theory: Past to present: Essential readings. Oxford University Press.
4. Greenberg, D. F. (1993). Crime and capitalism: Readings from the "New Criminology". University of Pennsylvania Press.
5. Chambliss, W. J. (1973). The saints and the roughnecks. *Society*, 11(1), 24-31.
6. Akers, R. L. (1998). Social learning and social structure: A general theory of crime and deviance. Transaction Publishers.

7. Farrington, D. P., & Welsh, B. C. (2007). *Saving children from a life of crime: Early risk factors and effective interventions*. Oxford University Press.
8. Kubrin, C. E., Stucky, T. D., & Krohn, M. D. (2009). *Researching theories of crime and deviance*. Oxford University Press.
9. Paternoster, R., & Bachman, R. (2017). *Explaining criminal conduct: A holistic approach*. Routledge.
10. Pratt, T. C. (2000). Theoretical developments in criminology. In *Handbook of deviant behavior* (pp. 1-28). Springer.

### **Cases for Guidance**

1. Paras Ram v. State of Punjab (1981) 2 SCC 508
2. Meh Ram v. State 1994 CrLJ 1897 (Raj)
3. Tola Ram v. State of Rajasthan 1996 CrLJ 8 (Raj)
4. Vishaka v. State of Rajasthan AIR 1997 SC 3011
5. Shreerangayee v. State of Madras (1973) 1 MLJ 205
6. Bandhua Mukti Morcha v. Union of India AIR 1984 SC 802
7. Subramaniya Swamy v. Dr. Man Mohan Singh AIR 2012 SC 1185
8. M/s Sattyam Infoway Ltd v. M/s Sifynet Solutions (P) Ltd AIR 2004 SC 3549
9. Dr. L. Prakash v. State of T.N. (2008) 3 MLJ CrI 406
10. Narendra Kumar v. State (NCT Delhi Administration) AIR 2012 SC 2281
11. Prem Shankar Shukla v. Delhi Administration AIR 1980 SC 1535
12. Sheela Barse v. Union of India AIR 1988 SC 224
13. S.P. Anand v. State of M.P. AIR 2007 SC 166
14. Sunil Batra II case 1980 CrLJ 1099
15. Sanjay Dutt v. State of Maharashtra AIR 2013 SC 2682
16. Rudal Shah v. State of Bihar AIR 1983 SC 1986
17. Laxmi v. Union of India (2014) 4 SCC 427
18. Priyadharshini Mattu Rape case (2010) 9 SCC 747
19. Tukaram v. State of Maharashtra AIR 1979 SC 185
20. Nilabati Behra v. State of Orissa AIR 1993 SC 1960

### **• Learning Outcomes**

- Able to comprehend the causes and motivations behind criminal behavior, as well as the social and environmental factors that contribute to it.
- Gain an understanding of the criminal justice system, including the roles of law enforcement, courts, and corrections, and the processes involved in the investigation, prosecution, and punishment of crimes.
- Develop skills in analyzing crime data and statistics to identify patterns and trends in criminal behavior, and to evaluate the effectiveness of crime prevention and control strategies.
- Learn to think critically about issues related to crime and justice, including the ethical implications of different approaches to crime prevention and punishment.
- Develop skills in communicating ideas and arguments related to criminology, including the ability to write clear and persuasive essays, give presentations, and engage in discussions and debates on criminological issues.

## **(d): INDUSTRIAL AND COMMERCIAL LAW**

### **INTERNATIONAL LABOUR ORGANISATION AND LABOUR JURISPRUDENCE**

#### **Objectives of the course:**

*Industrial legislation is the child of industrial jurisprudence, which in itself, is a product of the industrial revolution in the 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> Centuries, it was a form of protest against the inhuman labour conditions that the industrial revolution ushered in. In India, pre- independence era industrial jurisprudence was rudimentary. Protection of labour has always been the primary goal of industrial laws (both those enacted by the legislature and those developed through judicial interpretation). However, well before Indian labour jurisprudence became robust, the International labour Organisation, a multinational labour body, led the way.*

This course has been designed to:

1. Introduce students to the ILO, its formation, charter documents, composition, membership and functioning;
2. Examine the international labour code and the role of India vis-à-vis the international labour code;
3. Study in detail the historical development of labour jurisprudence;
4. Elucidate the long and mutually beneficial relationship between ILO and India;
5. Instruct students various concepts of labour jurisprudence, including tripartism, and understand the role of the judiciary in this regard.

The syllabus has been prepared with these objectives and consists of 6 modules.

### **COURSE OUTLINE**

#### **Module I: International Labour Organisation**

- (a) Constitution and Declaration of Philadelphia.
- (b) Fundamental Principles.
- (c) Aims and Objectives.
- (e) Composition.
- (f) Functions.
- (g) Membership
- (h) Organs of the ILO.
- (i) The International Labour Conference - The Governing Body and the International Labour

Office - Regional Conference - Regional Advisory Committee - Industrial Committees and

Analogous Bodies - Committee of Experts - Panels of Consultants and Special Ad-hoc Conferences and Meetings.

## **Module II: International Labour Code**

- (a) Meaning, Nature and Scope of International Labour Code.
- (b) Development and Importance of ILC.
- (c) International Labour Standards- Conventions and Recommendations.
- (d) Ratification and System of enforcement.
- (e) Technical Assistance Programme and the Special Fund, World employment programme, Women workers, International Peace, Human Rights.
- (f) The ILO Century Project 1919-2019.
- (g) ILC and India.

## **Module III: Labour Jurisprudence**

- (a) Evolution, Concept and Importance of Labour jurisprudence.
- (b) Social Justice and Social welfare.
- (c) Role of Tripartitism in Labour Jurisprudence. (d) Role of Principles of Natural Justice.

## **Module IV: ILO and India**

- (a) Labour Movement in India.
- (b) India's membership to ILO.
- (c) Constitution and Labour -Preamble- Fundamental Rights- DPSP- VII Schedule- Constitutional Remedies and Constitutional validity of Labour Statutes.
- (d) Human Rights of Labour.
- (e) Women and Child Workers. (f) Social Security and ILO.
- (g) ILO and India's appraisal.

## **Module V: Tripartism**

- (a) Concept and Forms.

- (b) Areas of Operation- Preconditions.
- (c) Machineries in India.
- (d) Indian Labour Conference and Standing Labour Committee, Industrial Committees, Wage Boards, State Labour Advisory Boards.
- (e) Voluntary Arbitration and Labour Policy- Code of Discipline in Industry.
- (f) Role of ACTRAV.

## **Module VI: Judiciary and Labour**

**Jurisprudence** (a) Nature and Scope of Industrial Jurisprudence.

- (b) Industrial Adjudication and Judicial Review – Powers of High Courts and Supreme Court.
- (c) Public Interest Litigation and Labour Jurisprudence.
- (d) Judicial Activism in developing Labour Jurisprudence.

## **Recommended Readings**

### **Statutory Material:**

1. The Constitution of India, 1950
2. Labour Laws (Relevant provisions-Industrial Laws, Social Security, Women and Children, 4 Labour Codes)
3. International Labour Organisation Constitution, 1919 and ILO Conventions and Recommendations
4. The Charter of United Nations Organisation, 1945, UNO-Treaties, Conventions and Recommendations.
5. Universal Declaration on Human Rights, 1948. **Books Prescribed:**
  1. N. Maheshwara Swamy, “Impact of I.L.O. Standards on Indian Labour Law” (Asia Law House, 2007).
  2. Dhyani (S .N), “International Labour Organisation”, (New Delh: National Publishing House, 1997).
  3. Prof. Ahmedullah Khan, “Commentary on International Organisation and the Indian Response”, (Hyderabad: Asia Law House, 2005).
  4. Vaidyanathan N, “I.L.O Conventions and India” (Minerva Associates: Calcutta, 1975).
  5. Johnson, G.A., “The International Labour Organization” (London, 1970).



6. E.M. Rao, "Industrial Jurisprudence – A critical Commentary", (Lexis Nexis publication, 2015).

**Journals:**

- 1) P. Kalpakam, "The International Labour Organisation's Committee on Freedom of Association and International Protection of Trade Union Rights" 17 JILI 618-633 (1975).
- 2) Zafar Hussain and Afzal Wani, "Application and Enforcement of International Labour Standards in India: A Critique", 53 JILI 577-593 (2011).
- 3) C.S.Venkata Ratnam, "India and International Labour Standards", 35 IJIR 461-485 (2000).
- 4) N.L.Mitra, "Freedom of Association for Organised and Unorganised Workers-International Precept and Practice", 35 JILI 1-33 (1993).
- 5) O.P.Parmar, "ILO and India in Pursuit of Human rights thorough Labour Standards", 23 JILI 555-577 (1981).
- 6) Michael Hasenau, "ILO Standards on Migrant Workers: The Fundamentals of UN Convention and their genesis", 25 IMR 687-697 (1991).

**Further Reading:**

**Reference**

**Books:**

1. Jinender N. Kumar & Ajay Bhola, "International Labour Organisation (ILO) (Regal Publications, 2008).
2. Galenson Walter, "The International Labour Organization: An American View" (Madison, 1981).
3. Sinha & Sinha, "Industrial Relations and Labour Legislation" (Oxford & I B H Publishing Co., New Delhi, 1977).
4. The ILO and the World of work, (ILO Pub. Geneva, 1984).

**Articles:**

1. Nagaraj, R., "Fall in Manufacturing Employment: A Brief Note", Economic and Political Weekly, Vol. 39, pp. 3387-90, July 24-30, 20004).
2. Kamala Sankaran, "Human Rights and the World of Work", 40 JILI 284-294 (1998).
3. C.S.Venkata Ratnam, "Impact of New Economic Policy on the Role of Trade Unions", 29 IJIR 55-78 (1993).
4. Ratna Sen, "Unionisation and Collective Bargaining in the Unorganised Sector", 47 IJIR 598-616 (2012).

5. Susan Hayter, “International Comparative Trends in Collective Bargaining”, 45 IJIR 596-608 (2010).
6. Kamala Sankaran, “Fundamental Principles and Rights at work: India and the ILO”, 46 EPW 68-74 (2011).

### **Cases for Guidance**

1. Bandhua Mukti Morcha v. Union of India and others, (1997) (3) SCC 755.
2. Neeraja Chaudry v. State of MP, AIR 1984 SC 1099.
3. Peoples Union for Democratic Rights v. Union of India, AIR 1982 SC 1473.
4. Amristar v. State of Punjab & Ors., AIR 1981, SC 14
5. National Textile workers union v. P.R. Ramkrishnan & Ors, AIR 1982 SC 1473
6. Ram Kumar Misra v. state of Bihar, AIR 1984 SC 537
7. Consumer Education & Research Centre & Others v. Union of India, 1995 AIR 922.
8. M.C. Mehta v. State of Tamil Nadu, AIR 1991 SC 417
9. D.S. Nakara v. Union of India, AIR 1983 SC 130
10. Deena v. Union of India, AIR 1983 SC 115
11. S. Basudevan v. S.D. Mittal, AIR 1962 Bom 53
12. State of Gujarat v. Hon’ble High Court of Gujarat, (1998) 7 SCC 392
13. Chatisgarh Krishak Mazoor Sangh’s v. State of Madhya Pradesh, (1987) Suppl. SCC 198
14. P. Siva Swamy v. State of Andhra Pradesh, AIR 1988 SC 1863
15. Balram v. State of Madhya Pradesh, AIR 1990 SC **Learning Outcome:**

Upon completing this course, the student will be able to:

1. Appreciate the genesis of ILO in its historical context and its procedural complexities;
2. Understand the foundational role the ILO has played in labour jurisprudence, including through the international labour code;
3. Perceive India’s long history of engaging with the ILO and implementing its decisions to uplift its workers; and
4. Discern the various keystone concepts of labour jurisprudence and also comprehend the role played by the judiciary in developing such jurisprudence.

## IV SEMESTER INTRODUCTION TO PUBLIC INTERNATIONAL LAW

### Objectives of the Course:

*“Supra National Law” or otherwise popularly referred to as “International Law” aims to bring in peace and world order on the globe by mitigating the frictions between nation-states through peaceful legal means. It guides the nation-states to work for the betterment of human life, promotion of fundamental goals to peace, prosperity, advancement of human rights and the protection of human environment for sustainable development. Though it has numerous branches within, as a main subject its orientation is to understand the functioning as a core law in addressing the international challenges. The syllabus aims to introduce the student to understand the basic concepts of international law, harmonization with domestic law, its abidingness and application by the States in resolving their conflicting issues and to achieve international cooperation in working together to develop global institutional mechanisms.*

### Course Outline

#### Module- I: Introduction to International Law

- (a) Origin—Scope and Basis
- (b) Universalization of International Law- philosophical, political, ideological, cultural and cross- cultural approaches
- (c) Historical development and Jurisprudential theories – Greek, Roman, European, Asian, African, communist and Indian approach
- (d) Validity, Normativity and Enforcement through Sanctions
- (e) Codification and Progressive Development – Role of International Law Commission and International Institutions

#### Module -II: Sources of International Law

- (a) Source and its Genesis- Art 38 (1)(b) of the ICJ and Sources of International Law
- (b) Usage & Custom as a source; Elements of Custom; Jus Cogens and Erga omnes
- (c) Treaties as primary and persuasive source; significance of Law making treaties and Treaty Contracts; Normative Treaties; Reservation and Revocation of Treaties
- (d) General Principles of International law (Equity in a global context)
- (e) Juristic Works of Eminent Authorities
- (f) Decisions of Judicial and Arbitral Tribunals (International and Municipal)
- (g) Subsidiary Sources- Decisions, Resolutions and Declarations of the United Nations and other organs; Non-treaty obligations - Good will and Reciprocity.

#### Module-III: Harmonizing International Law with Municipal Law and Subjects of International Law

- (a) Interaction between International and Municipal (domestic) law
- (b) Theories of Monism, Dualism, Incorporation or Transformation, Specific Adoption and Delegation – State Practice- UK, USA and India
- (c) Subjects of International law – State- Different types of States - Essentials of Statehood- Lifting the State veil – Individual as a Subject and object - International organizations and Non- State actors as subjects of International law

#### **Module - IV: Recognition and State Territory**

- (a) State Recognition as a basis for International personality – Principles and Problems
- (b) Types of Recognition-- Legal nature; Theories of Recognition; Recognition of Governments – Belligerency and Insurgency
- (c) Legal effects of Recognition and Non Recognition
- (d) Concept of State Territory- Sovereignty and its significance
- (e) Acquisition and loss of State Territory; Territorial Integrity-Self-Determination and sundry claims- Doctrine of Uti possidetis
- (f) Law of Air and Outer Space

#### **Module -V State Succession**

- (a) State Succession – Definition & Conceptual Perspectives
- (b) Types- Universal and Partial Succession
- (c) Difference between Succession of States & Governments
- (d) Theories - Negativist & Modern Theories - An overview of States Succession to Treaties and to matters other than Treaties
- (e) Succession to the membership in International Organizations
- (f) State Succession -Contemporary issues- Yugoslavia- Dissolution of USSR- Reunification of Germany- Retrocession of Hong Kong.

#### **Module – VI: Law of Sea**

- (a) Historical Perspectives on Law of Sea
- (b) Concept of Territorial Sea – Internal waters - Innocent Passage – Rights and Duties of Coastal states
- (c) Continental Shelf & Exclusive Economic Zone –Rights and Duties of Coastal States  
Principle of Equidistance and its invocation, Special and Relevant Circumstances Rule
- (d) High Seas – Flag State Jurisdiction- Hot Pursuit- Pollution; Common Heritage of Mankind
- (e) Rights of Land locked States
- (f) Exploration and Exploitation of Resources in Area (Sea bed and Ocean floor)
- (g) Settlement of Disputes –Role of Sea Bed Authority-International Tribunal for Law of Sea.

## **Module VII: State Jurisdiction and Immunities from Jurisdiction**

- (a) Jurisdiction in International perspectives – Prescriptive & Enforcement
- (b) Territorial-Nationality--Passive Personality-Protection and Universal Principles- War Crimes, Crimes Against Peace and Humanity
- (c) Extraditable offences- Double Criminality; Asylum and its importance
- (d) Nationality-Double Nationality Jurisdiction- MNCs
- (e) Sovereign Immunity- Absolute and Restrictive Approach
- (f) Diplomatic Immunities and Privileges- Privileges and Immunities of International organizations

## **Module – VIII: State Responsibility**

- (a) State Responsibility-Nature and Scope
- (b) Obligations Erga Omnes - Notion of Immutability or Attribution to State- Breach of an International legal obligation
- (c) Draft articles of ILC - Liability for Lawful Acts- Circumstances excluding Wrongful Conduct of State- Legal Consequences of an Internationally Wrongful Act
- (d) Invocation of State Responsibility as part of Human Rights Standards
- (e) State Responsibility for Genocide: State Responsibility and Environmental Sustainability

## **Module- IX: International Human Rights Law & Humanitarian Law**

- (a) Nature and Scope of Human Rights - Outline of Theoretical approaches to Human rights
- (b) Overview of Historical background –European, Asia, African and Indian approaches
- (c) International Accountability- Normative foundations laid under the United Nations UDHR & International Bill of Human Rights and other instruments
- (d) Transition to modern Human rights - Generational Human rights – Human rights and Right to Development; Human rights Council and Human Rights Committee
- (e) IHL –Scope and Significance-Geneva Conventions and Protocols –Wounded and Sick; Prisoners of War; Protection of Civilians; Armed Conflict and Non-Armed Conflict; Relationship between Human Rights and IHL

## **Module –X: Challenges to International Human Rights Law**

- (a) Human Rights of Vulnerable and Disadvantage Groups; Women- Children Sexual Minorities Stateless Persons
- (b) Migrants - Epidemic Affected; Rights of Socially and Economically Disadvantaged People
- (c) Indigenous Peoples; Disabled & Minorities
- (d) Transnational Corporations and Human Rights, Terrorism & Counter-terrorism
- (e) Euthanasia and Human Rights; Right to Freedom from Torture and Inhuman or Degrading Treatment

(f) Crimes against humanity, Role of International Criminal Courts and Tribunals

**Recommended Readings: -**

1. Crawford, J. *Brownlie's Principles of Public International Law* (8<sup>th</sup>ed., 2013).
2. Jennings, R., and Watts, A. (eds.), *Oppenheim's International Law* [Vol. I –Peace] (9<sup>th</sup>ed., 2008).
3. Shaw, M.N. *International law* (Cambridge University Press, 8<sup>th</sup> ed., 2017).
4. Shearer, I.A. *Starke's International Law* (1<sup>st</sup> Indian ed., 2007).
5. Olivier de Schutter, *International Human Rights Law*, Cambridge University Press, 2010.

**Further Readings: -**

1. Anghie, A. 'Francisco de Vitoria and the Colonial Origins of International Law' in Imperialism, Sovereignty and the Making of International Law (CUP, 2004).
2. Bantekas and Oette, *International Human Rights: Law and Practice* (2013)
3. Boyle, A., and Chinkin, C. *The Making of International Law* (Oxford University Press, 2007).
4. Chimni, B.S. *International Law and World Order* (Cambridge University Press, 2017).
5. Connell, O. "State Succession in Municipal Law and International Law", Vol. II, pp. 212-219 (1967).
6. Dumberry, P. *State Succession to International Responsibility* (Graduate Institute of International Studies, Brill, 2007)
7. Kaul, J.L. & A. Jha, *Shifting Horizons of Public International Law*, (1st ed., 2018)
8. Kevin Boyle (ed.), *New Institutions for Human Rights Protection* (Oxford, 2009); Chapters 1-3.
9. Ryngaert, C. "Jurisdiction in International Law", (Oxford University Press, 2<sup>nd</sup> Ed., 2015).
10. Hugh Thirlway (2019), *The Sources of International Law*, Second Edition, Cambridge University Press: United Kingdom. Available at: <http://gen.lib.rus.ec/book/index.php?md5=6D495F5C2F501009703B4E97FC65676F>
11. Patrick Dumberry (2007), *State Succession to International Responsibility*, Martinus Nijhoff Publishers: The Netherlands. Available at: <http://gen.lib.rus.ec/book/index.php?md5=96F7331343E5503C4CC085EF56DA642D>
12. Robert Kolb (2016), *The Law of Treaties: An Introduction*, Edward Edgar Publishing Limited: United Kingdom. Available at:

**Journals: -**

1. Akehurst, M. "Custom as a Source of International Law" 53 *British Yearbook of International Law* 1(1974-75).
2. Anthony D'Amato, "Treaties as a Source of General Rules of International Law" 3 *Harvard International Law Journal* 1-43 (1962).
3. Thomas Buergenthal, "Lawmaking by the ICJ and Other International Courts" *Proceedings of the Annual Meeting (American Society of International Law)* Vol. 103, *International Law as Law* (2009), pp. 403-406 (CUP, 2009)
4. K. R. R. Sastry, *State Responsibility in International Law*, 35 *Allahabad Law Journal* 31(1937).
5. C. Wilfred Jenks, "State Succession in Respect of Law-Making Treaties", 29 *British Yearbook Book International* 105 (1952).
6. Keyuan, Z. "South China Sea Studies in China: Achievements, Constraints and Prospects", 11 *Singapore Yearbook of International Law* 85 (2007).
7. Babalola, A. "Extradition under International Law: Tool for Apprehension of Fugitives", 22 *Journal of Law Policy & Globalization* 25 (2014).
8. Micheline Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era*, 2004
9. Jack Donnelly, *The Relative Universality of Human Rights*, *Human Rights Quarterly*, Volume 29, Volume 2 (2007): 281-306.
10. Olivier de Schutter, *International Human Rights Law*, Cambridge University Press, 2010.

**Cases for Guidance: -**

1. S.S. Lotus Case, France V Turkey ICJ 1927
2. Asylum case Judgment (Columbia vs Peru)
3. North Sea Continental Shelf Case Judgment, I.C.J Reports 1969
4. Military and Paramilitary Activities in and against Nicaragua (Nicaragua vs United States of America), Judgment I.C.J Reports 1986.
5. Right of Passage over Indian Territory (Portugal vs India), 1960 I.C.J 6
6. The Nottebohm Judgment (Second Phase), 54 AJIL 536,557(1960)
7. The Wimbledon, P.C.I.J. Rep., Ser A, No. (1924)
8. Frontier Dispute [1986] ICJ Rep 554.
9. Serbian Loans case [1929] PCIJ (ser A) Nos 20/21, 5.
10. Temple of Preah Vihear (*Thailand v Cambodia*) [1962] ICJ Rep 6.
11. Gabcikovo Nagymaros Project case (*Hungary v Slovakia*) [1997] ICJ Rep 7.
12. Barcelona Traction case (*Belgium v Spain*) [1970] ICJ Rep 3.
13. Reparation of injuries suffered in the service of United Nations Advisory Opinion, 1949 I.C.J. 174 (Apr. 11)
14. Advisory Opinion of ICJ on Namibia, ICJ Rep. 1971, P. 16

15. Advisory Opinion of ICJ in Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo Case, ICJ Rep. 2010
- ❖ Advisory Opinion of Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, ICJ Rep. 2019 Italy v. India (Enrica Lexie case) (Pending)
16. West Rand Central Gold Mining company v R [1905] 2 KB 391
17. Regina v Keyn (1876) 2 Ex D 63
18. The Paquete Habana, 175 U.S. 677 (1900).
19. Vishakha and Ors. v State of Rajasthan and Ors, AIR 1997 SC 3011.
20. The Arantzazu Mendi case (UK) 1939
21. Luther v Sagor (UK) [1921] 3KB 532
22. Case Concerning Military and Para Military Activities in and Against Nicaragua
23. Case Concerning the Factory at Chorzow (Merits) [1928] PCIJ, Series A, No. 17, 47.
24. Corfu Channel (U.K. v. Alb.), 1949 I.C.J. 4 (Merits Apr. 9).
25. LaGrand (Germany v. United States of America), Provisional Measures [1999] ICJ Rep
26. Trail Smelter Case (U.S. v. Can.), 3 R.I.A.A. 1905 (Trail Smelter Arb. Trib. 1938 & 1941).
27. United States Diplomatic and Consular Staff in Tehran, Judgment, ICJ Reports 1980, Youmans case.
28. Island of Palmas Arbitration (U.S. v. Netherlands), 2 R.I.A.A. 829, 839 (1928).
29. Anglo-Norwegian Fisheries Case (UK v. Norway), ICJ Reports 1951.
30. South China Sea Arbitration, (Philippines vs China), Case No 2013-19, Award of 12 July 2016 (PCA)
31. Factor v. Laubenheimer 290 U.S. 276 (1933)
32. Fiocconi v. Att'y Gen., 462 F.2d 475
33. Ker v. Illinois, 119 U.S. 436 (1886)
34. United States v. Alvarez-Machain, 504 U.S. 655.
35. United States v. Rauscher, 119 U.S. 407 (1886).

### **Learning Outcomes: -**

After completion of the course Students will be able to

1. Equip with the basic structural perspectives of International law and would be able to understand its significance as a bedrock subject of international relations.
2. Trace the significance and influence of the normative principles involved in building the edifice and substance of international law.
3. Analyze and appreciate diversity of the subject and its impact on states and their subjects and the role and significance of International organs and able to create and defend principled legal arguments to carry further research.
4. Acquire academic contemplation and training primarily in Public international law blended with human rights law and IHL and their practical orientation.



# LABOUR LAW-I

## INDUSTRIAL RELATIONS AND WAGE LAWS

### Objectives of the course

*Labour rights are being integral to the social and economic development since the industrial revolution. Well balanced industrial development leads to increased productivity which in turn is a factor of national progress. Gone are the days when despotic industry-owners treated our precious labour as a mere factor of production, no more than a cost to minimise in the profit and loss account. As we grow to honour the crucial contribution of labour in society, studying, analysing and understanding system of labour laws, and exploring, with a keen and uncompromising eye, its flaws, failures, gaps and loopholes, is the key to combating rampant inequality and ensuring that labour has the right to live with dignity. The labour laws introduced for this course defines socio-legal control of labour relations and the history, the present norms, the emerging areas and possible future techniques of labour jurisprudence with reference to the tripartite responsibility of State, Workers and Employers.*

This course has been designed to:

- I. Educate the student on the historical evolution of modern labour jurisprudence;
- II. Explain the importance of the International Labour Organisation and its role in the development of labour law;
- III. Elucidate the importance of, and laws governing, trade unions;
- IV. Create a broad and deep understanding of the law related to industrial relations in India;
- V. Examine the importance of standing orders;
- VI. Detail the various statutory requirements under legislations related to wages; and
- VII. Develop a keen awareness of labour rights under various situations.

The following syllabus prepared with this perspective will comprise 5 modules.

### COURSE OUTLINE

#### Module I: Evolution of Labour Legislations

- (a) Historical Perspectives on Labour –Genesis of Labour Legislation - Modern Factory System- - Impact of Industrialisation.
- (b) Labour Policies in India.
- (c) Master and Servant Relationship.
- (d) Shift From Laissez Faire to Welfare Policy.
- (e) Role of the State in Industrial Relations.
- (f) Constitutional Perspectives on Labour Laws .

- (g) Workers Participation in Management .
- (h) Labour Law Reforms.
- (i) International Labour Organisation - Setting Labour Standards - Conventions and Recommendations - ILO and India - Conventions Ratified in India - Impact of ILO and Indian Labour Legislations.

## **Module II : Regulation of Trade Unions and Collective Bargaining**

- (a) Trade Union Movement in India - Development of Trade Union Legislation in India - Weakness of Trade Union Movement.
- (b) Outsiders in Trade Unions.
- (c) Inter-Union and Intra-Union Rivalries
- (d) Trade Unions Act, 1926 – Scope and Object - Definitions - Registration of Trade Unions  
– Members - Office Bearers - Rights and Liabilities of Trade Union - Privileges and Immunities of Registered Trade Unions.
- (e) Recognition of Trade Unions.
- (f) Collective Bargaining - Pre-requisites for Effective Collective Bargaining - Advantages and Disadvantages of Collective Bargaining - Enforcement of Collective Bargaining in India.

## **Module III: Regulation of Industrial Disputes**

- (a) Industrial Relations And Industrial Peace-Causes Of Industrial Disputes-System Of Adjudication Machinery Before 1947.
- (b) Industrial Disputes Act,1947 – Scope And Object - Definitions – Industry – Industrial Dispute – Workman - Lay Off – Retrenchment - Closure - Transfer of Undertakings - Kinds of Strike Regulation of Strike and Lock out -Unfair Labour Practices and Victimization. (c)Dispute Settlement Authorities - Reference Power of the Government - Grievance Redressal Machinery - Works Committee-Conciliation – Arbitration - Adjudication: Labour Court, Industrial Tribunal and National Tribunal - Award – Settlement - Change of Conditions of Service During the Pendency of Proceedings.

## **Module IV: Standing orders and Disciplinary Proceedings**

(a) The Concept and Nature of Standing Orders.

(b) Industrial Employment (Standing Orders) Act, 1946 - Certifying Officers; Appointment,

Jurisdiction and Powers and Duties- Procedure for Certification of Standing Orders -

Duration - Modification of Certified Standing Orders - Appeal Against Certification -

Registration of Standing Orders - Effect of Certified Standing Orders -Temporary

Application of Model Standing Orders -Inspection Machinery.

(c) Misconduct - Domestic Enquiry - Stages Involved in Conducting Disciplinary Enquiry-

Framing of Charges – Explanation to Charge Sheet – Conduct of Domestic Enquiry –

Appointment of Enquiry Officer – Notice of Enquiry – Conduct of Proceedings – Rules

of Natural Justice in the Context of Disciplinary Enquiry – Enquiry Report –

Punishment.

## **Module V : Wage Related Legislations**

(a) Concept Of Wages - Fair Wage, Living Wage, Minimum Wage.

(b) Theories Of Wages

(c) Wage Structure

(d) Wage Policy In India.

(e) Minimum Wages Act, 1948 - Definitions - Fixation and Revision of Minimum Wages;

Methodology, Procedure, Advisory Boards – Authority to Hear and Decide Claims-

Inspectors, Powers, Claims - Offences and Penalties.

(f) Payment of Wages Act, 1936 - Definitions – Obligations of the Employer-Permissible

Deductions-Authorities Under the Act - Inspectors and Their Powers – Offences and Penalties.

(e) The Payment of Bonus Act, 1965 - Bonus Commission - Definitions and Coverage -

Kinds of Bonus - Eligibility and Extent of Bonus - Calculation of Bonus: Available Surplus,

Allocable Surplus, Set on and Set off - Forfeiture of Bonus – Machinery for Settlement of Bonus Disputes.

### **Recommended Readings:**

#### **Books:**

1. S.N.Mishra, “ Labour and IndustrialLaw”, (Allahabad: Central Law Agency, 2019).
2. Dr. V.G.Goswami, “Labour and Industrial Laws”, (Allahabad: Central Law Agency, 2019).
3. MadhavanPillai, “Labour and IndustrialLaws” (Allahabad: Allahabad Law Agency, 2017).
4. S.C. Srivastava, “Industrial Relations and Labour Laws” (New Delhi: Vikas Publishing House Pvt. Ltd., 2019).
5. Meenu Paul, Labour and Industrial Law (Allahabad law Agency 2017).

#### **Journals/Journal Articles:**

1. Suresh C. Srivastava, “Labour Welfare and the Law” 17 *Journal of Indian Law Institute* 342-366 (1975)
2. Manishi Pathak, “An Overview of Contract Labour Related Laws in India” *NLS Bus. L.Rev.* 20-35 (2017).
3. Zubair Ahmad Khan & Hina Varshney, “Implementation of the Labour Welfare Provisions for Women Workers in the Unorganised Sector in India: A Critical Analysis” 21 *Aligarh Law Journal* 62 (2013).
4. Usha Ramanathan, “Statute Law, Injury & Compensation” 47 *Journal of Indian Law Institute* 158-198 (2005).
5. N.S.Kamboj, “Hazardous Industries Policy & the Law” 46 *Journal of Indian Law Institute* 449-462 (2004).

#### **Further Readings:**

##### **Books:**

1. K.D. Srivastava's Commentaries on Workmen's Compensation Act, 1923: with Supplement, (Lucknow: Eastern Book Co., 6<sup>th</sup> Revised ed., 1999).
2. K.D. Srivastava's Commentaries on Employees' State Insurance Act, 1948: with Supplement, (Lucknow: Eastern Book Co., 5<sup>th</sup> Revised ed., 2001).
3. K.D. Srivastava's Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Revised by S.C.Srivastava, (Lucknow: Eastern Book Co. 8<sup>th</sup> Edition, 2001).
4. K D Srivastava’s Commentaries on Payment of Gratuity Act, 1972 with supplement, (Lucknow: Eastern Book Co., 5<sup>th</sup> ed., 2016).
5. K.D. Srivastava's Commentaries on Factories Act, 1948: with Supplement, (Lucknow: Eastern Book Co., 5<sup>th</sup> Revised ed., 2001).

##### **Journals:**

1. RP.Rangeela, Mrs.Girija Anil, “Welfare measures under the Factories Act: A Critical Appraisal” *International Journal of Pure and Applied Mathematics*, Vol.120, No.5, (2018) p.255.

2. S.Gokulakrishnan , Dr.D Vezhaventhan, “A Study on Maternity Benefit Scheme in India” International Journal of Pure and Applied Mathematics, Vol.120, No.5, (2018) p.4393.
3. Priyanka.B, A.Sreelatha, “Effective Implementation of Maternity Benefit Act Of 1961” International Journal of Pure and Applied Mathematics, Vol.120, No.5, (2018) p.1329.
4. K B Ravindra, “Labour Welfare and Social Security” Ushus J B Mgt 13, 1(2014), p.77.
5. Manvendra Singh Jadon and Ankit Bhandari, “Analysis of the Maternity Benefits Amendment Act, 2017 and its Implications on the Modern Industrial Discourse” Christ University Law Journal, 2019 Vol. 8, No,2, p. 63.
6. Mrs. Sumitra Pujari, “A Study on Welfare Schemes of ESI” International Journal of Engineering Technology Science and Research, Vol.5, Issue 1, (2018), p.761.
7. Dr. A. Ananda Kumar, Dr. D. Porkalai & Mr. A. Savio Arokiadass, “Effective Utilization of Employee State Insurance (ESI) Policy at E-Publishing Sector” Global Journal of Management and Business Research: G Interdisciplinary Vol.17, Issue 5 (2017) p.35.
8. Jerome Joseph and Srinath Jagannathan, “Employment Relations & Managerialist Undercurrents — The Case of Payment of Gratuity Act, 1972” Indian Journal of Industrial Relations Vol. 47, No. 2 (October 2011), p. 253.
9. Yashik, P. M. (2014). ”A study about the Labour welfare and Social Security Measures in India”, International Journal of Management, 2, p.23.
10. Sravanthi, B., “Social security in India: constitutional frame work” International Journal of Development Research, Volume 8, Article ID: 12929.

#### **Cases for Guidance:**

1. United India Insurance Co. Ltd. v. (Smt.) Susheela, 2004 (101) FLR 393 (Karn HC)
2. Employees State Insurance Corporation v. Jaipur Enterprises, (1988) 56 FLR 207 (Raj.)
3. Employees State Insurance Corporation v. Hotel Kalpaka International, 1993 LLR 177 (SC)
4. Fenner (India) Ltd. v. Joint Regional Director, Employees State Insurance Corporation, (2003) 2 LLJ 447 (Mad)
5. Municipal Corporation of Delhi v. Female Workers (Muster Rolls) and Another, AIR 2000 SC 1274

6. Ram Bahadur Thakur (P) Ltd. v. Chief Inspector of Plantations, [1982 (2) LLJ 20]
7. Sri Rama Vilas Service Ltd. v. RPFC, 2000 I LLJ 709 (Mad)
8. Hindustan Lever Employees Union v. RPFC, 1995 (71) FLR 46 (Bom)
9. Mill Owners Association, Bombay v. Their Employees [1950 (II) LLJ 1247]
10. Standard Vacuum Refining Co. of India v. Workmen, AIR 1961 SC 895, 901
11. Mill Owners Association, Bombay v. Rashtriya Mazdoor Mill Sangh, [(1960) LLJ 1247]
12. Kothari Corporation v. Appellate Authority (Deputy Commissioner of Labour), Karnool 1998 LLR 223
13. Management of Sri Akilandeswari Mills Ltd. v. Asst. Commissioner of Labour (2000) I LLJ 1411 Mad
14. Workmen of American Express International Banking Corporation v. American Express International Banking Corporation [AIR 1986 SC 458]
15. Jayathilal Dhaniji & Co. Oil Mills v. Employees State Insurance Corporation [(1966) 2 LLJ 542]

### **Learning Out Come:**

After completion of the course students will be able to –

- *Appreciate the evolution and conceptual backbones of social security laws and recognise the pivotal role played by ILO in ensuring social security rights for workers;*□
- *Distinguish the rights of employees under various employment-related mishaps and consequences and understand the scope and reach of state insurance benefits to employees;*□
- *Critically analyse maternity benefits available to women employees and their adequacy/inadequacy;*□
- *Discern the nuances of retirement benefits payable to employees; and*□
- *Comprehend the compliances to be followed by factories and critically analyse relevant laws.*□

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## INTELLECTUAL PROPERTY RIGHTS

### Objectives of the Course

*The new trends in International Trade ushered in by the WTO and the TRIPS Agreement demand for a serious rethinking on teaching Intellectual Property Laws. The new economic policies, it is assumed will facilitate the free movement of capital, technology and goods based on new technology across the borders to promote International Trade. This is expected to bring in new technology for the industrial and economic development of India. It is also expected that there is going to be more investment on the research and development by the local industries to face the new international competition. On the other hand development of science and technology result in cultural property violating the intangible cultural heritage/ traditional cultural expression and traditional knowledge of the developing countries and Human Rights of Indigenous Communities. This demand, India to afford better protection for the Intellectual Property based on the TRIPS Agreement and also to preserve and conserve the cultural heritage of the country.*

*The course is designed with a view to create IPR consciousness; and familiarize the learners various issues and challenges relating to IPR.*

### COURSE OUTLINE

#### Module I Introduction to Intellectual Property Rights:

- d) Definition, Concept and Nature of Property, Kinds of Property;
- e) Intellectual Property - Meaning, Nature, and Concept;
- f) Theories of IPR- Natural Rights, Social Contract Theory, Incentive to Disclose Theory, Locke's Theory of property, utilitarian Theory, Marxian Theory and Theory of Cultural Relativism;
- g) Indian theory on Private Property and IP-Svatva, Svamitva and Svatantrya-MamedamIti (it is mine);
- h) Constitutional Values and Protection of Private Property and Intellectual Property- Need for Protection of Intellectual Property- Origin and Development of Intellectual Property Rights.

#### Module II: Internationalization of IP Protection

- a) Major Convention on IP-Paris Convention, Berne Convention, TRIPS Agreement;
- b) Principles of Reciprocity and Priority- Concept of Minimum Standards- Concept of National Treatment and Most Favoured Nation (MFN),
- c) Doctrine of Exhaustion with respect to Intellectual Property Rights;
- d) Intellectual property in Common Law and Civil Law (course of employment).

### **Module III: Law of Copyright and Neighbouring Rights**

- h) Historical Origin of Law of Copyright and Neighbouring Rights;
- i) Subject Matter of Copyright and Neighbouring Rights- Minimum Standard requirements-Doctrine of merger-Doctrine of Sweat of the Brow- Economic and Moral Rights;
- j) Assignment and Licenses –Compulsory License – Statutory licence;
- k) Infringement of copyright-Limitation and Exception-fair use/fair dealing-Digitalization of copyrighted work- Anti Circumvention law-Remedial Mechanism for infringement of Copyright and Neighbouring Rights.

### **Module IV: Patent Law**

- e) Origin and Development of Patent Law- Patentable Subject Matter- Patentability Criteria-Pharmaceutical, biotechnology, software -Invention not Patentable;
- f) Rights of Patent Holders – Limitations and Exceptions-compulsory license - Bolar Exception-parallel imports.
- g) Enforceability of Patent Rights- Claim interpretation and Construction- Doctrine of Equivalents – Doctrine of Pith and Marrow- remedies for Patent Infringement.

### **Module V: Protection of Plant Varieties and Farmers' Right**

- k) International Undertaking on Plant Genetic Resources for Food and Agriculture, Convention on Biological Diversity, ITPGRFA 2001.
- l) The Protection of Plant Varieties and Farmers' Rights, 2001- Definition of Plant Varieties and Farmer's Rights- Registrable varieties- Genetically modified varieties- Protection of Breeders and Farmers Rights- Researcher's Rights – Benefit Sharing.

### **Module VI: Trademarks and Geographical Indications:**



- a) Origin and development of Trademark-Meaning and definition of Trademarks- Types of Trademark.
- b) Basic principles of registration of trade mark- Absolute and relative ground for refusal of registration of trademark .
- c) Infringement of trade mark -deceptive similarity-concept of Dilution- Passing off- Remedies.
- d) Geographical Indications - International Protection under TRIPS- Meaning and Definition of Geographical Indications, Indication of Source and Appellation Of Origin- Producer or authorised user of GI.

#### **Module VI: Industrial Designs:**

- a) Origin and development of Industrial Designs- Definition of Design- requirements of originality or novelty- Copyright in Registered Designs - Piracy of Registered Design- Remedies.
- b) Definition of Layout Design and Integrated Circuit- Subject matter scope of Semiconductor and integrated Circuit-Overlapping between Designs, Copyright and Trademark.

#### **Module VII: Contemporary Issues of IPR**

- a) IPR and Cultural Property-Traditional Knowledge and Traditional Cultural Expression/ Folklore; Protection of the rights of Indigenous people- Access to Genetic Resources, Prior Informed Consent and Benefit Sharing- Harmonization of CBD and TRIPS; Inter-relationship between IPR and Human Rights (Art 17 and 27 of UDHR; Art 15(1) of ICESCR).
- b) IP protection for Artificial Intelligence output, algorithm and data – Ownership/ Inventorship Issue;
- c) Protection of Database- EU Database Directive.
- d) Patenting of Gene- Doctrine of Product of Nature;
- e) Private International Law and Intellectual Property- Choice of Court, Choice of Law, Recognition and Enforcement of Foreign Judgment.

#### **Statutory Materials:**

The Copyright Act 1957

The Patent Act 1970

The Trade Mark Act 1999

Industrial Designs Act 2000

The Geographical Indication of Goods (Registration and Protection) Act 1999

The Protection of Plant Variety and Farmers right Act 2001

The Semiconductor Integrated Layout Design Act 2000

### **Recommended Readings:**

#### **Books:**

1. R.S. Bhalla, The Institution of Property: Legally, Historically and Philosophically Regarded, Eastern Book Co., (1984)
2. Dr. Mathew Thomas, Understanding Intellectual Property, Eastern Book Company, Lucknow (2016).
3. V.K. Ahuja, Law Relating to Intellectual Property Rights ( Lexis Nexis) 2015
4. Elizabeth Verkey, Intellectual Property law and Practice (Eastern Book Company)2015
5. Taraporevala V J, Law of Intellectual Property,(2<sup>nd</sup> Edition) Thomson Reuters, 2013.

#### **Case Book:**

1. LTC Harms: Enforcement of IPR: A case BOOK WIPO Publication (3<sup>rd</sup> edn)  
2012 available at  
[http://www.wipo.int/edocs/pubdocs/en/intproperty/791/wipo\\_pub\\_791.pdf](http://www.wipo.int/edocs/pubdocs/en/intproperty/791/wipo_pub_791.pdf)

#### **Journals/Articles:**

1. Jane C. Ginsburg, No Sweat? Copyright and Other Protection of Works of Information After Feist v. Rural Telephone (1992) 92 Colum L. Rev 838.
2. Michael Abrahamowicz and John F Duffy, The Inducement Standard of Patentability, (2011) 120 Yale Law Journal 1590.
3. Jerre B Swann, Sr., Dilution Redefined for the Year 2000 (2001) 33 IPLR 343.
4. K Lipstein, Intellectual Property Jurisdiction or Choice of Law? The Cambridge Law Journal Vol- 61 No. 2, (July 2002) pp. 295-300.
5. Inter- Governmental Committee on Traditional Knowledge, Traditional Cultural Expression and Genetic Resources, Available at:  
<https://www.wipo.int/tk/en/igc/>

#### **Further Readings:**

#### **Books:**

1. Philippe Cullet, Human Rights and Intellectual Property Protection in the TRIPS Era, 2007. HUMAN RIGHTS QUARTERLY, Vol. 29 403-430

2. Graeme Austin: Private International Law and IPR Common Law : An Over View  
(2001), [https://www.wipo.int/edocs/mdocs/mdocs/en/wipo\\_pil\\_01/wipo\\_pil\\_01\\_5.pdf](https://www.wipo.int/edocs/mdocs/mdocs/en/wipo_pil_01/wipo_pil_01_5.pdf)
3. Copinger and Skomnes James on Copyright by Gillian Davies, Kevin Garnett, and Gwilym Harbottle (15<sup>th</sup> ed. 2005) Indian Reprint 2008
4. Terrel on Patents, Sweet and Maxwell (1994)
5. Kerly's Law on Trademarks and Trade Names, Sweet and Maxwell. Wolters Kluwer (2015)
6. Graeme Austin: Private International Law and IPR Common Law : An Over View,  
WIPO 2001, available at [http://webcache.googleusercontent.com/search?q=cache:jP2l70OixS4J:www.wipo.int/edocs/mdocs/mdocs/en/wipo\\_pil\\_01/wipo\\_pil\\_01\\_5.doc+&cd=1&hl=en&ct=clnk&gl=in](http://webcache.googleusercontent.com/search?q=cache:jP2l70OixS4J:www.wipo.int/edocs/mdocs/mdocs/en/wipo_pil_01/wipo_pil_01_5.doc+&cd=1&hl=en&ct=clnk&gl=in)
7. ABC of Copy Right UNESCO Publication; available at [http://www.unesco.org/fileadmin/MULTIMEDIA/HQ/CLT/diversity/pdf/WAP\\_O/A\\_BC\\_Copyright\\_en.pdf](http://www.unesco.org/fileadmin/MULTIMEDIA/HQ/CLT/diversity/pdf/WAP_O/A_BC_Copyright_en.pdf)
8. Russell Clarke, Industrial Design, Sweet and Maxwell, 9<sup>th</sup> Ed., (2016).
9. Resource Book on TRIPS and Development, UNCTAD- ICTSD (2004)
10. Gopalkrishnan N S, & Agitha T G, Principles of Intellectual property. Lucknow: Eastern Book Company (2014)

### Journals

- 1 EIPR- European Intellectual Property Review (Westlaw)
- 2 IPQ- Intellectual Property Quarterly (Westlaw )
- 3 J. Copyright Soc'y USA – Journal of the Copyright Society of the USA (Westlaw)
- 4 RPC – Report of Patent Cases (Westlaw)
- 5 FSR- Fleet Street Reporter (Westlaw)
- 6 ECDR- European Copyright and Design Reports (Westlaw)
- 7 PTC- Patent Trademark Cases
- 8 JIPR-Journal of Intellectual Property Rights (Niscair)  
available at : <http://nopr.niscair.res.in/handle/123456789/4693>
- 9 The WIPO Journal available at: <https://www.wipo.int/publications/en/search.jsp?lang=EN&set4=132>
- 10 Yale Law Journal (Hein Online)

### Cases for Guidance

1. University of London Press Ltd v. University of Tutorial Press Ltd (1916) 2 Ch. 601
2. Feist Publication Inc v. Rural Telephone Service Co. Inc, 499 US 340 (1991)
3. Eastern Book Company v. D. B. Modak (2008) 1 SCC 1
4. R. G. Anand v. Delux Films (1978) 4 SCC 118
5. Amarnath Sehgal v. Union of India (2005) 30 PTC 253
6. Indian Performing Right Society Ltd v. Eastern India Motion Picture Association (1977)

7. Indian Recording Manufacturing Company v. Ilayaraja (20, Feb. 2020)
8. Delhi University Photo Copying Case – The Chancellor Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services (2012)
9. Lallubhai Chakubhai Jarivala v. Shamaldas Sankalchand Shah AIR 1934 Bom 407
10. Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries (1979) 2 SCC 511
11. Novartis AG v Union of India (2013) 6 SCC 1
12. Bayer Corp v. Union of India (2012)
13. Monsanto v Nuziveedu (2019)
14. Britannia Industries Ltd v. Sara Lee Bakery AIR 2000 Mad 497
15. Daimler Benz Aktiegesellschaft v. Hybo Hindustan (1994)
16. S M Dyechem Ltd., v Cadbury (India) ltd (2000)
17. Syndicate of Press of University of Cambridge v B. D. Bhandari (2005) 31 PTC 58 (Del)
18. Kapil Wadhwa v. Samsung Electronics Co. Ltd (2012) 53 PTC 112 (Del)

### **Learning Outcome:**

After completion of the course students will be able to –

1. Understand the different types of IPR and able to compare and contrast in terms of their key difference and similarities.
2. Assess and critique some basic theoretical justification for each form of intellectual property protection
3. Discuss the effects of intellectual property right on society as a whole.
4. Examine the relation between the Private International law and IP with respect to online piracy of copyrighted work and counterfeit trademark products where registration is not mandatory.
5. Compare and contrast the laws in other countries like US and EU mainly UK and also from the Human Rights perspective.

## **(a) : INTERNATIONAL LAW AND INTELLECTUAL PROPERTY RIGHTS**

### **INTERNATIONAL HUMAN RIGHTS LAW**

#### **Objectives of the Course**

*The objective of the course is to introduce the human rights and facilitate the students to understand the working of international Human Rights Law. The international human rights institutions and laws are provided to understand the global discourse on human rights. The dynamics of modern human rights is introduced to student through two specific modules focussing on selected themes. Indian practice is studied through the contribution of all the organs of the state. All the major regional human rights mechanisms are introduced. The students shall understand the making of regional human rights mechanisms and work of NGOs. The students is expected to acquire following competencies after the course,*

- 1. The students will understand the role and limitations of international law with historical and institutional background.*
- 2. The students will be able appreciate the application of human rights to complex social, political and economic situations. 3. They will be in a position to apply human rights to real life situations to court crafts.*

#### **COURSE OUTLINE**

##### **Module I: Background and Introduction**

- A. Origin and Development – Concept of Human Rights –Ancient Europe - The Middle Ages – The Magna Carta – Bill of rights – American Revolution – French Revolution – Classification of Human Rights – Practice of Ancient Indian States - Vedas, Ashoka and Sangam Tamil Nadu
- B. Human Rights and Duties – the idea of duty in the ancient and modern era – duty of individuals to fellow human beings – Gandhian Ideas and human rights instruments on duties
- C. Sources of International Human Rights Law: Treaties, Customs and soft law instruments- role of international courts and tribunals – recognition of international human rights law by municipal systems

##### **Module II: Development of International Human Rights Law**

- A. ICRC and Evolution of International Humanitarian Law – abolition of slavery – national and international efforts to abolish slavery and apartheid

- B. Right of Self-Determination of People – Prohibition of Genocide – Prohibition of Torture – Prohibition of Racial Discrimination – Prohibition of Slavery – Prohibition of Human Traffic and modern forms of slavery
- C. Evolution of International Labour Organisation – Early conventions and subsequent development – rights of workers including women, children and migrant labour

### **Module III: United Nations and International Human Rights**

- A. Evolution of Human Rights in the UN framework- Development of UDHR – Role of Commission on Human Rights
- B. International Bill of Human Rights – Universal Declaration of Human Rights – International Covenant on Civil and Political Rights – International Covenant on Economic, Social and Cultural Rights – Non-derogable rights – Progressive Realisation of Human Rights – Conventions on Rights of the Child, Women and Disabled
- C. Prevention of Terrorism –International efforts to counter terrorism –cyber warfare and human rights

### **Module IV: Enforcement Mechanisms**

- A. General Assembly and Security Council on Human Rights - United Nations Charter based Human Rights Institutions- UNHRC –Committees under various human rights treaties – General Comments and Recommendations – Special Rapporteurs – UN High Commissioner for Human Rights
- B. Response of International Community to Human Rights Situations: South and South East Asia, Middle East, Africa, Latin America and Eastern Europe
- C. Asian, African and European Human Rights Instruments and their enforcement – Regional Judicial bodies. (European Court of Human Rights, Inter-American Court of Human Rights and African Court of Human Rights)

### **Module V: Civil and Political Rights**

- A. Rights of elderly Persons, Tribes, Minorities (including Linguistic, Religious and Sexual Minorities)
- B. Rights of Victims of Crimes – Death Penalty – Rights of Accused and Convict
- C. Democracy and International Rule of Law – Right to Vote – Right to Take Part in the Governance
- D. Concept of NGO's and International NGO's – their participation in Human Rights issues – Selective case studies.

### **Module VI: Economic and Cultural Rights**

- A. Right to Education – International law and national implementation

- B. Right to Health – International Law on Tobacco control, Narcotics - contagious diseases – World Health Organisation
- C. Right to Food, Water and Sanitation – eradication of hunger and malnutrition – role of Food and Agriculture Organisation
- D. Right to Environment – Sustainable Development Goals – economic development, environmental protection and human rights

### **Module VII: International Refugee Law**

- A. Introduction – Refugees, Internally Displaced Persons, Forced Migration, Economic Migration, Asylum – Relationship between IHRL, IHL, and IRL
- B. International Standards in Refugee Law - 1951 UN Convention relating to the Status of Refugees (UNCSR) with its 1967 Additional Protocol, UNHCR – Statute, Mandate, Role, Functions, Responsibilities
- C. Concept of Non-Refoulement, Durable Solutions - voluntary repatriation, local asylum, and resettlement
- D. Contemporary Concerns and Challenges – Select case studies

### **Module VIII: Implementing International Human Rights in India**

- A. India's ratification and response to Human Rights Treaties and mechanisms
- B. The Protection of Human Rights Act, 1993 – Paris Principles on National Human Rights Institutions – State and National Human Rights Commissions
- C. Commissions for Women, SC/ST, Minorities, Children etc.
- D. Constitutional and Legislative Framework: Fundamental Rights, Duties and Directive Principles – Right to Information
- E. Role of High Courts and Supreme Court in Protecting Human Rights

### **Recommended Readings:**

#### **Suggested Books**

1. Rhona Smith – International Human Rights Law (Oxford, 2017)
2. M.K.Sinha – Implementation of Basic Human Rights (Lexis Nexis)
3. Michael Haas - International Human rights Law (Routledge, 2014)

#### **Further Readings**

- Amanda Alexander, “A Short History of International Humanitarian Law” The European Journal of International Law Vol. 26 no. 1 (2015)□
- Aswini K. Ray, Human Right Movement in India: A Historical Perspective, Economic and Political Weekly, Vol. 38, No. 32 (Aug. 9-15, 2003), pp. 3409-3415□
- Chetail, Vincent, Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law (September 17, 2012). Human Rights and Immigration, Collected Courses of the Academy of European

Law, pp. 19-72, R. Rubio-Marin, ed., Oxford: Oxford University Press, 2014.; Criminal Justice, Borders and Citizenship Research Paper No. 2147763. Available at SSRN: <https://ssrn.com/abstract=2147763>

- Guy S Goodwin-Gill “The Dynamic of International Refugee Law” International

Journal of Refugee Law Vol. 25 no. 4 pp. 651–666 (2014)

- Kay Hailbronner, “Nationality in public international law and european law” in

“Acquisition and Loss of Nationality Volume 1: Comparative Analyse” Rainer Bauböck(eds) Amsterdam University Press. (2006)

- Kjersti Skarstad, “Human rights through the lens of disability” Netherland Quarterly of Human Rights” Vol. 36(1) 24 (2018)

- Martti Koskenniemi , National Self-Determination Today: Problems of Legal Theory and Practice, The International and Comparative Law Quarterly, Vol. 43, No. 2 (Apr., 1994), pp.241-269
- Myongsei Sohn, Globalization of Public Health Law and Ethics, Asia-Pacific Journal of Public Health 24(5) 851-8 (2012)
- Philippe Cullet , The Right to Sanitation: Multiple Dimensions and Challenges in Philippe Cullet (ed) “the Right to Sanitation in India” (Oxford, 2019)
- S. Muralidhan, “Rights of Victims in the Indian Criminal Justice System” National Human Rights Journal (2004) <http://www.ielrc.org/content/a0402.pdf>
- S. Radhakrishnan, Development of Human Rights in an Indian Context, International Journal of Legal Information (Volume 39 , 2008)

### **Indian Cases**

- NALSA v. Union of India
- Navtej Singh Johar v. Union of India
- Francis Coralie Mullin Vs. The Administrator (AIR 1981 SC 746)
- Madhav Hayawadanrao Hoskot Vs. State Of Maharashtra (1979 SCR (1) 192)
- Selvi Vs. State Of Karnataka ((2010) 7 SCC 263)
- Jolly George Varghese v. Bank of Cochin (1980) 2 SCC 360
- Justice K.S.Puttaswamy(Retd) vs Union Of India, (2019)1 SCC 1



□ Kharak Singh v. State of Uttar Pradesh AIR 1963 SC 1295□

□ People's Union For Democratic Rights Vs. Union Of India & Others AIR 1982 SC 1473□

□ Nilabati Behera Vs. State of Orissa 1993 SCR (2) 581□

□ Parmanand Katara v. Union of India ((1989) 4 SCC 286)□

□ Lakshmi Kant Pandey vs Union Of India (AIR 1984 SC 469)□

□ Chairman, Railway Board and others Vs. Mrs.Chandrima AIR 2000 SC 988□

□ Maneka Gandhi Vs. Union of India (1978) 1 SCC 248□

### **International Court of Justice**

- Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, <https://www.icj-cij.org/en/case/131>
- Ahmadou Sadio Diallo (Republic of Guinea vDemocratic Republic of Congo) <https://www.icj-cij.org/en/case/103>
- Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970) <https://www.icj-cij.org/en/case/53>
- Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro) <https://www.icj-cij.org/en/case/91>
- Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium) <https://www.icj-cij.org/en/case/121>

### **Regional Courts**

- Advisory Opinion of Inter-American Court of Human Rights on 'the right to information on consular assistance in the framework of the guarantees of the due process of law'  
[http://www.corteidh.or.cr/docs/opiniones/seriea\\_16\\_ing.pdf](http://www.corteidh.or.cr/docs/opiniones/seriea_16_ing.pdf)
- Case of Loizidou v. Turkey [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-58201%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-58201%22]})
- Lautsi v. Italy, Judgement of the Grand Chamber dated 18 March 2011
- Al-Adsani v United Kingdom (2002) 34 EHRR 273

### **Foreign Courts**

- Jam et al v International Finance Corp (586 U.S.2019)
- *R (on the application of Edward Bridges) v The Chief Constable of South Wales* [2019] EWHC 2341
- Gillick vs West Norfolk and Wisbech Area Health Authority, <https://www.lawteacher.net/cases/gillick-v-west-norfolk.php>

### **Learning Outcome**

After undergoing this course,

1. Students will know the basics of international human rights law and its application at the municipal level
2. They will be in a position to understand the opportunities and limitations in the human discourse.
3. They will be in a position to apply the national and international human rights law to all human rights situations.

## **(b): CONSTITUTIONAL LAW & PROPERTY LAW**

### **HUMAN RIGHTS IN THE CONSTITUTIONAL LAW**

#### **Objectives of the Course:**

*Human Rights are essentially a product of Democracy. The Paper proposes to study the Bill of Rights as a Constitutional guarantee of Human Rights. It focuses on the nature and development of the concept of Human Rights and its applications in the Nation- States through their Constitutional and Ordinary Laws.*

- 1. The study helps understand the origin, evolution and the growth of human rights*
- 2. It increases awareness of Human Right issues.*
- 3. It helps to realize the importance of International Conventions and their application into the constitutional scheme.*
- 4. It enables to understand the role of judiciary in the development of Human Rights Jurisprudence*

### **COURSE OUTLINE**

#### **Module I: Historical Development of Human Rights in India**

- a. Origin and Development of Human Rights : History of human rights civilization, Magna Carta, Bill of Rights, French and American Declarations, International Bill of Rights, Contribution of UN, Universal Declaration of Human Rights, 1948.
- b. Nature, Definition and theoretical perspectives of Human Rights.
- c. Constitutionalism and Realization of Human Rights in India.
- d. Classification of Human Rights.
- e. Classification of Fundamental Rights.

#### **Module II: Fundamental Rights as Human Rights**

- a. Applicability of Human Rights.
- b. Influence of UDHR on Fundamental Rights
- c. Un-enumerated individual rights under the Constitution.
- d. Fundamental Rights as a limitation against State and Non-state Actors
- e. Fundamental Duties- Evolution and Relationship between Fundamental Duties and Fundamental Rights.

#### **Module III: Directive Principles of State Policy as Human Rights**

- a. Influence of UDHR on Directive Principles of State Policy
- b. Social-economic Rights- Distributive Justice.

- c. Social- Security and Welfare Provisions.
- d. Justiciability and enforceability of Directive Principles of State Policy.
- e. Relative Importance of Directive Principles of State Policy and Fundamental Rights.

#### **Module IV: Ensuring Human Rights through Good Governance**

- a. Democracy- Guaranteed freedoms, People's Participation.
- b. Rule of Law- Non-Arbitrariness- Fairness.
- c. Due Process- Substantive and Procedural, Procedure established by law
- d. Transparency- corrupt free governance, RTI, Whistle Blower Laws, Judicial Accountability.

#### **Module V: Emerging Dimensions of Human Rights and Evolution of the Concept of**

##### **Human Rights and Duties**

- a. International enforcement of human rights,
- b. Impact of globalization on Human Rights
- c. Human rights, science and technology
- d. New rights: Rights of future generations,
- e. Human rights and duties in contemporary India

#### **Module VI: Judicial Activism and Development of Human Rights Jurisprudence:**

- a. Application of International Human Right Instruments in the domestic field
- b. Rights of Women
- c. Rights of children
- d. Rights of LGBT and queer community
- e. Rights of persons with disability
- f. Rights of prisoners and prison reforms
- g. Rights of senior citizens
- h. Rights of minorities

#### **Module VII: Human Rights and Statutory Machinery in India**

- a. Protection of Human Rights Act, 1992.
- b. National Human Rights Commission.
- c. State Human Rights Commission.
- d. National Commission for Minorities; Women and Children
- e. National Commission for SC, ST and OBC.

#### **RECOMMENDED READINGS:**

1. Upendra Baxi, The Future of Human Rights, (Oxford University Press, New Delhi, 2012)
2. Dr.D.D.Basu, Human Rights in Constitutional Law, 3<sup>rd</sup> Edition, {Lexis Nexis Butterworths Wadhawa, New Delhi, 2008.}
3. Daniel Moeckli, Sangeeta Shah, & Sandesh Sivakumaran (ed.), International Human Rights Laws, (3<sup>rd</sup> Edition, Oxford University Press, 2014)

4. Paras Diwan and Peeyushi Diwan, Human Rights and the Law, (Deep and Deep Publication, New Delhi, 1998)
5. Justice D M Dharmadhikari, Human Values & Human Rights, 2<sup>nd</sup> Edition, Universal Law Publications Company, New Delhi, 2016.

#### **Articles from Journals:**

1. Baxi, Upendra. "From Human Rights to the Right to Be Human: Some Heresies." India International Centre Quarterly, vol. 13, no. 3/4, 1986, pp. 185–200. JSTOR, [www.jstor.org/stable/23001445](http://www.jstor.org/stable/23001445).
2. T.K.TOPE, "Fundamental Duties and Justiciability", (1982) 2 SCC J-9
3. P.K.Tripathi, Directive Principles of State Policy, (1954) 17 SCJ 7
4. M.P.Singh, "The Statics and Dynamics of the Fundamental Rights and Directive Principles – A Human Rights Perspective", (2003) 5 SCC J -1
5. Human Rights Special issue, *JILI* vol. 40, 1998(Jan – Dec)

#### **Further Readings:**

1. Baxi, Upendra, Inhuman Wrongs and Human Rights ( Har Anand Publications, Delhi, 1994)
2. V.R. Krishna Iyer, Dialectics and Dynamics of Human Rights in India (1999)
3. AV Dicey, Law of the Constitution, (Mac Millan & Co. Ltd. London, 1994)
4. Human Rights and Duties in India : Law, Policy, Society and Enforcement Mechanism, Dr. T. S. N. Sastry, Professor and Coordinator, HRE Programme, University of Pune
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**Landmark Cases for Guidance:**

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3. *Air India v. Nargesh Meerza*, AIR 1981 SC 1829
4. *Bachapan Bachao Andolan v. Union of India*, AIR 2011 SC 3361
5. *Chairman Railway Board v. Chandrimadas*, AIR, 2000 SC 988
6. *D.K.Basu v. State of West Bengal*, AIR 1997 SC 610
7. *Golak Nath v. State of Punjab*, AIR 1971 SC 1643
8. *Jolly George Varghese v. Bank of Cochin* AIR 1980 SC 470
9. *K.S. Puttaswamy and others v. Union of India*, 2017 SCC 1
10. *Kesavananda Bharati v. State of Kerala* AIR 1973 SC 1461
11. *Maneka Gandhi v. Union of India* AIR 1978 SC 597
12. *MC Mehta v. State of Tamil Nadu* AIR 1997 SC 699
13. *Md. Hanif Quareshi v. Bihar*, AIR 1958 SC 731
14. *NALSA v. Union of India* (2014) 5 SCC 438
15. *Nilabati Bahera v. State of Orissa*, (1993) 2 SCC 746
16. *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180
17. *Peoples Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473
18. *Randhir Singh v. Union of India*, AIR 1982 SC 879
19. *Sankari Prasad v. Union of India*, AIR 1951 SC 455
20. *Sajjan Singh v. State of Rajasthan*, AIR, 1965 SC 845
21. *Sarala Mudgal v. Union of India*, (1995) 3 SCC 635
22. *Sunil Batra v. Delhi Administration*, ( 1 & 2) AIR 1980 SC 1579
23. *Vineet Narain v. Union of India* AIR, 1998 SC 889
24. *Visakha v. State of Rajasthan*, AIR, 1997 SC 3011
25. *Young Lawyers Association v. State of Kerala* (2018 SCC On Line SC 1690)

**LEARNING OUTCOME:**

1. The study will promote a good understanding of the provisions under the Constitution of India dealing with human rights.
2. The study will help the students to realize liberty, equality and fraternity- *a union of trinity* by ensuring that these values are applicable not only in the Public domain but also to the private sphere.
3. Demonstrate an understanding of the practical application of human rights law to specific human rights problems in India.
4. It ensures analysing complex human rights problems and applies relevant provisions of human rights law in India

5. The study promotes human right awareness and duties education among the student community by making them evaluate the role of judiciary in balancing individual liberty with social control.

### **(c): CRIMINAL LAW AND FORENSIC SCIENCE**

#### **CYBER CRIME**

##### **Objectives of the Course:**

*Cyber world has come to occupy an important place in the history of mankind. As science advances, the knowledge also expands. It is undeniable fact that cyber world has thrown new vista but regrettably it has to be noted that it has also being misused and spreading undesirable information. It has become necessary to find out ways and means to curb this menace of spreading evil knowledge. The potential of the technology to be beneficial as well as detrimental to the society has cast obligation on the people to be aware of the two sides of the technology. It is still in a nascent stage and continuously evolving every passing day.*

*After undergoing the study the student will be able to understand the following:*

- *To examine and discuss the history of computer crime.*
- *To examine various theoretical framework explaining computer crime.*
- *To educate about the regulation of cyber space at National and International level. □ To demonstrate knowledge of the different types of computer crime.*

#### **COURSE OUTLINE**

##### **Module I: Concept of Cyberspace and Cyber crimes**

- a) Definition and scope of Information Technology- Meaning and definition of  
Cyberspace- Cyberspace as an Internet Metaphor
- b) Convention on Cybercrime - UN & International Telecommunication Union (ITU) Initiatives- Council of Europe - Budapest Convention on Cybercrime- Asia-Pacific  
Economic Cooperation (APEC)- Organization for Economic Co-operation and  
Development (OECD)
- c) Origin and Development of Cyber crimes – Definition, Nature and Extent of Cyber  
Crimes in India
- d) cyber crimes under Indian Penal Code; Criminal Procedure Code; the Evidence Act and Information Technology
- e) A Trends in Cyber Crimes across the world.

##### **Module II: Psychological , Sociological and Criminological Perspectives of Cyber Criminals**

- a) Types of Cyber Criminals – Modus Operandi of Cyber Criminals – Causes of Cyber Crimes
- b) Profiling of Cyber Criminals
- c) Tools and Techniques adopted by Cyber Criminals
- d) Psychological theories relating to cyber criminals– Sociological and Criminological Perspectives
- e) Criminological Theories and Cyber Crime – Routine Activity Theory, Social Learning Theory, Differential Association Theory, Differential Opportunity Theory, Media and Crime and latest theories and other related theories.

### **Module III: Taxonomy of cyber crimes**

- a) Cyber Crime Against Individual-Internet Grooming; Cyber Stalking; Cyber Harassment; Cyber Extortion; Online Pedophilia
- b) Cyber Crime Against Property- Illegal Access; Hacking And Cracking- Illegal Data Acquisition; Data Espionage-Illegal Interception; Data Interference; System Interference-Computer Threats
- c) Copyright And Trademark Related Offences- Computer Related Offences-
- d) Cyber Crime Against Nation; Cyber Terrorism; Cyber Warfare; Cyber Laundering; Content Related Offences
- e) Crimes Associated With Mobile Electronic Communication Devices.

### **Module IV: Privacy and Data Protection- Cyber-Enabled Intellectual Property**

- Crime**
- a) Privacy- Privacy and security
  - b) Cybercrime that compromises privacy
  - c) Data protection -Data breach -Enforcement of privacy and data protection
  - d) Intellectual Property-Causes, reasons and perceived justifications for cyber-enabled copyright and trademark offences in Digital medium
  - e) Domain Name Dispute and resolution issues in Digital Medium- Protection and prevention efforts.

### **Module V: Issues and challenges**

- a) Cyber law and Jurisdiction-principles of Jurisdiction
- b) Theories of jurisdiction in cyberspace- the theory of up loader and the downloader ;the Minnesota theory; the theory of the server
- c) Internet jurisdiction – Indian context of Internet jurisdiction - International position of Internet jurisdiction
- d) Cyber Crime Present and the Future- Crypto currency-Bitcoin- Ethereum- Blockchain-Ransomware
- e) Deep Web and Dark Web- Deep Web And Its Challenges.



## **Module VI: Prevention of Cyber Crimes**

- a) Statutory Provisions regarding Cyber Crimes in India- The Information Technology Act, 2000 and the Information Technology (Amendment) Act
- b) Judicial Perspective of India in cyber crime
- c) Global Perspective of Cyber Crimes and the related Laws-International cooperation to combat cyber crimes
- d) Conferences, Conventions, Summits, and Treaties cyber crimes and cyber laws- World Trade Organization (WTO), World Intellectual Property Organization (WIPO)
- e) Internet Cooperation for Assigned Names and Numbers (ICANN).

## **BIBLIOGRAPHY**

### **RECOMMENDED READING**

#### **Books**

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1. Cyber law and Cyber crime: Analytical Approach, Dr.M.K.Nagaraja, Sun Publishing House, Edition 2014
2. Solving the internet jurisdiction puzzle, Svantesson D, Oxford University Press, (2017)
3. Cyber Crime and Cyber Terrorism Investigator's Handbook, Akhgar B Staniforth A Bosco F, Elsevier Inc., (2014)
4. Cyber Crime and Cyber Terrorism Investigator's Handbook, Akhgar B Staniforth A Bosco F, Elsevier Inc., (2014)

#### **Journals/ Article**

1. Diffusion and effects of cyber-crime in developing economies, Kshetri N, Third World Quarterly (2010) 31(7) 1057-1079
2. Online "Predators" and Their Victims: Myths, Realities, and Implications for Prevention and Treatment, Wolak J Finkelhor D Mitchell KY Barra M, American Psychologist (2008) 63(2) 111-128
3. The Perception Analysis of Cyber Crimes in View of Computer Science Students, Solak D Topaloglu M, Procedia - Social and Behavioral Sciences (2015) 182 590-595
4. Hate crimes in cyberspace, Choice Reviews Online (2015) 52(07) 52-3918-52-3918
5. Exploring and analyzing Internet crimes and their behaviours, Arora B, Perspectives in Science (2016) 8 540-542

### **FURTHER READING**

#### **Books**

1. Cyber-Physical Attacks: A Growing Invisible Threat, Loukas G, Elsevier, (2015)
2. The psychology of cyber crime: concepts and principles, Kirwan G Power A Information Science Reference, (2012)
3. Security and the networked society, Ao M Owens R, Springer International Publishing, (2013)
4. Cyberspace and Cybersecurity, Trachtman J Trachtman J, Cambridge University Press, (2013), 85-117, Book Chapter
5. Virtually criminal: Crime, deviance and regulation online, Williams M, Routledge Taylor & Francis Group, (2006)
6. Corporate hacking and technology-driven crime: Social dynamics and implications, Holt T Schell B, IGI Global, (2010)
7. Crime, justice and social media, Salter M, Taylor and Francis, (2016)
8. Cybersecurity Law, Kosseff J, Wiley, (2019)
9. Cyber warfare: A multidisciplinary analysis, Green J, Taylor and Francis Inc., (2015)
10. International internet law, Kulesza J, Taylor and Francis, (2012)

#### **Journal / Article**

1. Internet development, censorship, and cyber crimes in China, Liang B Lu H, Journal of Contemporary Criminal Justice (2010) 26(1) 103-120
2. Pattern of global cyber war and crime: A conceptual framework, Kshetri N, Journal of International Management (2005) 11(4) 541-562
3. The challenge of measuring cyber-dependent crimes, Furnell S Emm D Papadaki M, Computer Fraud and Security (2015) 2015(10) 5-12
4. Cyber terrorism challenges: The need for a global response to a multi-jurisdictional crime, Tehrani P Abdul Manap N Taji H, Computer Law and Security Review (2013) 29(3) 207-215
5. Impact of Cyber Crime: Issues and Challenges, Das S Nayak T, International Journal of Engineering Sciences & Emerging Technologies (2013) 6(2) 142-153
6. Cyber Staking : Crime and Challenge at the Cyberspace, Thapa A Kumar R, International Journal of Computing and Business Research (2011) 2(1)
7. Fear of cyber crime among college students in the United States: An exploratory study, Yu S, International Journal of Cyber Criminology (2014) 8(1) 36-46
8. Growing cyber crimes in India: A survey, Kumar P, Proceedings of 2016 International Conference on Data Mining and Advanced Computing, SAPIENCE 2016 (2016) 246- 251
9. Effects of cyber security knowledge on attack detection, Ben-Asher N Gonzalez C, Computers in Human Behavior (2015) 48 51-61
10. Cyber security challenges in smart cities: Safety, security and privacy, Elmaghraby A Losavio M, Journal of Advanced Research (2014) 5(4) 491-497

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1. Vyakti Vikas Kendra, India Public v. Jitender Bagga (Del HC) I.A. No. 8877/2012 in CS(OS) No.1340/2012 Order decided on : 09.05.2012
2. Shreya Singhal v. U.O.I (SC) Writ Petition (Criminal) No.167 OF 2012 24 March, 2015
3. Satyam Infoway Ltd. v. Siffynet Solutions Pvt. Ltd. 2004 Supp(2) SCR 465
4. Banyan Tree Holding (P) limited v. A. Murali Krishna Reddy CS (OS) No. 894/2008, Del(DB)
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8. State of Tamil Nadu v. Suhas Katti ( decided on 5-11-2004) ADDL. CMM EGMORE, , C.C.NO.4680/2004 Source :<http://www.prashantmali.com/cyber-law- cases>
9. The State (Cyber Cell v. Yogisha @ Yogesh Pandurang Prabhu ADDL. Chief Metropolitan Magistrate, 37th Court, Esplanade, Mumbai C.C. No. 3700686/PS/2009 (Delivered on 3rd July, 2015)
10. Maqbool Fida Husain v. Raj Kumar Pandey Delhi High Court, CRL. REVISION PETITION NO.114/2007 Decided on 8 May, 2008
11. Anvar P.V v. P.K.Basheer & Ors Civil Appeal No. 4226 of 2012 (SC) decided on 18 September, 2014
12. Syed Asifuddin v. State of Andhra Pradesh, 2006 (1) ALD (Cri) 96; 2005 CriLJ 4314
13. Diebold Systems Pvt. Ltd. vs The Commissioner, ILR 2005 KAR 2210
14. Sanjay Kumar v. State of Haryana P & H High Court decided on 10/01/2013 CRM No.1353 of 2013 ;CRR No.66 of 2013 (O&M)
15. State of A.P. v.. Prabhakar Sampath VI Addl.Chief Metropolitan Magistrate, Hyderabad. CC. 489 of 2010 31st day of March, 2015 Available at:<http://www.prashantmali.com/cyber-law-cases>
16. Hyderabad v. Prabhakar Sampath, Add. CMM Hyderabad, decided on 31/03/2015, CC 489 of 2010 available at: [www.prashantmali.com/cyberlaw-cases 34](http://www.prashantmali.com/cyberlaw-cases 34)
17. Naascom v. Ajay Sood, 119 (2005) DLT 596
18. Aveek Sarkar v. State of West Bengal (SC) Criminal Appeal no. 902 of 2004 decided on 3/2/2014
19. Anvar P.V v. P.K.Basheer, Supreme Court, decided on 18 September, 2014, Civil Appeal No.. 4226 of 2012, available at <http://indiankanoon.org/doc/187283766/>
20. My Space Inc. v. Super Cassettes Industries Ltd., Delhi (DB), FAO(OS) 540/2011, C.M. APPL.20174/2011, 13919 & 17996/2015 decided on 23 December, 2016 available at <http://indiankanoon.org/doc/12972852/>

1. To analyze the ways in which information and communication technology is used to commit cyber organized crime
2. To spread awareness among the general public about the cyber law.
3. To demonstrate knowledge of the incidence, prevalence, distribution, and impacts of computer crime
4. To demonstrate knowledge of the investigation, prosecution, and sentencing of computer crimes
5. To examine the current trends in computer crime and future of computer crime.

## **(d): INDUSTRIAL AND COMMERCIAL LAW**

### **INSURANCE LAW**

#### **Objectives of the Course:**

*The concept of Insurance has been prevalent in India since ancient times. This is evidenced from the over-seas travel for business and commerce, wherein if any loss sustained in the transit, it was borne by the Joint family members doing business together. In the present times Insurance has taken a remarkably different structure and developed to a considerable extent. It is crucial to a Student of Law to have a comprehensive knowledge of Insurance Law, in the light of Insurance sector having expanded into all fields and having become an integral part of both the common man and the corporate sector. The objective of the study of this subject is to provide the Students -*

- i. An understanding of the Legal dimensions of the Law relating to the formation of insurance contracts.*
- ii. An insight into the Laws that buttress the operations of insurance.*
- iii. To comprehend and appreciate the significance of various types of insurances and the consequences of the happening of various perils insured against.*
- iv. To familiarise with the organisational set-up of the redressal mechanisms, functions and powers of the same, claim settlement procedural aspects, under the various Statutes pertaining to insurance.*

#### **COURSE OUTLINE**

##### **MODULE – I: INTRODUCTION:**

- a. Concept of Insurance.
- b. Nature and Scope of Insurance.
- c. Significance and utility of Insurance.
- d. Formation of Insurance Contract.
- e. Classification of Insurance.
- f. Insurance as an
  - Aleatory Contract;
  - Uberrima Fides;
  - Indemnity Contract;
  - Wager;
  - Adhesion.

##### **MODULE – II: GENERAL PRINCIPLES OF INSURANCE:**

- a. Insurable Interest.
- b. Premium.

- c. Risk.
- d. Assignment of Insurance policies
- e. Warranties.
- f. Representations and Disclosures.
- g. Ombudsman.
- h. Double Insurance and Reinsurance.
- i. The Insurance Act, 1938.
- j. Insurance Regulatory and Development Authority Act, 1999.

### **MODULE – III: LIFE INSURANCE:**

- a. Definition of pertinent terms.
- b. Contract of Life Insurance and formation.
- c. Policy of Life Insurance.
- d. Comparison between life insurance and other insurances.
- e. Kinds of Life Insurance Contracts.
- f. Events insured against in Life Insurance.
- g. Felo De Se.
- h. Elements affecting the risk.
- i. Sums recoverable under Life Insurance policy.
- j. Persons entitled to Payment.
- k. Settlement of Claims.
- l. Life Insurance Corporation Act, 1956.
- m. Privatisation of Life Insurance industry.

### **MODULE – IV: MARINE INSURANCE:**

- a. Nature of Marine Insurance.
- b. Marine Adventure.
- c. Classification of Marine Insurance policies.
- d. Voyage, Change of Voyage and Deviation.
- e. Maritime Perils.
- f. Excluded Losses.
- g. Warranties in Marine Insurance.
- h. Actual Total Loss.
- i. Constructive Total Loss.

- j. Abandonment.
- k. Slip and cover.
- l. General Average.
- m. Particular Average.
- n. Salvage.
- o. FPA Clause.
- p. Indian Marine Insurance Act, 1963.

#### **MODULE – V: FIRE INSURANCE:**

- a. Meaning of the term ‘Fire’.
- b. Loss by Fire.
- c. Nature of Fire Insurance.
- d. Consequential Loss Coverage.
- e. Doctrine of Subrogation.
- f. Doctrine of Contribution.
- g. Doctrine of Re-instatement.

#### **MODULE - VI: MOTOR VEHICLES INSURANCE:**

- a. Nature and Scope of Motor Vehicle Insurance.
- b. Indemnity in Motor Vehicle Insurance Contracts.
- c. Types of Motor Vehicle Policies.
- d. Absolute and no fault liability.
- e. Amount payable in case of death and permanent disablement.
- f. Nature and Scope of Compulsory Insurance.
- g. Third party claims.
- h. Hit and Run Motor Accidents.
- i. Motor Accident Claims Tribunal.
- j. The Motor Vehicles Act, 1988.
- k. The Motor Vehicles (Amendment) Act, 2019.

#### **RECOMMENDED READING:**

- a) Modern Law of Insurance in India, by K.S.N. Murthy and K.V.S. Sharma – LexisNexis, 6<sup>th</sup> Edition, 2019.
- b) Law of Insurance, by Avtar Singh – Eastern Book Company, 3<sup>rd</sup> Edition, 2017, reprinted in 2018.
- c) Principles of Insurance Law, by M.N. Srinivasan – LexisNexis, 10<sup>th</sup> Edition, 2017.

- d) General Principles of Insurance Law, by E.R. Hardy Ivamy – Butterworth, 6<sup>th</sup> Edition, 1993.
- e) Modern Insurance Law, by John Birds – Sweet and Maxwell, 11<sup>th</sup> Edition, 2019

#### **JOURNALS:**

- 1. Rappaport, John, How Private Insurers Regulate Public Policy (February 15, 2016). Harvard Law Review, Vol.130, pp.1539-1614.
- 2. Feinman, Jay M., Contract and Claim in Insurance Law (2018), Connecticut Insurance Law Journal, Vol.25, No.1, 2018.
- 3. Dr. Pramod Deo, IRDA: Regulator of Insurance Sector in India, Indian Journal of Research, Volume:5, Issue:6, June 2016, pp.189-192.
- 4. Hay Bruce L, A No-Fault Approach to the Duty to Settle (October 1, 2015). Rutgers Law Review, Vol.68, No.3, 2016.
- 5. P.C. James, Leveraging Distribution For Mainstreaming Insurance, IRDAI Journal, Volume XIV, No.2, 2016, pp.11-15.

#### **FURTHER READING:**

- 6. Good Faith and Insurance Contracts, by Peter MacDonald Eggers (Lloyd's Insurance Law Library), Informa Law from Routledge, 4th Edition, 2018.
- 7. Insurance Law & Policy: Cases Materials & Problems, by Tom Baker, Aspen Publishers, 3rd Edition, 2013.
- 8. Principles of Insurance Law, by Emeric Fischer, LexisNexis, revised 3rd Edition, 2001.
- 9. The Law of Liability Insurance, by Malcolm A. Clarke, Informa Law from Routledge, 2nd Edition, 2017.
- 10. Insurance Contract law between Business Law and Consumer Protection, by Helmut Heiss, Dike Publishers, 2012.
- 11. Kannan, N., A Study on the Growth of Indian Insurance Sector (2010). International Journal of Management, Volume 1, Issue 1, May 2010, pp.17-32.
- 12. Prashanth, V., Necessity of Insurable Interest in Insurance Contracts (August 1, 2008).

Corporate law Cases; August 2008 Edition; Published by All India Reporter, Nagpur, India.

- 13. Bennett Howard, Fortuity in the Law of Marine Insurance. Lloyds Maritime and Commercial Law Quarterly, pp.315, 2007.

#### **LANDMARK CASE LAW:**

- 14. Pim v. Reid
- 15. Dalby v. The Indian & London Assurance Co.
- 16. Tyrie v. Fletcher.



17. Law v. London Indisputable.
18. Stevenson v. Snow.
19. The Wilson Son's & Co. v. Xantho.
20. Beresford v. Royal Insurance Co. Ltd.
21. Oriental Life Insurance Co. v. Ammiraju.
22. Ibrahim vs Mackinnon Mackenzie & Co.
23. Hyderabad (Deccan) Co. v. Willoughby.
24. Bouillon v. Lupton.
25. Canada Rice Mills Ltd. v. Union Marine & General Insurance Co.
26. Harris v. Poland.
27. Everest v. London Assurance Co.
28. Brown v. Royal Insurance Co.
29. Moore v. Evans.
30. Pandurang v. New India Life Insurance Co.
31. Union of India v. Swarn Singh and Others.

#### **LEARNING OUTCOMES:**

1. Demonstrate knowledge of the legal and ethical aspects of insurance Law.
2. Discern and appreciate the importance of the impact of globalisation and diversity in modern insurance based organisations.
3. Perceive how losses are measured and the various principles such as of indemnity, contribution, subrogation, reinstatement etc that are applied in accessing insurance claims.
4. Develop the ability of critical thinking and an analytical approach to the application of knowledge and skills to select viable solutions in resolving issues that may arise in execution of insurance contracts.

**(a) : INTERNATIONAL LAW AND INTELLECTUAL  
PROPERTY RIGHTS**

**INTELLECTUAL PROPERTY ON TRADITIONAL  
KNOWLEDGE AND GENETIC RESOURCES**

**Objectives of the Course:**

*The legal regimes that govern the relationship between intellectual property, traditional knowledge and bio diversity remain sources of significant tension in international intellectual property law making. A number of difficulties arise in efforts to reconcile legal and policy norms at the intersection of the three regimes. Such difficulties generally stem from perceived shortcomings of the globally recognized forms of intellectual property rights to accommodate traditional knowledge and biodiversity in providing sufficient protection.*

*The objective of the course is to study how at the international and national level address the Issue of TK and Genetic Resources*

**COURSE OUTLINE**

**Module I: Introduction to Traditional Knowledge**

- a) Meaning and Scope of traditional Knowledge – Interface between IP and traditional Knowledge – Need and Significance of protection - Detailed analysis of traditional knowledge and traditional cultural expressions
- b) Cultural Property, Interface between Cultural Property and Intellectual Property, Converting Cultural Property into Intellectual Property and Ownership Issues WIPO  
Guidelines on Cultural Property-
- c) Folklore - – Conceptual Analysis –International and National Perspectives.

**Module II: International Protection of TK and Human Right Perspectives**

- a) International Development of Traditional Knowledge Protection – CBD – FAO  
International Treaty on Plant Genetic Resources
- b) Protection of Folklore/Cultural Expressions by UNESCO - Developments in WIPO on Traditional Knowledge and Traditional Cultural Expression
- c) Inter-relationship between IPR and Human Rights-An Overview of Art 17 (Right to Property) and Art 27 (Right to participate in Cultural Life of the

Community) of UDHR and Art 15 (1) (To take part in Cultural Life) of ICESCR.

### **Module I11: Protection of TK in India**

- a) Positive Protection of TK under Indian Laws – Patents – Plant Variety and Biodiversity – Geographical Indications Copyrights– Trade Secrets – Test data protection.
- b) Traditional Knowledge as Property -Nature of Property in Genetic Resources and Associated Traditional Knowledge
- c) Ownership in Traditional Knowledge: Nature and Elements of Ownership – Exclusivity and Protection –Benefit Sharing.

### **Module IV: Documentation of Traditional Knowledge**

- a) Recognition and Documentation Recognition and Documentation of Traditional Knowledge – Databases – Traditional Knowledge Digital Library “TKDL” - AYUSH Systems of Medicines – Biodiversity Register.

### **Module V: Protection of Genetic Resources**

- a) Genetic Resources and Associated TK as Property – Nature of Property in GR and Associated TK – Common Heritage of Mankind – CBD – Permanent Sovereignty
- b) Ownership in GR & TK – Elements of Ownership – Exclusivity and Possession – Nature of Ownership of GR and TK in CBD, Cartagena Protocol and Nagoya Protocol (PIC & BS)
- c) Patent on Genetically Modified Organisms, Patentability of GMOs,
- d) Product of Nature Doctrine, Chakrabarty’s Legacy, Position in Different Countries, US, UK, EC Directives and Position in India

### **Module VI: Benefit Sharing**

- a) Benefit Sharing – Different types of Benefits and Benefit Sharing
- b) Beneficiaries – CBD, Nagoya Protocol and Indian Law- Bilateral vs. Multilateral  
Benefit Sharing – CBD, Nagoya Protocol and ITPGRFA

- c) Interface between IPR and GR and TK – TRIPS-CBD conflict and proposed solutions

### **Module VII: Protection of Plant Genetic Resources and Farmers' Right**

- a) Plant Genetic Resources- Common Heritage of Mankind-International Understanding of Plant Genetic Resources for Food and Agriculture-UPOV Convention 1961, 1978 &1991 Text
- b) Plant Varieties Protection-Distinctiveness, uniformity, stability and Novelty-Farmer's rights – GM Corps- International Treaty for Plant Genetic Resources for Food and Agriculture 2001 -Benefit Sharing- Mutually Agreed Terms-Prior Informed Consent- Access to Plant Genetic resources.

#### **Recommended Readings Books:**

1. Christoph Belman and Graham Dutfield, Trading in Knowledge: development Perspectives on TRIPS, Trade and Sustainability, Earthscan Publications Ltd. (2003)
2. Patricia Lucia Marin, Providing Protection for Plant Genetic Resources: Patents, Sui Generis Systems and Bio-Partnerships, Kluwer Law International (2001)
3. Timothy M. Swanson (ed), Intellectual Property Rights and Biodiversity Conservation: An Interdisciplinary Analysis of the Values of Medicinal Plants, Cambridge University Press (1995)
4. Dr. N. S .Gopalakrishnan and Benoy K. Kadavan, Study on Test data Protection in India, Eastern Book Company, Lucknow (2005)
5. Christoph Antons (ed.) Traditional Knowledge, Traditional Cultural Expressions and Intellectual Property Law in the Asia Pacific Region, Kluwer Max Planck Series, (2009)

#### **Journals/Articles:**

1. Navigating Traditional Knowledge And IP – The Adventure of the Yakuanoi, Available at : <https://www.wipo.int/tk/en/tk/yakuanoi.html>

2. Inter- Governmental Committee on Traditional Knowledge, Traditional Cultural Expression and Genetic Resources, Available at: <https://www.wipo.int/tk/en/igc/>
3. Lorie Graham and Stephen Mc John, Indigenous Peoples and Intellectual Property, 19 Wash. U.L.J.L & Pol'y (2005) Pp: 313-338.
4. Bastida-Munoz, MindahiCrescencio& Geraldine A. Patrick, Traditional Knowledge and Intellectual Property Rights- Beyond TRIPS Agreements and Intellectual Property Chapter of FTA's., Journal of International Law Vol 14, No. 2, 2006 (259- 290).
5. Sudhir Krishnaswamy, Intellectual Property and India Development Policy, Indian J L and Tech., (2015), Pg. 169.

#### **Further**

#### **Readings**

#### **Books**

1. WIPO Reading Material on Intellectual Property, WIPO, Geneva
2. FAO, The State of World's Plant Genetic Resources for Food and Agriculture
3. Convention on Biological Diversity, 1992 and International Treaty on Plant Genetic Resources for food and Agriculture, 2002
4. UNESCO/WIPO Model Provisions for Protection of Folklore/ Cultural Expressions.
5. Documents of Inter Governmental Committee, WIPO on TK & TCE protection, WIPO. Geneva.
6. Daniel F. Robinson Confronting Biopiracy: Challenges, Cases and International Debates, Earthscan, (2010)
6. Jonathan Curci, Protection of Biodiversity and Traditional Knowledge in the International Law of Intellectual Property, Cambridge University Press, (2010)
7. Dutfield and Posey, Beyond Intellectual Property: Toward Traditional Resource Right for Indigenous Peoples and Local Communities, IDRC, (1996)
8. Geoff Tansey and TasmineRojotte (Eds.), The Future Control of Food: A Guide to

International Negotiations and Rules on Intellectual Property, Earth Scan, London (2008)

9. Gerald Moore and Witold Timousky, Explanatory Guide to the International Treaty on Plant Genetic Resources for Food and Agriculture, IUCN, Gland, Switzerland and Cambridge, (2005)
10. Graham Dutfield, Intellectual Property Rights, Trade and Biodiversity, Earthscan Publications Ltd, London (2000)

### **Journals**

1. Rebecca Tsosie, An Essay on Cultural Appropriation and Cultural Rights, Arizona State Law Journal Vol -34, No. 1, (2002), pp. 259-358
2. Charles R Mc Manis, Intellectual Property, Genetic Resources and Traditional Knowledge Protection Thinking Globally, Acting Locally (2003), Cardozo Journal of International Comparative Law 547.
3. L. Margulies, Protecting Biodiversity Recognizing International Intellectual Property Rights in Plant Genetic Resources (1993) Michigan Journal of International Law (322-356).
4. Marcus Goffe, Recent Developments in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional knowledge and Folklore, (2011) 1 Queen Mary J. Intell. Prop. Pp. 90-98.
5. Dennis S. Karjala, Sustainability and Intellectual Property Rights in Traditional Knowledge, (2012) 53 Jurimetrics 57.
6. Susan Scafidi, Intellectual Property and Cultural Products (2001) Boston University Law Review Vol. 81, pp. 793-842.

### **Learning Outcomes:**

- Understand the nature, scope and ownership issue of traditional knowledge, traditional cultural expression and genetic resources
- Examine the protection of traditional knowledge and genetic resources at the International and National level.
- Study the impact of Cultural Property on the intangible cultural heritage of the country.

## **(b): CONSTITUTIONAL LAW AND PROPERTY LAW**

### **LAND LAWS OF TAMIL NADU**

#### **Objectives of the Course:**

*Land rights are an integral part of Land Laws, as they socially enforce groups of individuals' rights to own land in concurrence with the land laws of a nation. Land Law addresses the legal mandates set forth by a country in regards to land ownership, while land rights refer to the social acceptance of land ownership. The knowledge about the land laws of Tamil Nadu helps to understand the local laws of the State. This subject is very much helpful for civil side practice.*

#### **COURSE OUTLINE**

##### **Module– I: Tamil Nadu Estate and Lease Holds Laws:**

- a. Estate, Inam Estate, Landholder, Principal Landholder, Settlement Officer, Under-tenure Estate, Zamindari Estate – grant of Ryotwari pattas – protection of certain rights and enforceability of certain obligation - determination, apportionment and payment of Compensation – basic annual sum for Zamindari and Inam estates.

##### **Module – II: Ceiling on Land Holdings:**

Definitions: family, ceiling area, stridhana land- fixation of ceiling on land holdings – ceiling on future acquisition and restrictions on certain transfer – constitution and functions of the land board – permission by government to hold excess land – cultivating tenant's ceiling area – exemptions – land tribunal – appeal – revision.

##### **Module– III: Ownership rights on Apartments:**

Definitions: Apartment- apartment owner- competent authority – ownership, heritability and transferability of apartments - deeds of apartment and its registration - society or association of apartment owners, its bye-laws and functions - common profits, common expenses and other matters.

##### **Module – IV: Town and Country Planning:**

- a. Definitions – constitution and incorporation of the Tamil Nadu town and country planning authorities - constitution and incorporation of the metropolitan Development authority for the Chennai metropolitan (CMDA) Planning area and special provisions relating thereto - planning areas, planning authorities and plans - acquisition and disposal of land - special provisions regarding new town development authority.

- b. Definitions: proprietor – survey mark – survey of government lands – powers of survey officer- appeal – revision – survey of estates – duties of village officer.
- c. Definitions – issue of **Patta Pass Book** – making of entries of registration of alienation or transfer in Patta pass book – prima facie evidence – modification of entries in patta pass book – appeal – revision.

#### **Module – V: Prohibition of Land Encroachment:**

- a. Definitions – land encroachment – liability for encroachment – recovery of penalty – power to make rules – limitation for appeal and revision.
- b. Definitions: Ayacut Area, Field Channel, Foreshore Area, Supply Channel, Surplus Course, Surplus Weir, Tank – power to direct survey of tanks – power of survey officer -eviction of encroachment – alienation of poramboke lands.

#### **Module– VI: Rural Development:**

- a. Tamil Nadu District Municipalities Act, 1920 Town Panchayats- establishment, constitution and Government of district municipalities-
- b. Requisitioning of Property for Election Purposes - Powers of Municipal Authorities In Respect Of Property, Contracts and Establishment – property tax-building regulations – building regulations in hill stations – nuisances: control over abandoned lands, untrimmed hedges, etc – licenses and fees – Rules, by-laws and regulations.

Note: All the legislations includes the time to time amendments and rules

#### **Statutory Materials:**

Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948

1. The Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963
2. TN Land Reforms Fixation of Ceiling on Land Act, 1961 [including amendments]
3. The TN Apartment Ownership Act, 1994
4. Tamil Nadu Town and Country Planning Act, 1971
5. Tamil Nadu Survey and boundaries Act, 1923
6. Tamil Nadu Patta Pass Book Act, 1986
7. Tamil Nadu Land Encroachment Act, 1905
8. Tamil Nadu protection of Tanks and Eviction of Encroachments Act, 2007
9. Tamil Nadu District Municipalities Act, 1920

#### **Learning Outcome:**

1. Students will be able to understand the local laws relating to land
2. They will be able to handle any civil cases relevant to land
3. Will be useful to learn procedure aspect in registration of land, obtaining patta, chitta etc



## **(c ): CRIMINAL LAW AND FORENSIC SCIENCE**

### **FORENSIC SCIENCE AND INVESTIGATION**

#### **Objectives of the Course:**

*Forensic science is a versatile and enormously powerful tool in the investigation of a crime. Forensic investigation is vital to the mission of truth seeking, because the forensic evidence does not lie. Forensic investigation provide an overview of the field of forensic investigation whilst highlighting the interrelated principles and procedures of criminal investigation Moreover gathering and examining forensic evidence is the only way to ensure that false information is exposed, and ultimately kept from the gates of justice. The forensic evidence, the forensic investigator, and the forensic examinations are all linked in the service of these objectives. Forensic Science deals with the application of the knowledge and methodology of various disciplines of science to legal matters. It involves the use of multiple disciplines such as physics, chemistry, biology, computer science and engineering for evidence analysis. The role of forensic science in criminal justice and the legal system is highly commendable.*

#### ***After undergoing the study the student will be able to understand the following:***

- *To emphasize the methods of securing, searching and documenting crime scenes.*
- *To emphasize the students the legal importance of chain of custody.*
- *To emphasize the tools and techniques for analysis of different types of crime scene evidence. □ To emphasize the importance of forensic investigation in crime detection.*

### **COURSE OUTLINE**

#### **Module I: Forensic Science and its Development**

- a) Crime- Criminal Investigation- forensic science-concepts- Scientific Criminal Investigation- - Need and Scope of Forensic Science
- b) Basic Principles of Forensic Science- Branches of Forensic Science- Forensic Science in International Perspectives- Constitutional validity of forensic investigation- Quality of Forensic Science in Criminal Investigation
- c) Law of Forensic Science -Validity and Admissibility of Scientific Evidence- Forensic investigation in Criminal Trials- Problem of Proof.
- d) Tools of Forensic Science- Forensic Science Laboratories- Chemical Examiners Laboratories-Document Examiners- Finger Print Bureau- Department of Explosives-

Serologist to the Government of India- Mobile Laboratories- CID Scientific Sections- Computer Divisions

- e) Medico- Legal Institutes- Consultancies- National Crime Record Bureau- Central Forensic Science Laboratory- State Forensic Science Laboratories, Police & Detective Training Schools, Police Academies- Police dogs- Services of Crime Laboratories.

## **Module II: Crime Scene Examination**

- a) Crime Investigation- Crime Scene- Its importance in Criminal Investigation- Collection of Sample or Materials
- b) Physical evidence- Classification of physical evidence- Types of physical evidences- Sources of physical evidence
- c) Signification and value of physical evidence- Linkage between Crime Scene, Victim and Criminal-
- d) Evaluation-Investigators Role- Surveillance- Sketching- Photography
- e) Crime Detection Devices- Crime Scene Documentation.

## **Module III: Forensic Analysis of Sample - Techno Analysis of Crimes**

- a) DNA profiling- Finger prints-Tool Marks- Firearms- -Disputed Document- Narcotics- Alcohol
- b) Explosives- Voice Identification- Forensic Psychology
- c) Narco analysis- Evidentiary value of Narco analysis- Brain Mapping- Polygraph Analysis.
- d) Digital and Electronic forensic Investigation-Software Piracy- Spectrographic Forensic Identification- Artificial Intelligence
- e) IRIS and *fingerprint biometric* authentication - CCTV footage- Forensic Audio and Video Analysis.

## **Module IV: Forensic Medico Investigation**

- a) Identification of Individual- Forensic Psychology- Interrogation
- b) Death Investigation- Causes of death- Determination of time since death- Medico- legal aspects of death
- c) Types and classification of injuries.
- d) Ante mortem and Post mortem injuries- Aging of injuries- Investigation of sexual offences –Toxic death
- e) Medico-Legal Aspects in the Admissibility of Scientific Evidence

## **Module V: Expert Testimony**

- a) Expert- Role and Qualifications of Forensic Scientists- Code of conduct for Forensic Scientists

- b) Ethical issue in Forensic Science- Professional standards for practice of Criminalities-
- c) Sanction against Expert for Unethical Conduct- Value of Forensic Expert
- d) Forensic Expert and Ordinary Expert Difference- Admissibility of Expert Opinion
- e) Direct Evidence vs Circumstantial Evidence- Limits of Scientific influence.

#### **Module VI: Relevancy, Admissibility and Probative Efficacy**

- a) Principles of Relevancy and Admissibility
- b) Standard for Relevancy and Admissibility
- c) Reliability and probative efficacy
- d) Corroboration in admitting forensic evidence- Judicial Approach
- e) Comparative Analysis.

#### **Recommended Readings:**

##### **Books:**

1. A Textbook of Medical Jurisprudence and Toxicology, Modi 26<sup>th</sup> Edition 2018, Lexis Nexis
2. Forensic Science in Criminal Investigation and Trials, B R Sharma 6th Edition 2020, Lexis Nexis
3. Techniques of Crime Scene Investigation, [Barry A. J. Fisher](#), [David R. Fisher](#), 8<sup>th</sup> Edition, The CRC Press, Available on Taylor & Francis eBooks
4. Crime Scene Forensics, A Scientific Method Approach, Robert C Shaler, 1st Edition, The CRC Press, Available on Taylor & Francis eBooks.
5. Principles and Practice of Criminalistics, The Profession of Forensic Science, [Keith Inman](#), [Norah Rudin](#), 1st Edition, The CRC Press, Available on Taylor & Francis eBooks.

##### **Journals/ Journal Articles:**

1. Lindquist, C. (1991). *Forensic Science Education and the Role of the Forensic Science Educator. Proceedings of the Taipei Symposium on Forensic Sciences (Vol. Liu and Chen (edn.), pp. 79-85)*
2. Lindquist (1994). *Criminalistics in the Curriculum: Some Views From the Forensic Science Community. Journal of Criminal justice Education (Vol. 5, pp. 59-68)*
3. Lindquist (1995). *Criminalistics Education and the Role of the Criminalistics Educator. Forensic Science Review (Vol. 7, pp. 61-75)*
4. Margot P., (2011). *Forensic Science on Trial-What Is the Law of the Land? Australia J. Forensic sci. (Vol. 43, pp. 89, 92)*
5. Tilstone, W. (1991). *Education, Training, and Assessment in Forensic Science. Journal of the Forensic Science Society (Vol.31, pp. 95-100)*

#### **Further Readings:**

##### **Books:**

1. J. M. Butler, Forensic DNA Typing: Biology, Technology, and Genetics of STR Markers(London: Academic Press, 2005).
2. M. H. Houck and J. A. Siegel, Fundamentals of Forensic Science (Boston: Academic Press, 2006).
3. Cook, T., Hibbitt, S. & Hill, M. Blackstone's crime investigators' handbook. (Oxford University Press, 2016).
4. W. Goodwin, A. Linacre, and S. Hadi, An Introduction to Forensic Genetics (Chichester: Wiley, 2007).
5. Bell, J. Swenson-Wright, and K. Tybjerg (eds.), Evidence (Cambridge: Cambridge University Press, 2008).
6. R. Williams and P. Johnson, Genetic Policing: The Use of DNA in Criminal Investigations (Cullompton: Willan, 2008).
7. National Research Council, Strengthening Forensic Science in the United States: A Path Forward (Washington, DC: National Academies Press, 2009).
8. Criminalistics, Introduction to Forensic Science , Richard Saferstein, Prentice Hall College Div; 8 Edition
9. Forensic Science Education and Training: A Tool-kit for Lecturers and Practitioner Trainers, Editor(s): Anna Williams John P. Cassella Peter D. Maskell, 2017 John Wiley & Sons, Ltd.
10. Forensic Science: Fundamentals & Investigations Hardcover , Patricia Bertino, Cengage Learning Custom Publishing; 2nd Edition , 2015

#### **Journal/ Journal Articles:**

1. Giannelli, P. (1997). *The Abuse of Scientific Evidence in Criminal Cases: The Need for Independent Crime Laboratories*. Virginia Journal of Social Policy and the Law (vol. 4, pp. 439-478)
2. Grover, N.(2014). *Development of Forensic Science and Criminal Prosecution – India*. International Journal of Scientific and Research Publications (Vol. 4, Issue 12).
3. Julian R. and Kelty S. (2012). *Forensic Science and Justice: From Crime Scene to Court and Beyond*. Current issues in Criminal Justice (Vol. 24 No. 1, July)
4. Klinker M. (2009). *Forensic science expertise for international criminal proceedings: an old problem, a new context and a pragmatic resolution*. The International Journal of Evidence & Proof (Vol.13, Pg.102-129).
5. Lappas, N. (1978). *Forensic Science Laboratories in the United States: A Survey*. Journal of Forensic Science Society (Vol. 18, pp. 171-80)
6. Lambert E., Nerbonne T., Watson P.L., Buss J., Clarke A., Hogan N., Barton S., Lambert J. (2003). *The forensic science needs of law enforcement applicants and recruits: a survey of Michigan law enforcement agencies*. Journal of Criminal Justice Education (Vol. 14 No. 1, Spring).
7. Giannelli, P. (1997). *The Abuse of Scientific Evidence in Criminal Cases: The Need for Independent Crime Laboratories*. Virginia Journal of Social Policy and the Law (vol. 4, pp. 439-478)

8. Grover, N.(2014). Development of Forensic Science and Criminal Prosecution – India. International Journal of Scientific and Research Publications (Vol. 4, Issue 12).
9. Julian R. and Keltly S. (2012). Forensic Science and Justice: From Crime Scene to Court and Beyond. Current issues in Criminal Justice (Vol. 24 No. 1, July)
10. Klinker M. (2009). Forensic science expertise for international criminal proceedings: an old problem, a new context and a pragmatic resolution. The International Journal of Evidence & Proof (Vol.13, Pg.102-129).

#### **Cases for Guidance:**

1. Sushil Sharma vs. The State (Delhi Administration)1996 CriLJ 3944
2. Marachalil Chandra Tukaram Talekar vs. State of Gujarat, 1980 Cri.L.J.5 (Guj.) 3. The State of U.P. Through the C.B.I. vs. Rajesh Talwar & Another Sessions Trial No. 477 of 2012) (**Aarushi Talwar murder case**)
4. Manu Sharma vs. State (NCT of Delhi), (2010) 6 SCC 1 (**Jessica Lal murder Case**)
5. Selvi & Ors vs. State of Karnataka & AnrAIR 2010 SC 1974.
6. Alavandar murder case (<https://tvaraj.com/tag/alavandar-murder-case/>)
7. Surendra Koli vs State Of U.P. Ors on 15 February, 2011
8. Santokben Sharmanbhai Jadeja vs State Of Gujarat on 13 August, 2007." 13 Aug. 2007, <https://indiankanoon.org/doc/1561319/>.
9. State by the Inspector of Police vs. Manoharan, 2015 Cri. LJ 1215 : MANU/TN/0496/2014
10. Enamul Haque vs. State of West Bengal, CRM 17348 of 2010 & AST 1114 of 2010
11. Inspector of Police vs. John David (2011) 5 SCC 509
12. State of NCT Delhi vs. Sujeet Kumar, 2014 SCC Online Del 1952
13. *The State of Bombay vs. KathiKaluOghad& Others*, AIR 1961 SC 1808, 1962 SCR (3) 10.
14. Pratim Alias Peter Mukherjea vs Union Of India And Anr on 19 January, 2018 (Sheena Bora murder case)
15. Sr. Sephy vs Union Of India 1 January, 2009 (Sister Abhaya murder case)

#### **Learning Outcomes:**

After completion of the course students will be able to-

- *Identify and analyse a situation as constituting a crime, incident or transgression in order to determine the resources that must be activated and the procedures that must be followed.*
- *Differentiate the applied forensic methods used to evaluate various types of evidence.*
- *To disseminate information on the advancements in the field of forensic science.*
- *Evaluate the limitations of forensic techniques and interpretations. Define and recognize the techniques of crime scene searches, courtroom demeanor, and criminal investigation related to child abuse and sexual assault situations.*

## **(d): INDUSTRIAL AND COMMERCIAL LAW**

### **SERVICE LAW**

#### **Objectives of the Course**

*“Government service is not a contract. It is a status”. Laws related to Public service in India are governed by the Constitution. One of the basic features of Indian Constitution is the separation of powers, i.e., the presence of three distinct pillars of state – Legislature, Executive and Judiciary. The Constitution conceived and provided for Civil Services like the*

*All India Services and Central Civil Services which form an integral part of the Executive’s machinery at the central and state level. Labour laws governing civil services are quite distinct from general labour laws. The service conditions of the government servants are regulated by the Constitution of India.*

This course has been designed to:

1. Trace the historical evolution of laws to govern civil services, both in ancient kingdoms and in the modern world;
2. Analyse the concept of public service laws as they are enshrined in the Indian constitution;
3. Introduce the student to fundamental concepts in public service laws; and
4. Examine the laws governing civil services and the impact of factors as diverse as judicial review and globalisation.

The syllabus has been prepared with these objectives and consists of 5 modules.

#### **MODULE I – HISTORICAL BACKGROUND OF CIVIL SERVICES LAW**

##### **(1) Origin and Concept.**

- a) Meritocracy v. Aristocracy .
- b) Religious connotations of Administration.
- c) Governance in Ancient India.
- d) Concept of Dharma and Duty.

- e) Arthashastra – Kautilya’s ‘Amatyas’.
- f) Centralised Administration of Mughals.
- g) Early centuries of Arab rule and Governance.

## **(2) Evolution of Modern Service Law**

- a) British Civil Service.
- b) Spoils system.
- c) Max Weber’s Analysis on Public servants.
- d) Organized Sector.
- e) Covenanted Civil Service.
- f) Regulating Act of 1773 - Pitt’s India Act 1784 - Aitchison Commission - Lee Commission - Government of India Act 1935.
- g) Civil Services in Independent India.
- h) Modernising Civil Services in India.
- i) A.D. Gorwala Report on Public Administration (1951).

## **MODULE II – PUBLIC SERVICE AND THE CONSTITUTION**

- a) Public employment and Constitutional Safeguards.
- b) Fundamental Rights of Civil Servants.
- c) Service conditions in Constitution.
- d) Recruitment to Retirement.
- e) Doctrine of Pleasure and Safeguards.
- f) All India Service – State Civil Services – Union Public Service Commission – State Public Service Commission

## **MODULE III – FUNDAMENTAL ASPECTS OF SERVICE**

- a) Pleasure Relates to Tenure and Not to Other Conditions of Service – Exceptions.
- b) Security of Tenure in Public Interest.
- c) Arbitrariness in State Action Violates Equality.
- d) Other Fundamental Rights to Service.
- e) Extent of Positive Discrimination.
- f) Nature of Relationship Between State and its Servants.

## **MODULE IV – LAWS RELATING TO CIVIL SERVANTS**

### **1. Laws Related to Administrative Services**

- a) Service Law – Classification, Recruitment and Training in AIS and CCS.
- b) Division of Cadre and Management.
- c) Disciplinary Proceedings.
- d) Rules – Agencies – AIS Rules – CCS (CCA) Rules.
- e) Lateral Entry Scheme in Civil Services – Advantages and Challenges.
- f) Kothari Committee Report on Recruitment and Selection Methods.

### **2. Laws Related to Judicial Services**

- a) Officers and Servants of Supreme and High Courts – Subordinate Judiciary – Collegium – Service conditions in Constitution.
- b) Supreme and High Court Rules
- c) All India Judicial Services – Avenues and Challenges – Constitutional Implication. d) Reforms in Judicial Service

## **MODULE V – JUDICIAL APPROACH TO CIVIL SERVICES AND IMPACT OF GLOBALIZATION ON BUREAUCRACY**

### **1. Judicial Review in Service Matters**

- a) Judicial Review.
- b) Service Tribunals – Central Administrative Tribunal – State Administrative Tribunal – Quasi Judicial tribunals.
- c) Powers and Functions Appeal Provision.
- d) Scope of Writs in Service Matters.

### **2. Impact of Globalization on Indian Administration**

- a) Entrepreneurial Government.
- b) Changing Role of Bureaucracy.
- c) Reinventing the Government.
- d) Civil Service Reforms in India.
- e) Hota Committee Report on Civil Service Reforms.
- f) Good Governance – Public Accountability.



- g) Empowering Citizens – Capacity Building Initiatives.

### **RECOMMENDED READING**

1. M.R. Mallick, *Service Law in India* (Eastern Law House, 2000).
2. N. Narayanan Nair, *The Civil Servant under the Law and the Constitution of India*, Academy of Legal Publications (Academy of Legal Publications, 2006)
3. Sunil Chhabra, *Administrative Tribunals* (Deep and Deep Publications, 1990).
4. Kamlesh Goyal, “Indian Administration in the Age of Globalization: An Analysis of Transformation from Governance to E-Governance”, (IJRECT 2016), available at: <http://ijrect.com/issues/vol3issue4/kamlesh.pdf>.
5. Narender Kumar, “Law Relating to Government Servants and Management of Disciplinary proceedings (Service Law)” (Allahabad Law Agency, 2018)

### **Journals:**

- 1) Rameshwar Dial, “Civil Servants under the Constitution”, 2 JILI 481-508 (1960).
- 2) Om Prakash Motiwal, “Right of Equal Opportunity of Civil Servants”, 11 JILI 328- 343 (1969).
- 3) O.P.Motiwal, “Development of Legal Rights of Civil Servants in India”, 17 JILI 437- 445 (1975).
- 4) Sindhu Thulaseedharan, “Right to Public Services in India – A New Legal Scenario”, 55 JILI 59-72 (2013).
- 5) P.Leelakrishnan, “Reviewing Decisions of Administrative Tribunal: Paternalistic Approach of the Indian Supreme Court and the need for Institutional reforms”, 54 JILI 1-26 (2012).

### **FURTHER READING**

#### **Reference Books:**

1. Brinda and Sanjeev Muthuswamy, *Swamy's Compilation of CCS (CCA) Rules* (Swamy Publishers (P) Ltd., 2016).

2. Brinda and Sanjeev Muthuswamy, *Swamy's Compilation on Central Administrative Tribunal (Act, Rules and Orders)* (Swamy Publishers (P) Ltd., 2016).
3. S.R. Maheshwari, *Evolution of Indian Administration* (Lakshmi Narain Aggarwal, Agra 1970).
4. P.N. Mathur, *The Civil Service of India (1731-1894)* (D.K. Publishers: New Delhi, 1977).
5. B.B. Misra, *The Bureaucracy in India – An Historical Analysis of Development up to 1947* (Oxford University Press: New Delhi, 1977).
6. B.B. Misra, *The Administrative History of India (1834-1947) - General Administration*, (Oxford University Press: New Delhi, 1970).
7. L.S.S. O'Malley, *The Indian Civil Service 1601-1930* (Frank Case & Co. Ltd: London 1965).
8. B.N. Puri, *Some Aspects of the Evolution of Indian Administration* (IIPA: New Delhi, 1980).
9. Chandra Singh, *The Civil Services in India (1858-1947) – A Historical Study* (Atmaram & Sons Delhi (1989).

#### **Articles:**

- 1) C.Basavaraju, “Reservation under the Constitution of India: Issues and Perspectives”, 51 JILI 267-274 (2009).
- 2) PP.Rao and Ananth Padmanabhan, “Legislative Circumvention of Judicial Restrictions on Reservations: Political Implications”, NLSIR 53-68 (2013).
- 3) P.Kalpakam, “Dispensing with Departmental Enquiry”, 28 JILI 246-248 (1986).
- 4) A.M.Sarma, “Domestic Enquiry”, 20 JILI 122-132 (1978).
- 5) V.Krishna Murty, “Mr.Justice Gajendra Gadkar and the Law of Civil Servants”, 8 JILI 627-636 (1966).
- 6) S.N.Jain, “Validity of Retrospective Delegated Legislation- the Court develops a new principle”, 23 JILI 102-104 (1981).
- 7) K.C.Joshi, “Service Tribunals under Administrative Tribunals Act”, 28 JILI 207-212 (1986).
- 8) Mohammed Imam, “Power to initiate and conduct disciplinary proceedings: (A Comment on State of M.P. V. Shardul Singh)”, 12 JILI 170-176 (1970)

**Cases for Guidance:**

1. Dunn v. R, (1896) 1 QB 116
2. Mahesh v. State of U.P., AIR 1955 SC 70
3. Khem Chand v. Union of India, AIR 1958 SC 300
4. Union of India v. Tulsiram Patel, AIR 1985 SC 1416
5. Parshottam Lal Dhingra v. Union of India, AIR 1958 SC 36
6. State of Gujarat v. Umedhbai M. Patel, AIR 2001 SC 1109
7. Jatinder Kumar v. State of Punjab, (1985) 1 SCC 122
8. Bihar Public Service Commission v. S.J. Thakur, AIR 1994 SC 2466
9. R.T. Rangachari v. Secretary of State, AIR 1937 PC 27
10. L. Chandra Kumar v. Union of India, AIR 1997 SC 1125
11. S.P. Sampath Kumar v. Union of India, 1987 SCR (3) 233
12. P. Balkotiah v. Union of India, AIR 1958 SC 232
13. K. Rajendran v. State of Tamil Nadu, AIR 1982 SC 1107

**Learning Outcome:**

Upon completing this course, the student will be able to:

1. Understand the origin and development of services law and appreciate its current position in the appropriate historical context;
2. Appreciate the Constitutional provision governing services law;
3. Discern and comprehend key concepts in laws governing public services; and
4. Critically examine laws and judicial precedents governing services laws.

# **ALTERNATIVE DISPUTE RESOLUTION MECHANISM**

## **(CLINICAL COURSE II)**

### **Objectives of the Course:**

*Alternative Dispute Resolution, commonly known as ADR, refers to dispute resolution mechanisms outside the realm of traditional judicial processes. The objective of this paper is to acquaint students with various modes of ADR. ADR mechanism is less bound by procedural formalities and speedy in giving results. For this reason, ADR is appreciated by many countries around the world.*

*This course has been designed to:*

- 1. Give students insightful knowledge about this emerging area.*
- 2. Help the students to understand practically the various methods of resolving disputes under ADR system, so that they can help their clients and society to select and employ the most effective and just methods.*
- 3. They get the ability to resolve disputes in a timely manner evincing public and private rights obligations.*
- 4. To overcome this drastic situation ADR is highly recommended and accepted.*

### **COURSE OUTLINE**

#### **Module I: Alternative Dispute Mechanism**

- Alternative Dispute Resolution – Definition, Scope and Genesis
- Overview of Alternative Dispute Resolution Process - Arbitration, Mediation, Conciliation, Lok Adalat and Judicial Settlements
- Evolution of the concept of ADR with historical prospective - Position of ADR in  
Ancient India, Position of ADR in Mughal period, Position of ADR during British Period, Position after Independence

#### **Module II: Arbitration Agreement and Procedure**

- Agreement based and Court annexed ADR processes - Arbitration and Conciliation  
Act 1996 and Amendments in 2015 and 2019
- Arbitrability and Non-Arbitrability of Disputes – Interim Measures by Court and  
Arbitral Tribunal
- Arbitration Agreement/Clause – Arbitration Procedure – Arbitration & Mediation Process – MED-ARB-MED - Decision/Award/Settlement

#### **Module III: International Commercial Arbitration**

- Geneva Convention on Enforcement of Foreign Arbitral Awards
- New York Convention on Enforcement of Foreign Arbitral Award

- c) New Delhi International Arbitration Centre Ordinance Role of Courts in Arbitration

#### **Module IV: Negotiations and Conciliations**

- a) Meaning, features, theories and types of Negotiations and Conciliations  
b) Appointment, Role and qualities of Negotiator and Conciliator  
c) Process of Negotiations and Conciliations.

#### **Module V: Mediation and Procedure**

- a) Meaning, Definition, theories and techniques of mediation, Court-annexed mediation  
b) Mediation process - Skills of a mediator Institutionalized mediation - Specialization sectors for mediation practice in India and Globally Models  
c) Drafting in Mediation – International  
d) Mediation and Singapore Convention

#### **Module VI: Contemporary Trends**

- a) Emerging Trends – Institutional Arbitrations - Online Dispute Resolution  
b) Dispute Resolution – Sector Specific ADR

<b>Marks Allocation</b>	
<b>Case Study in Arbitration Centre Marks</b> (Practical / Simulation Exercise –Three Exercise 10 Marks each)	<b>30</b>
<b>Test internal Marks</b>	<b>10</b>
<b>Visit to centres of Arbitration</b>	<b>10</b>
<b>Total</b>	<b>50 Marks</b>

Student shall maintain a Record through the semester. The record will be assessed by the teacher and record shall contain the following drafts:

- a) **Case Study in Arbitration Centre-Practical/ Simulation Exercise:**
- A domestic Arbitration agreement after a commercial dispute has arisen between the parties.
  - An Arbitration clause in an international contract (having one Indian Company as a party) for referring matter to institutional arbitration of an institution situated outside India.
  - A request by one party to other party requesting that their commercial dispute be referred to Arbitration.

- A letter requesting an arbitrator to act as Arbitrator in a case after dispute have arisen. Assume that the contract has an arbitrator clause with reference to one Arbitrator.
- An application to the appropriate court to appoint an arbitrator when parties have failed in their attempt to appoint one according to the arbitration agreement.
- An application to the court seeking interim injunction or appointment of receiver before the arbitral proceedings have begun.
- An interpretation among rules of various other regional or International Arbitration centres can be given.
- An application to the court for setting aside an award

**b) Case study Practical/ Simulation Exercise:**

- Drafting the Statement of Problems
- A request by one party to other party requesting that their commercial dispute be referred to Arbitrators
- Identification of both the party's problems
- Bargaining, and finally settlement
- An application to the court for setting aside the settlement
- An application to the appropriate court to appoint Arbitrator when parties have failed in their attempt to appoint one according to the agreement.
- An application to the court seeking interim injunction or appointment of receiver before the Arbitration have begun
- An interpretation among rules of various Institutional Arbitrations at the regional or International Arbitration centres.
- An application for enforcement of a settlement or arbitration awards

**c) Visit to centers of Arbitration:** Students shall visit, Arbitration office as observers, Follow the cases, study the Arbitration proceedings and submit a report of the visit to the teacher/faculty.

**Recommended Readings:**

**Books:**

1. Madhusudan Saharay, Text Book on Arbitration & Conciliation with Alternative
2. Dispute Resolution, 4th ed., Universal Law Publishing 2017.
3. N. V. Paranjpe, Law Relating to Arbitration and Conciliation in India, 7th ed., Central Law Agency, 2016.
4. Avtar Singh, Law of Arbitration and Conciliation, 10th ed., Lucknow 2013
5. Malika Taly, Introduction to Arbitration, Eastern book Company, 2015

**Further Reading:**

1. Vishnu Warriar, Arbitration, Conciliation and Mediation, Lexis Nexis, 2015
2. K.V. Satyanarayana, Law of Arbitration and Conciliation in India, Asia Law House, 2017

3. Anirban Chakraborty, Law and Practice of Alternative Disputes Resolution in India, Lexis Nexis, 2016
4. Ashwinie Kumar Bansal, Arbitration and ADR, 5th ed, Universal law Publication 2016
5. Shriram Panchu, Mediation Practice and Law- the Path to successful Dispute Resolution 2nd ed, Lexis Nexis 2015
6. Anuroom Omkar and Kritika Krishnamurthy, the Art of Negotiations and Mediation, Lexis Nexis 2015.

### **Learning Out Come:**

After completion of the course students will be able to –Appreciation of the social relevance of ADR Mechanism

1. Understanding of the theoretical models of dispute resolution and capacity to analyse their operation in both legal and social context
2. Development of basic mediation skills, including communication, analysis and issue identification
3. Sophisticated understanding of the ethical and legal ethical issues surrounding dispute resolution models and practice
4. Prepare and present an engaging informative presentation on a chosen area of ADR that expands upon the core themes of the course.

# NATIONAL CADET CORPS

## ELECTIVE COURSE SYLLABUS

The training curriculum of the NCC is primarily focused on character building, inculcating leadership qualities and skill enhancement through structured academic syllabi, practical training and opportunity for exposure/interaction beyond a cadets' immediate environment, and thereby enabling them for a brighter and progressive future.

It aims to make learning more holistic and skill-oriented eventually facilitating career prospects. Pertinently, on successful completion of the course, the students are awarded credit points which will enable them to qualify for their respective degrees.

### **The Aims of NCC:**

- (a) To develop character, comradeship, discipline, secular outlook, spirit of adventure and the ideals of selfless service amongst the youth of the country.*
- (b) To create a human resource of organized, trained and motivated youth to provide leadership in all walks of life and always available for the service of the nation.*
- (c) To provide a suitable environment to motivate the youth to take up a career in the Armed Forces.*

### **Objectives of NCC:**

- Motivate young dynamic youth to serve the nation.
- Inculcate unity and discipline amongst citizens.
- Promote leadership and make self-reliant citizens.
- Prepare a volunteer force to participate during national disasters.
- Raise awareness to live with principles and values.
- Gain a glimpse and overview of armed forces.
- Develop a sense of national integration.
- Create awareness about social causes and community development.
- Inculcate sportsmanship and spirit of adventure.



- Learn about life saving and first aid.

## **NCC Syllabus:**

The Syllabus includes common subject for all three wings and specialized subject with respect to Army, air Force and Navy. The Common subjects comprise of approximately 70% and specialized service is 30 % of the curriculum.

The detailed syllabus is as follows.

### **Common Subject (Detailed Syllabus)**

#### **Unit:1 NCC General**

Aims and organization of NCC-objectives-incentives by central government & state government- cadets -duties - responsibility- commandments- Annual training camp- centrally organized camp- public day.

#### **Unit:2 National Integration**

Introduction- importance- essence- necessity- factors affecting NI- measure to achieve - unity in diversity- fundamentals - role of NCC- national security-threats-attributes of national security– doctrine

#### **Unit:3 Leadership capsule**

Leadership traits-Indicators of leadership and evaluation-Motivation and its factors-Moral values- Honour code-Case studies

#### **Unit:4 Drill:**

General words of command - Attention, stand at ease and stand easy turning -Sizing and dressing - saluting - Marching - Turning at the march and wheeling -Saluting at the march - Individual word of command - Formation of squad and squad drill

#### **Unit:5 Weapon Training**

Characteristics of .22 No II Mark I Rifle, .22 deluxe rifle, 7.62mm SLR and

5.56 mm INSAS - Rifle stripping and assembling - Care and cleaning -Loading/Unloading and bolt manipulation - Lying position and hold - Aiming range, targets and sight setting and alteration - Trigger control and firing -Range procedure and safety precautions- Theory of group and snap shooting

#### **Unit:6 Disaster management capsule**

National Disaster Management Authority (NDMA)-National Defence Response Force (NDRF)-Types of Disasters-Essential services and their maintenance and role of NCC cadets in it-Effects of Natural disasters and assistance required-Do's and Don'ts during natural disasters -Causes and prevention of fire-Fire fighting, fire fighting parties and firefighting equipment's.

### **Unit:7 Social Service and Community Development**

Basics of social service - methods - types - rural development programme -schemes - NGOs - role of

NCC –swachh bharat - social security - types - social evils - mission indradhanush - digital India- protection of children and women's safety-new initiative-cybersecurity –types **Unit:8 Health and hygiene**

Introduction - personal hygiene - food hygiene - sanitation - internal wounds -open chest wounds - burns and scalds - snake and dog bites - Asphyxia and unconscious-wounds-yoga- purpose-asanas

### **Specialised Subject(Detailed Syllabus)**

#### **Unit:1 Armed Forces**

Organisation and command headquarters of the armed forces - Ranks of the armed forces - Gallantry and Non Gallantry awards - Types of commission in army

#### **Unit:2 Map Reading**

Definition of map- conventional signs - Definition of scale -Methods of expressing a scale - Grid reference - Contour and its characteristics - Cardinal points - Types of north -Magnetic variation and grid convergence - Types of bearing - Parts of prismatic compass - Setting of map - Finding north and own position

#### **Unit:3 Field Craft And Battle Craft**

Definition and subjects of field craft and battle craft -Judging distance and its methods –

Definition of landmark, target, reference point - Types of ground –Personal camouflage – Camouflage of equipments-Types of cover and correct use of cover - Definition of fire unit, fire direction orders, fire control orders, arc of fire-Sequence of fire control orders-Types of fire control orders

#### **Unit:4 Military History**

Biography of Field Marshal Kodandera Madappa Cariappa, OBE -Biography of Field Marshal Sam Manekshaw, MC -Biography of Marshal of the Air Force Arjan Singh - Study of battles Indo

Pakistan war 1965, Indo Pakistan war 1971, Kargil war 1999

### III YEAR

### V SEMESTER

## **LABOUR LAW II SOCIAL SECURITY AND LABOUR WELFARE LAWS**

### **Objectives of the Course:**

*In the previous semester, students learnt the historical background and importance of labour rights and the basics of key labour legislations governing trade unions, industrial relations, standing orders and industrial disputes. While protection of labour rights in a dispute and permitting their unionisation is one side of the coin, taking proactive measures to promote the welfare and social security of labour is the other. As the Supreme Court of India has held, time and again, the right to life guaranteed under Article 21 is not merely animal existence, but the right to live with dignity. Therefore, taking steps to ensure that the labour force of our nation lives a life of security and dignity is of unspeakable importance and is part of the constitutional obligation of the State. The aim of social security legislation is to ensure freedom from want for our workers. This paper has been designed to help students understand the social security legislations in India in light of the above context.*

This course has been designed to:

- I. Instruct the student on the concept of social security, its evolution, components, and objectives;
- II. Examine the role played by ILO in developing social security jurisprudence;
- III. Provide students with a critical and practical understanding of the rights of the employee in case of employment-related death, disablement, disease or accidents;
- IV. Educate students on the state insurance benefits available to employees under various circumstances;
- V. Examine the maternity benefit rights available to female employees;
- VI. Analyse, in-depth, the various retirement benefits made available to employees; and VII. Explore the provisions of law governing factories.

The syllabus has been prescribed with these objectives and consists of 6 modules.

## **COURSE OUTLINE**

### **Module I - Conceptual Framework of Social Security**

- (a) Concept of Social security.
- (b) Evolution of Social Security.
- (c) Constituents of Social Security.
- (d) Object and Aim of Social Security.
- (e) Social Security and Labour Welfare.
- (f) ILO on social security.
- (g) Social Security and Constitution. (h) Classification of Social Security Legislations .

### **Module II - Social Security and Industrial Injuries**

- (a) The Employees' Compensation Act, 1923 - Scope, Objects, Coverage And Definitions.
- (B) Liability Of The Employer To Pay Compensation.
- (C) Arising Out of and in the Course of Employment.
- (d) Doctrine Of Notional Extension.
- (e) Occupational Diseases.
- (f) Determination And Distribution Of Compensation.
- (g) Principal Employer's Right Of Indemnity. (h) Commissioner's Powers And Functions.

### **Module III - Social Security and Social Insurance**

- (a) The Employee's State Insurance Act, 1948 - Objects, applications and 'Seasonal Factory' – Definitions.
- (b) E.S.I. Corporation, Standing Committee And Medical Benefit Council .
- (c) E.S.I. Fund.
- (d) Contributions.
- (e) Benefits.

(f) Adjudication Of Disputes And Claims.

(h) Penalties.

#### **Module IV – Maternity Benefit**

(a) The Maternity Benefit Act, 1961 - Object, Application and Definitions .

(b) Eligibility to Maternity Benefit.

(c) Maternity Benefit and Other Benefits. (d) Notice Of Claim. (e) Prohibition Against Dismissal.

(f) Powers And Duties of Inspectors.

#### **Module V – Retiral Benefits**

(1) (a) The Employee's Provident Funds And Miscellaneous Provisions Act, 1952 - Scope, Coverage, Application And Definitions. (b) Authorities to Administer the Fund.

(c) Contributions.

(d) Employees Provident Fund Scheme, Employees' Pension Scheme And Deposit Linked Insurance Scheme. (e) Authorities to determine and Recover Money Due from Employer.

(f) Employees' Provident Fund Appellate Tribunal.

(e) Offences and Penalties.

(2) (a) Payment Of Gratuity Act, 1972 - Background, Object And Definitions.

(b) Payment of Gratuity – Eligibility - Rate of Gratuity – Forfeiture.

(c) Compulsory Insurance

(e) Determination of Gratuity.

(f) Recovery of Gratuity. Controlling Authority. (g) offences and Penalties.

#### **Module VI - Labour Welfare Legislation**

(1) (a) Factories Act, 1948 - Background and definitions.

- (b) Formalities to Start a Factory.
- (c) Occupier - Duties and Liabilities.

(d) Inspecting Staff and Certifying Surgeons.

(e) Health, Safety and Welfare measures,

(f) Working Hours.

(g) Employment of young persons.

(h) Annual leave with wages.

**(2)** (a) Regulation of Shops and Establishments - The Tamil Nadu Shops and Establishment Act, 1947 - Applicability and Coverage – Definitions.

(b) Opening and closing hours. (c) Employment of young persons. (d) Hours of Work.

(e) Health and Safety Measures.

(f) Leave and Annual Leave with wages.

(g) Authorised Deductions From Wages.

(h) Inspectors – Powers and Functions.

(i) Penalties for Offences.

### **Recommended Reading**

#### **Books prescribed:**

1. S.N.Mishra, “Labour and Industrial Law”, (Allahabad: Central Law Agency, 2019).
2. Dr. V.G.Goswami, “Labour and Industrial Laws”, (Allahabad: Central Law Agency, 2019).
3. Madhavan Pillai, “Labour and Industrial Laws” (Allahabad: Allahabad Law Agency, 2017).
4. S.C. Srivastava, “Industrial Relations and Labour Laws” (New Delhi: Vikas Publishing House Pvt. Ltd., 2019).

5. Meenu Paul, Labour and Industrial Law (Allahabad law Agency 2017).

### **Journals**

1. Suresh C. Srivastava, "Labour Welfare and the Law" 17 Journal of Indian Law Institute 342-366 (1975)
2. Manishi Pathak, "An Overview of Contract Labour Related Laws in India"
3. NLS Bus. L.Rev. 20-35 (2017).
4. Zubair Ahmad Khan & Hina Varshney, "Implementation of the Labour Welfare Provisions for Women Workers in the Unorganised Sector in India: A Critical Analysis" 21 Aligarh Law Journal 62 (2013).
5. Usha Ramanathan, "Statute Law, Injury & Compensation" 47 Journal of Indian Law Institute 158-198 (2005).
6. N.S.Kamboj, "Hazardous Industries Policy & the Law" 46 Journal of Indian Law Institute 449-462 (2004).

### **Further Reading**

#### **Reference Books:**

1. K.D. Srivastava's Commentaries on Workmen's Compensation Act, 1923: with Supplement, (Lucknow: Eastern Book Co., 6th Revised ed., 1999).
2. K.D. Srivastava's Commentaries on Employees' State Insurance Act, 1948: with Supplement, (Lucknow: Eastern Book Co., 5th Revised ed., 2001).
3. K.D. Srivastava's Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Revised by S.C.Srivastava, (Lucknow: Eastern Book Co. 8th Edition, 2001).
4. K D Srivastava's Commentaries on Payment of Gratuity Act, 1972 with supplement, (Lucknow: Eastern Book Co., 5th ed., 2016).
5. K.D. Srivastava's Commentaries on Factories Act, 1948: with Supplement, (Lucknow: Eastern Book Co., 5th Revised ed., 2001).\
6. Veer Singh, "Employment Injury and Employees' State Insurance Scheme Functional Perspectives" 29 Journal of Indian Law Institute 76-93 (1987).
7. Thomas Paul, "Consumer Empowerment ESI Hospitals Under CP Act" 49 Journal of Indian Law Institute 409-414 (2007).

**Articles:**

1. RP.Rangeela, Mrs.Girija Anil, "Welfare measures under the Factories Act: A Critical Appraisal" International Journal of Pure and Applied Mathematics, Vol.120, No.5, (2018) p.255.
2. S.Gokulakrishnan , Dr.D Vezhaventhan, "A Study on Maternity Benefit Scheme in India" International Journal of Pure and Applied Mathematics, Vol.120, No.5, (2018) p.4393.
3. Priyanka.B, A.Sreelatha, "Effective Implementation of Maternity Benefit Act Of 1961" International Journal of Pure and Applied Mathematics, Vol.120, No.5, (2018) p.1329.
4. K B Ravindra, "Labour Welfare and Social Security" Ushus J B Mgt 13, 1(2014), p.77.
5. Manvendra Singh Jadon and Ankit Bhandari, "Analysis of the Maternity Benefits Amendment Act, 2017 and its Implications on the Modern Industrial Discourse" Christ University Law Journal, 2019 Vol. 8, No,2, p. 63.
6. Mrs. Sumitra Pujari, "A Study on Welfare Schemes of ESI" International Journal of Engineering Technology Science and Research, Vol.5, Issue 1, (2018), p.761.
7. Dr. A. Ananda Kumar, Dr. D. Porkalai & Mr. A. Savio Arokiadass, "Effective Utilization of Employee State Insurance (ESI) Policy at E-Publishing Sector" Global Journal of Management and Business Research: G Interdisciplinary Vol.17, Issue 5 (2017) p.35.
8. Jerome Joseph and Srinath Jagannathan, "Employment Relations & Managerialist Undercurrents — The Case of Payment of Gratuity Act, 1972" Indian Journal of Industrial Relations Vol. 47, No. 2 (October 2011), p. 253.
9. Yashik, P. M. (2014). "A study about the Labour welfare and Social Security Measures in India", International Journal of Management, 2, p.23.



10. Sravanthi, B., “Social security in India: constitutional frame work” International Journal of Development Research, Volume 8, Article ID: 12929.

**Cases for Guidance:**

1. United India Insurance Co. Ltd. v. (Smt.) Susheela, 2004 (101) FLR 393 (Karn HC)
2. Employees State Insurance Corporation v. Jaipur Enterprises, (1988) 56 FLR 207 (Raj.)
3. Employees State Insurance Corporation v. Hotel Kalpaka International, 1993 LLR 177 (SC)
4. Fenner (India) Ltd. v. Joint Regional Director, Employees State Insurance Corporation, (2003) 2 LLJ 447 (Mad)
5. Municipal Corporation of Delhi v. Female Workers (Muster Rolls) and Another, AIR 2000 SC 1274
6. Ram Bahadur Thakur (P) Ltd. v. Chief Inspector of Plantations, [1982 (2) LLJ 20]
7. Sri Rama Vilas Service Ltd. v. RPFC, 2000 I LLJ 709 (Mad)
8. Hindustan Lever Employees Union v. RPFC, 1995 (71) FLR 46 (Bom)
9. Mill Owners Association, Bombay v. Their Employees [1950 (II) LLJ 1247]
10. Standard Vacuum Refining Co. of India v. Workmen, AIR 1961 SC 895, 901
11. Mill Owners Association, Bombay v. Rashtriya Mazdoor Mill Sangh, [(1960) LLJ 1247]
12. Kothari Corporation v. Appellate Authority (Deputy Commissioner of Labour), Karnool 1998 LLR 223
13. Management of Sri Akilandeswari Mills Ltd. v. Asst. Commissioner of Labour (2000) I LLJ 1411 Mad
14. Workmen of American Express International Banking Corporation v. American Express International Banking Corporation [AIR 1986 SC 458]
15. Jayathilal Dhaniji & Co. Oil Mills v. Employees State Insurance Corporation [(1966) 2 LLJ 542]

**Learning Outcome**

Upon completing this course, the student will be able to:

1. Appreciate the evolution and conceptual backbones of social security laws;
2. Recognise the pivotal role played by ILO in ensuring social security rights for workers;

3. Distinguish the rights of employees under various employment-related mishaps and consequences;
4. Understand the scope and reach of state insurance benefits to employees;
5. Critically analyse maternity benefits available to women employees and their adequacy/inadequacy;
6. Discern the nuances of retirement benefits payable to employees; and
7. Comprehend the compliances to be followed by factories and critically analyse relevant laws.

# COMPETITION LAW

## Objectives of the Course

*In most countries of the world today competition has a key role to play in ensuring productive, efficient, innovative and responsive markets. Competitive forces drive firms to innovate, to develop more efficient production, processes and to adjust their products in response to changing consumer demand. Policies to stimulate competition are a key driver for improving the micro and macroeconomic performance of an economy.*

*The objective of the course is to provide the students:*

- i. *An understanding of the Legal Dimensions of the Competition Law;*
- ii. *An insight into the Law, which provides a Fair Trade Practice which enhances healthy competition in the business arena.*
- iii. *To comprehend and appreciate the impact of various Anti-Competition Policies.*

## COURSE OUTLINE

### Module I: Introduction

- a) Basic Concepts – definitions- Market- demand and supply theory Economic and legal concepts of competition; markets and market structure; competition theory
- b) perfect competition v. Monopoly need for regulation of competition- Relation between Competition Policy and Competition Law –Objectives of Competition Law
- c) Constitutional aspects competition law- Elimination of Concentration of Wealth and Distribution of Resources Article 39 (b) (c)

### Module II : Evolution Of Competition Law

- a) Historical background – sources of competition law-
- b) Evolution in international arena – common law doctrine of restraint of trade- anti trust legislations – USA, UK, European Union
- c) Evolution in India - MRTP Act, 1969 –Ragavan Committee Report, 2000 - Transformation of MRTP Act 1969 to Competition Act, 2002 –Distinction between MRTP Act and Competition Act
- d) Object and scope of Competition Act, 2002.

### Module III: Anti-Competitive Agreement

- a) agreement definition – Rules for determining Appreciable adverse effect on competition(AAEC) - per se rule and rule of reason
- b) Relevant Market- relevant geographic and relevant product market- factors considered by CCI
- c) Horizontal Agreements- Vertical Agreements- exceptions – Intellectual Property rights and competition law
- d) Cartels – Landmark judgments decided by CCI- punishment for cartel- leniency programme

#### **Module IV: Abuse Of Dominant Position**

- a) Enterprise definition- dominant position – factors determining dominance- comparison with MRTP Act and Consumer Protection Act – market share and market power - difference
- b) Abuse by enterprises–Unfair or discriminatory trade practices – –Limiting protection or technical or scientific development –Denial of Access to market – Imposition of supplementary obligations –influence in other markets using dominance
- c) predatory price – meaning – case studies to identify predatory pricing
- d) factors to be considered by CCI for identifying abuse of dominance
- e) Penalties for abuse – orders passed by CCI for abuse- division of enterprises.

#### **Module V: Combination**

- a) Combinations: Merger, Acquisition, Amalgamation and Takeover –
- b) Horizontal, Vertical and Conglomerate Mergers - Combinations covered under the Competition Act, 2002
- c) Procedure for regulation of combination- powers of CCI – orders passed by CCI - Penalties.

#### **Module VI: Enforcement Mechanisms**

- a) Establishment and Constitution of Competition Commission of India, Powers Functions and Jurisdiction of the CCI
- b) adjudication and appeals, -Competition Appellate Tribunal (CompAT)
- c) Director General of Investigation (DGI)- powers and functions – role of DG in investigation

d) Competition Advocacy

**Statutory Materials**

Competition Act 2002

**Recommended Readings**

1. Ramappa, Competition Law in India: Policy, Issues and Developments, 3<sup>rd</sup> ed.- 2013, Oxford University Press, New Delhi
2. Vinod Dhall (ed.), Competition Law Today, Oxford University Press, 2007
3. S.M. Dugar, Commentary on MRTP Law, Competition Law & Consumer Protection Law, 4<sup>th</sup> ed.- 2006, Wadhwa Nagpur
4. Abir Roy & Jayant Kumar, Competition Law in India, Eastern Law House, New Delhi.
5. P. Satyanarayana Prasad, Competition Law and Cartels, Amicus Books, ICAI University Press, 2007.

**Further Readings:**

**Books:**

1. Chauhan, B.S. "INDIAN COMPETITION LAW: GLOBAL CONTEXT." Journal of the Indian Law Institute, vol. 54, no. 3, 2012, pp. 315–323. JSTOR,.
2. Sethi, Rajat, and Simran Dhir. "Anti-Competitive Agreements Under the Competition Act, 2002." National Law School of India Review, vol. 24, no. 2, 2013, pp. 32–49.
3. Pierce, Richard J. "COMPARING THE COMPETITION LAW REGIMES OF THE UNITED STATES AND INDIA." National Law School of India Review, vol. 29, no. 1, 2017, pp. 48–69.
4. Dick, Andrew R. "When Are Cartels Stable Contracts?" The Journal of Law & Economics, vol. 39, no. 1, 1996, pp. 241–283.
5. "Cartels and Competition." Organizing Control: August Thyssen and the Construction of German Corporate Management, by JEFFREY R. FEAR, Harvard University Press, Cambridge, Massachusetts; London, England, 2005, pp. 235–260.
6. Kaplow, Louis. "On the Meaning of Horizontal Agreements in Competition Law." California Law Review, vol. 99, no. 3, 2011, pp. 683–818.

7. Levenstein, Margaret C., and Valerie Y. Suslow. "How Do Cartels Use Vertical Restraints? Reflections on Bork's *The Antitrust Paradox*." *The Journal of Law & Economics*, vol. 57, no. S3, 2014, pp. S33–S50.
8. Morse, M. Howard. "Vertical Mergers: Recent Learning." *The Business Lawyer*, vol. 53, no. 4, 1998, pp. 1217–1248.
9. Gevurtz, Franklin A. "Vertical Restraints on Competition." *The American Journal of Comparative Law*, vol. 54, 2006, pp. 357–384.
10. Kabir, Altamas. "Competition Laws and the Indian Economy." *National Law School of India Review*, vol. 23, no. 1, 2011, pp. 1–8.

#### **Cases for Guidance:**

1. Brahm Dutt v. Union of India, AIR 2005 SC 730
2. CCI v. Steel Authority of India Ltd. & Anr, (2010)10SCC 744
3. Builders Association of India v. Cement Manufacturers', Case No. 29/2010, CCI.
4. All India Tyres Dealers Federation v. Tyres Manufacturers, 2013 COMP LR 92 (CCI), Main Order dated October 30, 2012 and Minority Order by Mr. R Prasad (Member, CCI) dated October 30, 2012.
5. Exclusive Motors Pvt Ltd v. Automobile Lamborghini SPA, Case No. 52/2012, CCI
6. Belaire Apartment Owners' Association v. DLF Ltd & HUDA, 2011 Comp LR0239(CCI),
7. Surinder Singh v. Board of Control for Cricket in India, [2013]113CLA579(CCI)
8. Etihad Airways and Jet Airways Combination Order, CCI, Order dated November 12, 2013.
9. Google Inc. & Ors v. Competition Commission of India & Anr., [2015]127CLA367(Delhi)
10. Telefonaktiebolaget LM Ericsson (PUBL) v. Competition Commission of India & Anr., [Writ Petition (Civil) No. 464/2014, Decision dated March 30, 2016]

#### **Learning Outcomes**

1. To provide a thorough background in the area of competition law and policy in India.
2. To understand the key issues in competition law, providing a strong overall background combined with an emphasis on recent (and potentially future) developments.
3. Review and understand the key economic considerations behind landmark competition cases on abuse of dominance, anti-competitive agreements, or mergers.

# CYBER LAW AND INFORMATION TECHNOLOGY

## Objectives of the Course

*Advent of computers, followed by Internet has revolutionized the human existence and their conduct in the society. The information can be accessed, stored, retrieved and distributed speedily and easily. The traditional paper documents are now being replaced by their electronic equivalents. The commercial transactions and individual functioning are more driven by the digital technology. This transition has put forth need for a law to facilitate and govern activities in the information society and has thus led to the passing of the Information Technology Act, 2000 (IT Act).*

*The primary focus of this course will be studying on electronic commerce, electronic signatures, electronic governance, data protection, cyber security, penalties and offences under the IT Act, dispute resolution and other contemporary issues. In addition, there will be an insight into the applicability of other laws in the digital environment.*

## COURSE OUTLINE

### Module I: Introduction to Cyberspace

- a) Over view of computer and web technology –Evolution of cyberspace
- b) Technology and its impact on Society and Politics- Growth and significance of Information Technology- Need for Cyber Law-Information Technology Act 2000 with recent Amendments
- c) Jurisdictional issues in Cyberspace-Types of jurisdiction –Theories of Jurisdiction- The test evolved -Minimum contacts theory-Sliding scale theory-Jurisdiction under IT Act, 2000;.

### Module II: Constitutional and Human Rights Issues in Cyberspace

- a) Freedom of Speech and Expression in Cyberspace
- b) Right to Access Cyberspace -Access to Internet
- c) Right to Privacy-Right to data Protection- Personal Data Protection Bill 2019.

### Module III: Legal Recognition and Authentication of Electronic Records

- a) UNCITRAL Model Law -Concept of public and private key-Authentication of electronic records using digital signature -Asymmetric cryptosystem and encryption -  
Hash Function
- b) Public Key infrastructure and Hierarchy -Controller of certifying Authorities-  
Certifying authorities –Subscriber,
- c) Electronic records- Administrator of Electronic records- Electronic Health records-E- Governance and Electronic records Evidentiary value of Electronic records.

#### **Module IV: New Dimensions of E-commerce**

- a) Kinds of contracts-Email and Standard form of contacts- -Formation of E-Contracts-  
Application of Contract Act -Legal Validity of E-Contract-
- b) Electronic Data Interchange- E-Commerce - Models of E-Commerce;
- c) E-Governance- what is E-Governance-E-Governance project in India –The National e-Governance Plan(Ne-GP)- E-Courts Mission Mode Project of India;
- d) E-Banking transaction –Online payment Options -First Virtual-Cyber Cash-  
Secured electronic transaction;
- e) Taxation issues in Cyberspace –Permanent Establishment-Double Taxation Avoidance Agreement-Model Tax Treaty- OECD (Organization for Economic Co- operation and Development) Model Tax treaty and United Nation Model Tax Treaty.

#### **Module V: Cyber Crimes**

- a) Nature and scope of Cyber Crimes- *Mens rea* and *Actus reus* in cybercrime-
- b) Cyber contraventions and cyber offences under the IT Act
- c) Cybercrime against person, property and govt-Hacking, Hijacking, Digital forgery, Cyber pornography, Child pornography under IT Act and POSCO Act, Cyber  
Stalking, Cyber Bullying , Phishing, Identity theft and fraud, Cyber murder, Virus  
Attack, Cyber terrorism, Cyber warfare, Cyber defamation
- d) Adjudication under IT Act- Adjudicatory Officers- Cyber Appellate Tribunal



## **Module VI: Intellectual Property Issues in Cyberspace**

- a) Interface with Copyright Law-Copyright Protection of Computer Programme-Reverse engineering of Computer Programme– Copyright Infringement in Cyberspace - Obligation Concerning Technological Protection Measures WCT and WPPT-Limiting the Liability of Internet Service Provider -EU Database Protection Directive;
- b) Interface with Patent law-Patentability of Software – Business Method Patent;
- c) Trademarks and Domain Name Related issues- Cybersquatting -Anti Cybersquatting Consumer Protection Act- Metatagging-Pop Up Advertisements-Framing- Linking- Dispute Resolution under –ICANN Policy -UDRP-INDRP.

## **Module VII: Contemporary Issues in Cyberspace**

- a) Cloud Computing-Essential characteristic- Deployment models –Service models
- b) Convergence of technology –definition- before and after Convergence of technology-  
Communication Convergence Bill 2001 – Spectrum Management Committee
- c) Block Chain Technology- peer-to-peer technology- Crypto Currency- Distributed ledger
- d) Artificial Intelligence- Big data Analytica.

### **Recommended Readings:**

#### **Books:**

1. Kamath Nandan, Law Relating To Computers Internet &E-Commerce- A Guide To Cyberlaws &The Information Technology Act, Rules , Regulations And Notifications Along With Latest Case Laws (2012).
2. Karnika Seth, Computers Internet and New Technology Laws (2013).
3. Kamlesh K. Bajaj, Debjani Nag, E-Commerce: The Cutting Edge of Business, 2<sup>nd</sup> Ed. (2005).
4. Apar Gupta, Commentary on Information Technology Act (2016).
5. N.S Nappinai – Technology Laws, 1<sup>st</sup> Ed LexisNexis (2017).

### **Journals/Articles:**

1. Nishith Desai, E-commerce in India – Legal, tax and regulatory analysis available at [http://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Research%20Papers/E-Commerce\\_in\\_India.pdf](http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/E-Commerce_in_India.pdf)
2. Hemali Shah and Aashish Srivastavat —Signature Provisions in the Amended Indian Information Technology Act 2000: Legislative Chaos, 43 Comm. L. World Rev. 208 2014 available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2748441](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2748441)
3. Christopher Reed, —Legally binding electronic documents: Digital Signatures and Authentication 35(1) International Lawyer 89-106 available at <http://www.jstor.org/stable/40707597>
4. Cyber Laws of India, [www.iibf.org.in/documents/Cyber-Laws-chapter-in-Legal-Aspects-Book.pdf](http://www.iibf.org.in/documents/Cyber-Laws-chapter-in-Legal-Aspects-Book.pdf) (Book on IT security of IIBF published by Taxmann Publishers)
5. Amlan Mohanty, New Crimes under the Information Technology Amendment Act, 7 Ind. J.
6. L. & Tech. 103 (2011) available at Westlaw India.

### **Further Readings:**

#### **Books:**

1. Harish Chander, Cyber Law and IT Protection, PHI Learning Private Limited, Delhi (2015)
2. V. D. Dudeja, Information Technology and Cyber Law , Common wealth Publisher (2017)
3. Anirudh Rastogi, Cyber Law: Law of Information Technology and Internet, Lexis Nexis, (2014).
4. Mark A Lemley, Peter S. Menell, Robert P Merges, and Pamela Samuelson, Software and Internet Law, Aspen Publishers, New York, (2006).
5. Cohen, Lore, Okediji, and O'Rourke, Copyright in a Global Information Economy. Aspean Publisher, New York, (2010)
6. Abhivardhan, Artificial Intelligence Ethics and International Law: An Introduction, BPB Publisher, Delhi (2019)
7. Don Tapscott and Alex Tapscott, Block Chain Revolution, Penguin Random House, UK (2018).
8. Anne S.Y. Cheung, Privacy and Legal Issues in Cloud Computing, Edward Elgar Publishing, (2016).
9. Lawrence Lessig, *Code and Other Laws of Cyberspace 1999*, Code ersion 2.0, Basic Books Publication (2006).
10. Scott Charney & Kent Alexander, Computer Crime, 45 Emory L. J. 931, (1996)

#### **Journals/ Articles**

- 1 Stacey L. Dogan & Mark A. Lemley, Trademarks and Consumer Search Costs on the Internet, 41 Hous. L. Rev. 777 (2004).

- 2 Mark A. Lemley and R Anthony Reese, Reducing Digital Copyright Infringement without Restricting Innovation, 56 Stan. L. Rev. 1345 (2004).
- 3 Pamela Samuelson , intellectual Property and The Digital Economy: Why the Anti Circumvention Regulations Need to be Revised, 14 Berkely Tech. L. J. 519 (1999).
- 4 Julie Cohen, Reverse Engineering and the Rise of Electronic Vigilantism: Intellectual Property Implications of “Lock-Out” Technologies 68 S. Cal. L. Rev 1091 (1995)
- 5 Rochelle Cooper Dreyfuss, Are Business Method Patent Bad for Business? 16 Santa Clara Computer & High Tech. L.J. 263 (2000)
- 6 Mark A. Lemley, Intellectual Property and Shrinkwrap Licenses, 68 S. Cal L. Rev. 1239 (1995)
- 7 Jinku Huang, Is the ACPA a Safe Haven for Trade Mark Infringers? Rethinking the Unilateral Application of the Lanham Act 22 J. Marshall J. Comp. & Info. L. 655 (2004)
- 8 Jessica Litman, Sharing and Stealing, 26 Hastings Comm. & Entertainment L. (2004)
- 9 Neil W. Netanel, Impose a Non Commercial Use Levy to allow Free Peer-to-Peer File Sharing 17 Harv. J. L. & Tech. l. (2003)
11. Pamela Samuelson, Did MGM Really Win the Grokster Case? 48 Communications ACM 19 (2005)

### **Cases for Guidance:**

1. Casio India Co. Ltd., v. Ashita Telesyatem Pvt Ltd, 106 (2003) DLT 554
2. India TV Independent News services Pvt Ltd., v. India Broadcast Live and Others (2007) 145 DLT 521
3. Cybersell Inc. v. Cybersell, Inc, 130 F.3d 414 (9<sup>th</sup> Cir 1997)
4. Zippo Manufacturing Co. v. Zippo Dot Com, Inc., 952 F. Supp 1119 (1997)
5. Shreya Singhal v. Union of India (2013) 12 SCC 73
6. Regina v Hicklin [1868] LR 3 QB 360
7. Miller v California 413 US 15 (1973)
8. Ranjit D. Udeshi v. state of Maharashtra AIR 1965 SC 881
9. Samresh Bose v. Amal Mitra (1985) 4 SCC 289
10. Ajay Goswami v. Union of India (2007) 1 SCC 169
11. Maqbool Fida Hussain v. Raj Kumar Pandey (2007)
12. State of Tamil Nadu v. Suhas Katti (2004)
13. Avinash Bajaj v. State (NCT ) of Delhi, (2005) DLT 427
14. Computer Associates international inc., v. altai 982 F.2d 693 (3<sup>rd</sup> Cir 1992)
15. Sega Enterprises Ltd v. Accolade Inc., (1992)
16. Sony Computer entertainment Inc v. Connectix Corp., (2000)
17. A & M Records v Napster Inc., 239 F. 3d 1004 (9<sup>th</sup> Cir. 2001)
18. Metro-Goldwyn-Mayer Studios Inc v. Grokster, Ltd 125 S. Ct. 2754 (2005)

19. Yahoo Inc v. Akash Arora & Anr, 78 (1999) DLT 285
20. Panavision International L. P. v. Toeppen 141 F.3d 1316 (9<sup>th</sup> Cir 1998)
21. Shields v. Zuccarini 254 F.3d 476 (3<sup>rd</sup> Cir. 2001)
22. Brookfield Communications inc v. West Coast Entertainment Corporation 174 F.3d 1036 (9<sup>th</sup> Cir 1999)
23. Playboy Enterprises v. Welles, 279 F.3d 796 (9<sup>th</sup> Cir 2002)
24. Diamond v. Diebr 450 US 175 (1981).
25. Bilski v. Kappos, 177 Fed 2d 792
26. Alice Corp v. CLS Bank (2014)
27. Tata Sons V Greenpeace International (2011) 178 DLT 705
28. Super Cassettes Industries Ltd., v. Myspace Inc., (2011) 49 PTC 49 Del.

**Learning Outcome:**

After completion of the course students will be able to –

- Understand and explain the rudiments of internet technology and the Domain Name System □ Learn the scope and function of legal and technological regulation of the internet.
- Understand with the Social and Intellectual Property issues emerging from ‘Cyberspace.
- Explore the legal and policy developments in various countries to regulate cyberspace
- Develop the understanding of relationship between commerce and cyberspace
- Give learners in depth knowledge of Information Technology Act and legal framework of right to Privacy, Data Security and Data Protection.

## **BANKING LAW**

### **Objectives of the Course:**

*Banking Institutions have become important players in the present day economy. They play pivotal role in the growth of trade, commerce and industry. Several policy initiatives and legislative amendments have changed the role of Banks from being mere economic institutions in to agents of social change. Appreciating the importance, the Government has enacted several enactments to direct, regulate and control the banks and banking operations, through Reserve Bank of India and Ministry of Finance. The course is designed to primarily acquaint the students with operational parameters of banking law, and to teach the general principles of banking law and to develop appreciative faculties of the students in statutory as well as case – law in this area.*

*After undergoing the study of this subject the student should be able to understand the following;*

- 1. The basic concepts related to banks in India and its related terminologies*
- 2. The nature and evolution of banking in India and also the types of banking in India*
- 3. The procedural aspects and the way of performance of banking sector in India*
- 4. The meaning, nature and various issues pertaining to Negotiable Instruments Act*
- 5. The changing dimensions of Banker customer relationship*
- 6. The recent changes in the Banking sector after globalization.*

### **COURSE OUTLINE**

#### **Module 1 – Introduction to Banking Law**

- a) Origin and Development of the word ‘Bank’ – Early history of banking – Definition of Banking – Difference between banking and money lending.
- b) Functions of a Commercial Bank.
- c) Structure of a Banking System.
- d) Basic terminologies - DD, MT, TT, Traveler’s cheques, bank orders, credit card, debit/smart cards, safe deposit vaults, gift cheques, stock invest.
- e) Indian Banking Structure .

#### **Module 2 – Nature and evolution of Banking**

- a) Origin and Evolution of Banking Institutions in India

- b) Types and functions of banks - Commercial banks – Functions – Banking Companies in India – RBI - Constitution, Management and Functions - Banking Regulation Act,  
1949 – State Bank of India- UTI, IDBI, RRBs’-Local banks
- c) Nationalizations of Major Banks.
- d) RBI’s control over Commercial Banks – Special status of RBI and State Bank of India.
- e) Subsidiary Banks

### **Module 3 - Procedural aspects in banking sector**

- a) Subsidiary Business Operations of Bankers with special reference to Safety Deposit Lockers – Liability of Bankers in Case of Robberies and Fraud by Bank Employees – Vicarious Liability of the Bank Employees – Vicarious Liability of the Bank.
- b) Employment of funds - Loans and Advances- Guarantees- Advances secured by Collateral securities- Agency Services- Financing of Exports- Special Banking Services – Advances to Priority Sectors and Credit Guarantee schemes .
- c) Recovery of Loans and advances – Recovery of Debts Due to Banks, Financial Institutions Act, 1993 – Effects of Winding Up of Banking Companies – Rights of Customers on Winding Up of Companies .
- d) Necessity for reforms in Indian Banking Law to meet Global Challenges.
- e) Banking Ombudsman.
- f) Debt Recovery Tribunal – The Sick Industrial Companies (Special Provisions) Act,  
1985 - SARFAESI Act – Insolvency and Bankruptcy Code, 2016

### **Module 4 - Negotiable Instruments**

- a) Law relating to Negotiable Instruments, 1881 Act (Read with the amended Act of 2002) – Definition, Characteristics and categories of Negotiable Instruments –  
Promissory Note – Bill of Exchange – cheques – Difference between them – kinds of Bills, Hundis, Letteres of Credit - Parties to Negotiable Instruments.
- b) Rights of Holder and Holder in Due Course against Banker – Capacity of Parties - Presentation – types of Acceptance – effects of non – presentation - Negotiation - Assignment– Endorsement- Discharge of Instruments – Modes

of discharge - Material alteration – Dishonour of a Bill of Exchange – Modes of Dishonour – Notice of Dishonour – Effects of Dishonour - Noting and protest – Compensation – Acceptance for Honour – Payment for Honour – Drawee in case of need.

- c) Liability of various parties; Drawer, Maker, Drawee, Endorser, Liability for unjustified Dishonour – Banker justified in refusing payments on a cheque – Liability of transfer by delivery – Liability under Accommodation Bills – Liability on Foreign Instruments – Presumptions in favour of Negotiable Instruments - Various Kinds of Crossing – Effect of crossing a Cheque – Liability of parties – Payment in due course – Special rules of evidence – Paying banker and collecting banker - Penal provisions under NI Act - Civil and Criminal Liability for Dishonour of cheques under Section

138 to Section 142 of the Amended Negotiable Instruments Act –Banker's book evidence Act.

#### **Module 5 – Relationship between Banker and Customer & Statutory Rights of a Banker**

- a) Banker and customer Relationship - Definition of banker and customer – General relationship – Special relationship .
- b) Banker's duty of secrecy, banker's duty to honour cheques, banker's lien, and banker's right to set off - Appropriation of payments - Garnishee order - Customer's duties towards his banker – Rule in Clayton's Case -Statutory protection to paying banker.
- c) Dishonor of Cheque by a Paying Banker - Statutory protection to collecting banker. , Cheque book, Pass book, Individual Account, Joint Account.Opening of New Accounts  
– Special types of customers.

#### **Module 6 – Modern Banking and Globalization of Banking Sector**

- a) E-Banking - Definition – E-Banking includes - Internet banking, mobile banking, ATM banking, computerized banking – Clearing System – RTGS – NEFT – IFSC – ATM – CBS – CTS – E- banking services – retail services – wholesale services – E- Cheque- authentication.

- b) Cyber Crime and Banking Frauds – Cyber Evidence .
- c) Globalization of Banks – Banks as Investors – Banks and Mutual Fund – Banks in Stock Exchange – QIB – FII – FDI – International Banking Management – Forex Market – Legal Disputes and Settlement thereof.

### **Recommended Readings**

#### **Prescribed Books:**

1. M. L. Tannan- Law of Banking.
2. M. S. Parthasarathy (Ed.), Khargamvala - Negotiable Instruments Act.
3. Justice Bhaghabati Prasad Banerjee- Guide to Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
4. Avtar Singh – Negotiable Instruments Act.
5. Basu - Review of Current Banking: Theory and Practice. Paget- Law of Banking.

#### **Journals with Articles :**

1. Ankieth Vasisht, "Fundamental Principles of Cheque under the Banking Legislation", <http://lawtimesjournal.in/fundamental-principles-of-cheque-under-the-banking-legislation/>
2. ICSI, "Banking Law and Practice", <https://www.icsi.edu/media/webmodules/publications/9.1%20Banking%20Law%20Professional.pdf>
3. Law Times Journal, "Objectives and Organizational Structure of RBI", <http://lawtimesjournal.in/objectives-and-organizational-structure-of-reserve-bank-of-india/>
4. Shivani Sethi, "Central Banking Institution and Regulatory Framework", <http://lawtimesjournal.in/central-banking-institution-and-regulatory-framework/>
5. S.Gopalan and Ramkishan, 'Financial Sector De-Regulation in Emerging Asia: Focus on Foreign Bank Entry' 11 Journal of World Investment and Trade 91(2010)

#### **Further Readings:**



**Books:**

1. M.L.Tannan,, C.R. Datta & S.K. Kataria revised by - Banking Law and Practice, Wadhwa & Company, Nagpur
2. A.B. Srivastava and Elumalai - Seth's Banking Law, Law Publisher's India (P) Limited K.
3. R.K. Gupta : BANKING Law and Practice in 3 Vols.Modern Law Publications.
4. Prof. Clifford Gomez - Banking and Finance - Theory, Law and Practice, PHI Learning Private Limited
5. J.M. Holden - The Law and Practice of Banking, Universal Law Publishing.
6. Legal and Regulatory Aspects of Banking - JAIIB (3rd Edition) January 2015, published by Indian Institute of Banking and Finance
7. R.N.Chaudhary – Banking Law, Central Law Publication,India,January 2016.
8. Khargamvala on the Negotiable Instruments Act – As Amended by the Negotiable Instruments (Amendment) Act, 2015
9. Supreme Court on Banking Law by S N Gupta, Universal Law Publishing an imprint of LexisNexis,6<sup>th</sup> Edition
10. CIRP & Liquidation A Comprehensive Commentary As per Insolvency and Bankruptcy Code 2016 by Soumitra Lahiri, Wolters Kluwer.

**Journal:**

1. Indian Journal of Finance and Banking, ISSN: 2574-6081 (Print), ISSN: 2574-609X (Online) , Centre for Research on Islamic Banking & Finance and Business.
2. Journal of World Investment and Trade 91(2010)
3. Journal of Internet Banking and Commerce,India
4. Interdisciplinary Journal of Contemporary Research In Business
5. International Journal of Economics and financial issues
6. Journal of Internet Banking and Commerce
7. IOSR Journal of Economics and Finance
8. International Journal of Business & Information Technology
9. Harward Business Review on Corporate Governance.
10. Journal of Computer and Internet Security

**Cases for reference :**

1. A.V.Murthy vs B.S Nagabajavanna ((2002) 2 SCC 642)
2. *All India Bank Officers' Confederation vs Union of India*, (1989) 4 SCC 90
3. Allahabad Bank vs Canara Bank AIR 2000 SC 1535
4. *Ashok YeshwantBadeve vs Surendra MadhavraoNighojakar* (2001)3 SCC 726
5. Australia and New Zealand Bank vs Ateliers de Constructions Electriques de Cherleroi [1967] 1 AC 86 PC
6. Bank of Bihar vs Mahabir Lal (AIR 1964 Supreme Court 397)
7. Bank of India vs Vijay Ramniklal AIR 1997 Guj.75
8. Bank of Maharashtra vs M/s Automotive Engineering Co. (1993) 2 SCC 97.
9. Bank of Maharashtra vs. M/s. United Construction Co. and Others(AIR 1985 Bombay 432)
10. Bareilly Bank Ltd. vs Naval Kishore (AIR 1964 All 78)
11. Bhutoria Trading Company (BTC) vs Allahabad Bank (AIR 1977 Cal. 363)
12. Bihta Co-operative Development and Cane Marketing Union Ltd. vs bank of Bihar (AIR 1967 Supreme Court 389).
13. Brahammaya vs. K.P. Thangavelu Nadar, AIR (1956), Madras 570
14. Brahma Shumshere Jung Bahadur vs Chartered Bank of India, Australia and China (AIR 1956 Cal. 399)
15. Canara Bank vs. Canara Sales Corporation and Others (AIR 1987 SC 1603)

**Learning Outcomes:**

After undergoing this course you will be able to :

1. Understand the banking system and their regulations.
2. Compare the different nature of regulations for different types of banks and also analyse their needs and values.
3. Appreciate the law relating to negotiable instruments and also understand the various judicial and legislative perspectives.
4. Understand the different aspects of Banker customer relationship.
5. Ascertain the various issues and challenges pertaining to Modern Banking and related technology.

# **INTERNATIONAL LAW AND INTELLECTUAL PROPERTY RIGHTS**

## **PRIVATE INTERNATIONAL LAW (CONFLICT OF LAWS)**

### **Objectives of the Course:**

*Private International Law (or) Conflict of Laws comes into play whenever a court or tribunal is faced with a case that contains a “foreign” element and adjudicates the following queries: (i) which court will have jurisdiction to decide the case? (ii) Which law will apply? (iii) How far it recognizes and enforces foreign judgments? (iv) At what extent, a company structures its cross border transactions? (v) With the strong social / cultural dimension, to what extent the States can regulate matters beyond their own borders? The subject gives students the opportunity to grapple with contemporary legal debates and issues in conflict of laws.*

### **COURSE OUTLINE**

#### **Module – I: Genesis of Private International Law**

- (a) Introduction – Nature and Scope – Relationship between International Commercial Law, labour and Private International Law – Foreign Element – Operating areas – Extra Territorial Jurisdiction
- (b) Theories of Private International Law – Codification of Private International Law – Hague Conventions – UNCITRAL – International Institute for the Unification of Private Law (UNIDROIT)
- (c) Indian Scenario: Unitary and Federal features – Heterogeneous Society and Personal Laws – Conflicts in Personal Laws – Application of Customs and Usages – Expanding horizons of Private International Law.

#### **Module – II: Choice of Law and its Jurisdiction, Characterisation and Renvoi**

- (a) Choice of Law: Traditional and Modern Approaches – Substantial and Procedural aspects – Parties autonomy and their limitations
- (b) Jurisdiction of the Courts – Inherent Powers of the Court – Brussels Convention, Lugano Convention - Characterisation: Clearly inappropriate test, clearly appropriate test and traditional test
- (c) Doctrine of Renvoi and its kinds – Limitations.

### **Module – III: Conflict of Laws relating to Persons:**

- (a) Residence: Domicile and its Nature and Status – *lex domicilii*, *lex fori*, *lex patriae* – Concept of Domicile in India – Kinds of Domicile: Origin, Choice and Dependence (b) Citizenship –Vs– Nationality –Vs– Habitual Residence
  - (c) Corporate Personality – Nature and its conflicting rules
- Module – IV: Conflict of Laws relating to Family:**

- (a) Personal laws - Marriage – Formalities - Validity of Marriage – *lex loci celebrationis* and *lex regit actum* – Polygamous marriages – Matrimonial Home
- (b) Conflict in Matrimonial regime: Divorces, Separations and Annulments – Matrimonial Causes and Alimony – Custody of Children – Child care, Child abduction and Child Adoption – Succession – Overview of “The Foreign Marriage Act, 1969”
- (c) Public Policy and Contemporary issues related to Surrogacy, NRI and LGBT.

### **Module – V: Conflict of Laws related to Contracts and Torts (Action in Personam)**

- (a) Proper Law of Contract – Capacity to Contract – *lex domicilii*, *lex loci contractus*, *lex fori* – Rome Convention – Domestic and International Prorogation – Party Reference and Incorporation – Application of Proper Law – Choice of Law, Party Autonomy, Public Policy – E-Contracts.
- (b) Law of Tort – Traditional and Modern Approach – Rome Convention – *lex fori*, *lex loci delicti commissi*
- (c) Proper law of tort and social environment – Tortious liability with respect to Drugs, Environment, Transport and Satellite Communication – Exceptions and Limitation.

### **Module – VI: Conflict of Laws related to Property**

- (a) *Lex situs* principle and Property – Classification of Property – Movable and Immovable
- (b) Choice of law and Indian scenario – *lex fori* and *lex solutionis* – Government Seizure of Property
- (c) Transfer of Tangible and Intangible Property – Wills and Intestacy — Administration of Estates and Trusts – Insolvency and Restitution – Right of Succession.

### **Module – VII: Conflict of laws related to Procedure and Evidence**

- (a) Proof of Foreign Law – Substance and Procedure – Parties and service of process – Evidence – remedy

- (b) Sovereign and Diplomatic Immunity: Foreign State and Foreign Diplomat – Recognition and Enforcement of Foreign Judgements, Decrees, Arbitral Awards and its reciprocity
- (c) Conflicting rules related to Cyber Space and Intellectual Property Rights: Issues and remedies – Indian Scenario.

### **Recommended Readings:**

#### **Books**

1. Cheshire and North, “Private International Law”, 2017, 15<sup>th</sup> Edition, Oxford
2. Clarkson and Hill’s “Conflict of Laws”, 2016, Oxford.
3. Dicey, Morris & Collins, “The Conflict of Laws”, 2107, 15<sup>th</sup> Edition, Sweet and Maxwell.
4. F.E. Noronha, “Private International Law in India”, 2015, Universal Law Publishing.
5. Paras Diwan, “Private International Law”, 4<sup>th</sup> Edition, 1998, Deep & Deep Publishing.

#### **FURTHER READINGS:**

1. G.P. Tripathi, “Conflict of Laws”, 2015, 1<sup>st</sup> Edition, Allahabad Law Agency.
2. V.C. Govindaraj, The Conflict of Laws in India: Inter-Territorial and Inter-Personal Conflict”, 2011, Oxford.
3. Mukarrum Ahmed, “The Nature and Enforcement of Choice of Court Agreements”, 2017, Hart Publishing.
4. Alex Mills, “Party Autonomy in Private International Law”, 2018, Cambridge.
5. Peter Hay, “Advanced Introduction to Private International Law and Procedure”, 2018, Edward Elgar Publishing.
6. Adrian Briggs, “Agreements on Jurisdiction and Choice of Law”, 2008, Oxford.
7. Maria Kaurakova, “Private International Law of Corporations”, 2017, Spiramus Press.

#### **E-JOURNALS with ARTICLES and WEBSITE sources**

1. Hessel E. Yntema, “The Objectives of Private International Law”@ 35 Can.B.Rev.721(1957)
2. Joseph M. Cormack, “Renvoi, Characterisation, Localisation and Preliminary Questions in the Conflict of Laws: A Study of Problems involved in determining whether or not the Forum should follow its own Choice of a Conflict of Law Principle”, 14 Southern California Law Review, 1940, pp.221-275 @ <http://scholarship.law.wm.edu/facpubs/1490>

3. Ralf Michaels & Joost Pauwelyn, "Conflict of Norms or Conflict of Laws?: Different Techniques in the Fragmentation of Public International Law", 22 Duke Journal of Comparative and International Law 349 (2011-2012).
4. John Robb, "Personhood and Status of Legal Persons in Private International Law", Journal of Private International Law, 2019, Volume 15, Issue 2, Taylor and Francis Group @ <https://doi.org/10.1080/17441048.2019.1645974>.
5. Matthias Lehmann, "Regulation, Global Governance and Private International Law: Squaring the Triangle", Journal of Private International Law, 2020 Volume 16, Issue 1, @ <https://doi.org/10.1080/17441048.2020.1744255>.
6. Sharon Shakargy, "Choice of Law for Surrogacy Agreements: In the in-between of Status and Contract", Journal of Private International Law, 2020, Volume 16, Issue 1, @ <https://doi.org/10.1080/17441048.2020.1741121>.
7. Jack Goldsmith, "Sovereign Difference and Sovereign Deference on the Internet", The Yale Law Journal, 2019, Volume 128 @ <https://www.yalelawjournal.org/forum>.
8. William S. Dodge, "Extraterritoriality and Conflict of Laws Theory: An Argument for Judicial Unilateralism, Harvard International Law Journal, 1998, Volume 39, p.101 @ <https://heinonline.org/HOL/LandingPage?handle=hein.journals/hilj39&div=7&id=&page=>
9. Friedrich K. Juenger, "Conflict of Laws: A Critique of Interest Analysis", American Journal of Comparative Law, 1984, Volume 32, No.1, pp.50, Oxford University Press
10. Donald Earl Childress III, "Comity as Conflict: Resituating International Comity as Conflict of Laws" @ 44 U.C. Davis Law Review 11 (2010-2011)

### **Learning Outcomes:**

After completing these modules successfully, the students are able –

1. To demonstrate the conceptual necessity, contextual inevitability and the legal adaptability of trans-national transactions.
2. To critically appraise the compelling influence of different personal factors over beyond the boundaries transactions.
3. To know the worn-out deliberation on the most crucial aspect affecting the frontier activities.
4. To discuss the desirability and effectiveness of sovereign immunity and impact of foreign judgments.
5. To analyse and comprehend the complex issues arising out of trans-national matrimonial relationships; horizons of contract, tort, and property beyond domestic frontiers.
6. To demonstrate knowledge of a substantial range of major concepts, values, principles and rules of conflict of laws and explain the relationship between them in specified areas.
7. To discover the substantive and procedural aspects of litigation at the global levels.

## **(B): CONSTITUTIONAL LAW AND PROPERTY LAW**

### **LAW OF ELECTION**

*This course has been designed so as to provide with understanding of practices relating to election and electoral procedure prevailing in India, which is considered as mother of democracy. It also enables the student to understand the constitutional basis, the constitutional differences and practices in the process of electing important heads and institutions of constitutional wings such as the head of the executive and the head of the legislature. In addition to this, this paper will throw light to what extent the constitution has empowered their respective citizen as truly sovereign of the country. After undergoing the study, the student will be able to understand the following*

- 1. Election law and the diversity of electoral institutions and arrangements.*
- 2. Procedural aspects of holding elections under various Constitutions.*
- 3. Effectiveness of Election law as the means to articulate, deliver and regulate the democratic rights.*
- 4. Role of Judiciary in adjudication of Election Disputes.*

### **Module I Introduction to Election Laws**

- a. Different forms of government - Democracy- its philosophy, evolution and historical necessities.
- b. Impact of political situation and spread of democracy.
- c. General principles of elections.- History and evolution of electoral systems.
- d. Presidential and parliamentary forms of government.
- e. Types of Elections- Direct and Indirect - Various elections and Ballots - Secret and open ballot systems.

### **Module II Constitutional Basis and Prospects**

- a. Indian Constitution and Elections - Election Commission of India and Commissioners.
- b. Election of President and Vice President -Presidential and Vice-Presidential Election Act, 1952.
- c. Reservation in Elections - Reservation for social empowerment - issues and prospects.
- d. State Election Commissions and State election Commissioner
- e. Conduct of Municipal, Cooperative and other Elections

### **Module III Delimitation and Election Machinery**

- a. Delimitation and census -Gerrymandering in the Indian context and for Reforms needed in delimitation.
- b. Census and emerging issues - Electoral roll Preparation, revisions, and corrections of electoral rolls.
- c. Role of election Commission in Delimitation and in the preparation of electoral rolls.
- d. Designation and formation of election machinery – Process of Selecting Officials.

### **Module IV Political Parties and Funding**

- a. Recognition of Political Parties in the Constitution -Statutory Provisions for Political Parties.
- b. Registration and Recognition of state and national Political Parties

- c. Funding Elections - Entitlement to receive Contributions - Corporate funding of political parties - Role of Black Money - Electoral Bonds and their legitimacy.
- d. Submission of accounts and auditing process - lack of transparency in the public domain -  
History of Symbols - Allotment of symbols
- e. Hate Speech – Art 19 (1) (a)

## **Module V Qualification of Candidates and Conduct of Elections**

- a. Qualifications and disqualifications of candidates - Constitutional provisions and Statutory provisions.
- b. Right to Vote and Right to Contest
- c. Notification of Elections - Nominations, scrutiny and withdrawal of nominations - Election agents and their role - Postal Ballot - Voting rights for NRIs - Home polling - EVMs.
- d. Criminalisation of Politics - Impersonation and defamation – Prevention of Corruption
- e. Election Petitions – Tenth Schedule

## **Module VI Emerging Issues in Electoral Rights**

- a. Gender issues in Elections - Electoral participation as a Human right.
- b. International instruments related to Equal Participation - Best Practices for inclusiveness.
- c. Conduct of elections - Implementation of SVEEP
- d. Election Manifestoes - Issue of Freebies - Guidelines and the role Judiciary.
- e. Corrupt Practices and Electoral Offences –Lokpal and Lokayukta

## **Module VII Global Electoral Practices and Emerging Issues**

- a. Civil Society Organisations and Electoral practices - Media and elections (Polls/ paid news/ fake news etc.
- b. Digital ecosystem and manipulation of elections –Role of Political Consultancies – Case Study of IPAC.
- c. Elections in UK, France, US – Elections to EU Forums
- d. Comparative Elections Laws – Elections for Constitutional Process- Functioning of electoral systems in other countries and use of referendums (Africa and Australia)

### **Texts for reference**

1. The Constitution of India, 1950
2. The Presidential and Vice-Presidential Elections Act, 1952
3. The Representation of the People Act, 1950
4. The Representation of the People Act, 1951
5. The Delimitation Act, 2002
6. Conduct of Election Rules, 1961
7. Election Symbols (Reservation and allotment) Order, 1968
8. Model code of conduct from the notifications from the official website of ECI
9. The Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991



10. The Indian Penal Code, 1860
11. The Parliament (Prevention of Disqualification) Act, 1959

#### **Reports**

1. The Goswami Committee Report on Electoral Reforms, 1990
2. The Vohra Committee Report on Criminalisation of Politics, 1993
3. 170th Report of the Law Commission on Electoral Laws, 1999

#### **Books for reference**

1. V.S. Rama Devi and S.K. Mendiratta, **How India Votes – Election Laws, Practice and Procedure** (4th ed., 2017).
2. Kiran Gupta and P.C. Jain, *Chawla's Elections - Law & Practice* (9th ed., 2009)
3. *The Verdict*- Co-authored by Mr. Prannoy Roy
4. *March to democracy—Compilation* By Shri.S.Y.Qureshi
5. *How to win Elections in India*- Shiv Shankar
6. P .Rathinswamy *laws od elections* lexis nexis
7. *India TherdhalVaralaaru* in Tamil by Mr. **MuthuKumar**
8. **How India Votes , Pradeep Gupta, Juggernaut books, 2021**

#### **Case laws:**

1. N.P. Ponnuswami v. The Returning Officer, Namakkal Constituency, AIR 1952 SC 64 1
2. Mohinder Singh Gill v. Chief Election Commissioner, New Delhi, AIR 1978 SC 851
3. Election Commission of India through Secretary v. Ashok Kumar, AIR 2000 SC 2979
4. Manohar Joshi v. Nitin Bhaurao Patil, AIR 1996 SC 796
5. Ramesh yeshwant Prabhoo V Prabakar Kashinath Kunte
6. S.R. Bommai V Union of India
7. Jyothi Basu V Debo Ghosal
8. Meghraj Kothari V Election Commission of India
9. Indian National Congress V Institute of Social Welfare AIR 2002 SC 2158
10. Kuldip Nayar V Union of India
11. Jaya Bachchan V Union of India
12. B.R. Kapur V State of Tamil Nadu
13. Kihoto Hollohon V Zahillu AIR 1993 SC 412
14. Ravi.S.Naik V Union of India AIR 1994 SC 1558
15. G. Viswanathan V Hon'ble Speaker Tamil Nadu State Assembly
16. Balachandra L. Jarkiholiv V Yediyurappa (2011) 7 SCC 1
17. Shrimanth Balsaheb Patil V Hon'ble Speaker, Karnataka Legislative Assembly
18. Union of India v. Association for Democratic Reforms, (2002) 5 SCC 294
19. People's Union for Civil Liberties (PUCL) v. Union of India, AIR 2003 SC 2363 322
20. Resurgence India v. Election Commission of India, 2013 (11) SCALE 348 342
21. LokPravah v. Union of India, (2018) 4 SCC 69

## **(C): CRIMINAL LAW AND FORENSIC SCIENCE**

### **VICTIMOLOGY**

#### **Objectives of the Course:**

*Studying victimology is of significant importance because it sheds light on the experiences, needs, and rights of crime victims. Through the study of victimology, one can gain a better understanding of the impact that crime has on individuals and society as a whole. It provides insights into the physical, emotional, and psychological effects that crime victims may suffer, and the ways in which society can respond to those effects. Victimology also plays an essential role in shaping criminal justice policy, by highlighting the need for victim-centered approaches that prioritize the safety and well-being of victims. Furthermore, the study of victimology can contribute to the development of effective prevention strategies, by identifying risk factors that make individuals more vulnerable to victimization. It can also inform the creation of support services for victims, by identifying their needs and the barriers they face in accessing services. Additionally, victimology promotes the concept of restorative justice, which focuses on repairing harm and addressing the needs of victims, offenders, and the community as a whole. Overall, studying victimology is crucial in creating a more just and equitable society, one that prioritizes the rights and well-being of all its members, including those who have been victimized by crime.*

***After undergoing the study the student will be able to understand the following:***

- *Students will develop an understanding of the physical, emotional, and psychological effects of victimization on individuals and their families.*
- *Students will gain an understanding of the various theories and research methodologies used in victimology.*
- *Students will become familiar with the different types of victim services available to victims of crime, including crisis intervention, counseling, and legal assistance.*
- *Students will develop an understanding of the legal rights of victims, including the right to be heard in court, the right to compensation, and the right to privacy.*
- *Students will learn about the principles and practices of restorative justice, including the importance of repairing harm and addressing the needs of victims, offenders, and the community as a whole.*

### **COURSE OUTLINE**

#### **Module I: Introduction to Victimology**

- a. Definition of victimology
- b. Historical evolution of victimology as a discipline
- c. Importance of victimology in criminal justice system

#### **Module II: Theories of Victimology**

- a. Victim precipitation theory
- b. Lifestyle theory
- c. Routine activities theory
- d. Critical victimology
- e. Feminist victimology

### **Module III: Types of Victims**

- a. Primary, secondary, and tertiary victims
- b. Victim typologies: physical, emotional, financial, social, and sexual victims
- c. Special categories of victims: children, elderly, disabled, and LGBTQ+

### **Module IV: Victim Services and Support**

- a. Victim services in the criminal justice system
- b. Crisis intervention and trauma care for victims
- c. Legal aid and compensation for victims
- d. Victim advocacy groups and community support

### **Module V: Victim-Offender Mediation and Restorative Justice**

- a. Concept and principles of restorative justice
- b. Victim-offender mediation and dialogue
- c. Restorative justice programs in criminal justice systems
- d. Criticisms and challenges of restorative justice

### **Module VI: Victim Rights and Empowerment**

- a. International and national laws protecting victim rights
- b. Rights of victims in criminal proceedings
- c. Empowerment of victims through participation and representation
- d. Restitution and restoration of victim dignity and well-being

### **Module VII: Comparative Victimology**

- a. Comparison of victimology in different countries
- b. Cultural and social factors influencing victimization
- c. International policies and approaches to victimization
- d. Case studies of victimization in different countries

### **Module VIII: Emerging Issues in Victimology**

- a. Cyber victimization and cybercrime
- b. Human trafficking and modern slavery
- c. Terrorism and its impact on victims
- d. Intersectionality and victimization
- e. Future directions in victimology research and practice

### **Recommended Reading**

#### **Books**

1. Karmen, A. (2018). *Crime victims: An introduction to victimology*. Cengage Learning.
2. van Dijk, J. J. M., van Kesteren, J. N., & Smit, P. (2010). *Criminal victimization in international perspective, key findings from the 2004-2005 ICVS and EU ICS*. Boom Legal Publishers.
3. Walklate, S. (2017). *Understanding criminal victimization: An introduction to victimology*. Routledge.
4. Daly, K. (2011). *Restorative justice: The real story*. Routledge.

5. Hoyle, C., & Young, R. (Eds.). (2002). *New visions of crime victims*. Hart Publishing.

#### **Journals/ Articles**

1. Fattah, E. A., & Sacco, V. F. (1989). *For victims of crime: Rights, remedies, and referrals*. Carswell.
2. Gavrielides, T. (2014). Victimology: A brief history and future issues. *Victims & Offenders*, 9(1), 1-15.
3. Goodey, J. (2005). *Victims and victimology: Research, policy and practice*. Pearson Education.
4. Groth, A. N., & Burgess, A. W. (1979). Male rape: Offenders and victims. *American Journal of Psychiatry*, 136(7), 828-832.
5. Hudson, B. (1993). *Justice through conciliation: The victim-offender mediation movement*. Carolina Academic Press.

#### **Further Reading**

##### **Books**

1. Herman, J. L. (2015). *Trauma and recovery: The aftermath of violence—from domestic abuse to political terror*. Hachette UK.
2. Koss, M. P., & Harvey, M. R. (Eds.). (2014). *The sexual assault of women: Clinical, legal and psychological issues*. Routledge.
3. Goodey, J. (2012). *Victims and victimology: Research, policy and practice*. Pearson Higher Ed.
4. Miers, D. (2001). *Victims, crime and society*. Sage Publications Ltd.
5. Elias, R. (2019). *The politics of victimhood: Human rights, identity and justice*. Oxford University Press.
6. Daly, K. (2017). *Critical criminology and the victimisation of women: A feminist perspective*. Routledge.
7. Davies, P., & Francis, P. (2017). *Victims, crime and justice*. Routledge.
8. Shapland, J. (2016). *Justice, victims and retribution*. Routledge.
9. Hoyle, C., & Sanders, A. (2014). *Criminal justice and political cultures: National and international dimensions of crime control*. Oxford University Press.
10. Mawby, R. C. (2012). *Policing across the world: Issues for the twenty-first century*. Routledge.

#### **Journals/ Articles**

1. Karmen, A. (2016). *Crime victims: An introduction to victimology*. Cengage Learning.
2. Koss, M. P. (1993). Detecting the scope of rape: A review of prevalence research methods. *Journal of Interpersonal Violence*, 8(2), 198-222.
3. Miers, D. (1989). *Victims: A sociology of victims and victimization*. Taylor & Francis.
4. Miller, T. (1973). The victimization of women: A critique of the sociology of rape. *Victimology*, 7(1-4), 66-75.
5. Roberts, A. R. (Ed.). (1990). *Helping crime victims: Research, policy and practice*. Sage Publications.

6. Schafer, S. (2014). The development of victimology as a field of study. *Victims & Offenders*, 9(1), 16-29.
7. Spalek, B., & Davies, P. (2010). *Understanding terrorism: Challenges, perspectives, and issues*. Prentice Hall.
8. van Dijk, J. J., van Kesteren, J. N., & Smit, P. (2008). *Criminal victimization in international perspective: Key findings from the 2004-2005 ICVS and EU ICS*. Boom Legal Publishers.
9. Walklate, S. (2017). *Understanding victimology: An active learning approach*. Routledge.
10. Tyrone Kirchengast (2005), *International Review of Victimology*, Victimology and human rights: An examination of the scope and nature of victimology as a human rights concern.

#### **Cases for Guidance**

1. R v. Mills, [1999] 3 SCR 668
2. Payne v. Tennessee, 501 U.S. 808 (1991)
3. R v. Darrach, [2000] 2 SCR 443
4. R v. O'Connor, [1995] 4 SCR 411
5. State of Maharashtra v. Madhukar N. Mardikar, AIR 1991 SC 207
6. R v. Magoon, [1997] 2 SCR 985
7. State of Punjab v. Gurmit Singh, AIR 1996 SC 1393
8. R v. Gagnon, [2006] 1 SCR 621
9. State of U.P. v. Ram Swarup, AIR 1974 SC 1576
10. R v. Fice, [2005] 3 SCR 539
11. State of Rajasthan v. Jaggu, AIR 1997 SC 2028
12. R v. Truscott, [2007] 2 SCR 392
13. John Doe v. Metropolitan Toronto (Municipality) Commissioners of Police, [1990] 2 SCR 129
14. R v. Lavallee, [1990] 1 SCR 852
15. R v. St. Cloud, [2015] 2 SCR 328
16. Osolin v. Denmark, App No 11/1993/404/484 (European Court of Human Rights, 24 September 1996)
17. R v. Mills, [1999] 3 SCR 668
18. Ilechukwu v. Canada (Minister of Citizenship and Immigration), 2003 SCC 25
19. King v. Warhaft, [1966] SCR 339
20. R v. Ruzic, [2001] 1 SCR 687

#### **Learning Outcomes**

- Knowledge of the arrest, bail and remand procedures under the Criminal Procedure Code.
- Understanding of the investigation procedures and the powers of the police in collecting evidence.
- Familiarity with the procedures for framing charges and conducting criminal trials.
- Understanding of the procedures for pronouncing judgments and the types of punishments that can be awarded.
- Knowledge of the procedures for executing sentences and the provisions for the suspension and review of judgments.

## **(d): INDUSTRIAL AND COMMERCIAL LAW**

### **INTERNATIONAL COMMERCIAL ARBITRATION**

#### **Objectives of the course:**

*Arbitration is a suitable instrument to settle and solve international commercial disputes that arrive at a final and binding award. It is a universally admitted dispute resolution mechanism which furnishes an enforceable award. The objective of the course is to cater a fundamental outlook on the vital themes of international commercial arbitration. The course places utmost significance on arbitration of international commercial disputes. The course shall provide the students with a pragmatic vision of strategic obstacles arising out of the international arbitration proceedings.*

*After undergoing the study of this paper the student should be able to understand the following;*

- 1. Able to understand the basic aspects of International Commercial Arbitration.*
- 2. Understand the concept of agreements related to International Commercial Arbitration.*
- 3. Gain an understanding of international commercial arbitration in the Indian context including international commercial arbitration held both in India and outside India;*
- 4. Analyse the various issues related to enforcement of foreign arbitral awards.*
- 5. Pros and cons of arbitration as a tool for resolving cross-border commercial disputes.*

### **COURSE OUTLINE**

#### **Module I: Introduction to International Commercial Arbitration**

- a) Concept and Nature - Sovereign States, Claims Commissions, and Tribunals.
- b) Hybrid nature of Arbitral Process - Dispute Resolution in International Trade – Regulation of International Arbitration
- c) Regulation of International Arbitration – Kinds of Arbitration – Review.

#### **Module II : Arbitration agreement & Validity of Arbitration Agreement**

- a) Overview - the validity of an Arbitration Agreement –
- b) Parties to an Arbitration Agreement - Analysis of an Arbitration Agreement - Submission Agreement – Arbitrability.
- c) Confidentiality – Confidentiality - Defective Arbitration Clauses - Multi-Party Arbitrations – Review.

### **Module III : Arbitrators and Applicable Laws**

- a) Meaning - Appointment of Arbitrators - Qualities Required in International Arbitrators - Impartiality and Independence of Arbitrators - Challenge and Replacement of Arbitrators.
- b) Powers of Arbitrators - Duties of Arbitrators – Jurisdiction – Review ‘
- c) Law Governing the Agreement to Arbitrate - Law Governing the Arbitration - Law Applicable to the Substance - Conflict Rules and the Search for the Applicable Law – Other Applicable Rules and Guidelines – Challenges.

### **Module IV: Nature and Categories of Arbitration**

- a) Overview - Investment Arbitration – Construction – Maritime – Sports – IPR – *Ad hoc* Arbitration.
- b) Institutional Arbitration - Organisation of the Arbitral Tribunal - Fees and Expenses of the Arbitral Tribunal - Procedure & Evidence - Preliminary Steps - Written Submissions - Evidence Gathering - Hearings - Proceedings after the Hearing - Other Matters.

### **Module V: Arbitral Award**

- a) Overview - Categories of Awards – Remedies- Validity of Awards - Effect of Awards—  
Res Judicata- Decision Making –
- b) Classification of Award – Review of Award – Challenge - Methods of Challenge – Grounds of Challenge - Time Limits and Effects of Challenge.
- c) Recognition and Enforcement - Enforcement under the New York Convention - Enforcement under the Washington Convention - Enforcement under Regional Conventions - Defence of State Immunity - Practical Considerations.

### **Module VI: Soft Laws on Arbitration**

- a) General Overview
- b) IBA Guidelines on Conflicts of Interest in International arbitration – IBA Guidelines on Party Representation in International Arbitration - IBA Rules on the Taking of Evidence in International Arbitration .
- c) IBA Guidelines for Drafting International Arbitration Clauses

### **Recommended Readings:**

#### **Books:**

1. A.K Bansal, Law of International Commercial Arbitration, Universal Law Publishing, 2003.
2. Margaret L. Moses, The Principles and Practice of International Commercial Arbitration, 2<sup>nd</sup> Edition, Cambridge University Press, 2012.
3. Gary B. Born, International Arbitration: Cases and Materials, 2<sup>nd</sup> Edition, Kluwer Law International, 2015.
4. Gary B. Born, International Commercial Arbitration, 2<sup>nd</sup> Edition, Kluwer Law International, 2014.
5. Emmanuel Gaillard, John Savage (eds.), *Fouchard Gaillard Goldman on International Commercial Arbitration*, Kluwer Law International, 1999

### **Journal Articles:**

1. The Lex Mercatoria in International Commercial Arbitration, Ole Lando, The International and Comparative Law Quarterly Vol. 34, No. 4 (Oct., 1985), pp. 747-768 Published by: Cambridge University Press on behalf of the British Institute of International and Comparative Law <https://www.jstor.org/stable/759197>
2. Christopher R Darhozal, Commercial Norms, Commercial Codes, and International Commercial Arbitration 33 Vand. J. Transnat'l L. 79 (2000)
3. Park, W. (1983). The Lex Loci Arbitri and International Commercial Arbitration. International and Comparative Law Quarterly, 32(1), 21-52. doi:10.1093/iclqaj/32.1.21
4. Paulsson, J. (1983). Delocalisation of International Commercial Arbitration: When and why it Matters. International and Comparative Law Quarterly, 32(1), 53-61. doi:10.1093/iclqaj/32.1.53
5. Catherine A Rogers 54 U. Kan. L. Rev. 1301 (2005-2006) Transparency in International Commercial Arbitration

### **Further Readings:**

### **Books:**

1. International Commercial Arbitration, Gary B.Born, Wolters Kluwer 2nd edition. 1,2,3 volumes
2. International Commercial Arbitration - A Trans National Perspective, Tibor Varada; John J. Hareelo; Arthur T Von, Thomson west 3<sup>rd</sup> edition



3. Handbook on International Commercial Arbitration, Peter Ashford, Jurisnet LLC, 2<sup>nd</sup> edition
4. International Commercial Arbitration and Arbitrators' contract - Emilia Onyema, Routledge Publishers
5. International Commercial Arbitration in Asia - Thomas B Ginsburg, Juris Net LLC 2<sup>nd</sup> edition
6. Law and practice of International Commercial Arbitration by Alan Redfern, Sweet & Maxwell
7. International Commercial Arbitration: Commentary and Materials by Gary Born Martinus Nijhoff; 2<sup>nd</sup> edition (February 1, 2001)
8. Combining Mediation and Arbitration in International Commercial Dispute Resolution by Dilyara Nigmatullina, Routledge
9. The Principles and Practice of International Commercial Arbitration by Margaret L. Moses, Cambridge University Press
10. Arbitration of Commercial Disputes: International and English Law and Practice by Karen Tweeddale, Andrew Tweeddale, Cambridge University Press

**Journals:**

1. Paolo Contini 8 Am. J. Comp. L. 283 (1959) International Commercial Arbitration: The United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards
2. Philip J McConaughay 93 Nw. U. L. Rev. 453 (1998-1999) Risks and Virtues of Lawlessness: A Second Look at International Commercial Arbitration
3. Hans Smit 25 Colum. J. Transnat'l L. 9 (1986-1987) The Future of International Commercial Arbitration: A Single Transnational Institution
4. W. Michael Tupman Challenge and Disqualification of Arbitrators in International Commercial Arbitration The International and Comparative Law Quarterly Vol. 38, No. 1 (Jan., 1989), pp. 26-52 Published by: Cambridge University Press on behalf of the British Institute of International and Comparative Law  
<https://www.jstor.org/stable/760425>

5. Filip De Ly 12 Nw. J. Int'l L. & Bus. 48 (1991-1992) The Place of Arbitration in the Conflict of Laws of International Commercial Arbitration: An Exercise in Arbitration Planning
6. Jasna Arsic 14 J. Int'l Arb. 209 (1997) International Commercial Arbitration on the Internet - Has the Future Come Too Early
7. Peter D Ehrenhaft 9 Law & Pol'y Int'l Bus. 1191 (1977) Effective International Commercial Arbitration
8. Jamess M. Hosking 4 Pepp. Disp. Resol. L.J. 469 (2003-2004) The Third-Party Non-Signatory's Ability to Compel International Commercial Arbitration: Doing Justice without Destroying Consent
9. S.I. Strong Research in International Commercial Arbitration: Special Skills, Special Sources the American Review of International Arbitration, Vol. 20, p. 119, 2009 University of Missouri School of Law Legal Studies Research Paper No. 2010-15
10. 25 Colum. J. Transnat'l L. 717 (1986-1987) The Enforcement of Arbitral Awards under UNCITRAL's Model Law on International Commercial Arbitration

#### **Cases for Guidance:**

1. Henry Boot Construction Ltd. v. Malmaison Hotel, [1999] 70 Con LR 32
2. General Manager, Northern Railways v. Sarvesh Chopra, AIR 2002 SC 1272 (Supreme Court of India (SC))
3. Asian Techs Ltd. v. Union of India, (2009) 10 SCC 354 (SC)
4. Obrascon Huarte Lain SA v Her Majesty's Attorney General for Gibraltar, [2014] EWHC 1028 (TCC)
5. Esso and others v. Plowman (1995) 128 A.L.R. 391
6. Barmenco Indian Underground ... vs Hindustan Zinc Limited on 20 July, 2020 HIGH COURT OF JUDICATURE FOR RAJASTHAN
7. Trammo Dmcc (Formerly Known As ... vs Nagarjuna Fertilizers And ... on 9 October, 2017, HC BoMbay

8. International Tank & Pipe SAK v Kuwait Aviation Fuelling Co KSC (1975)
9. Jivraj v Hashwani [2010] EWCA Civ 712.
10. Mxrsk Olie, Algeriet A/S v. People's Democratic Republic of Algeria, ICSID Case No. ARB/09/14 (registered July 20, 2009).
11. Standard Chartered Bank (Hong Kong) Ltd. v. Tanzania Elec. Supply Co. Ltd., ICSID Case No. ARB/ 10/20 (registered on Oct. 1, 2010).
12. Millicom Int'l Operations B.V. v. Republic of Senegal, ICSID Case No. ARB/08/20, Award (Nov. 27, 2012).
13. Patrick Mitchell v. Democratic Republic of the Congo, ICSID Case No. ARB/99/7, Award (Feb. 9, 2004)
14. Russell Res. Int'l Ltd. v. Democratic Republic of the Congo, ICSID Case No. ARB/04/11 (discontinued on Feb. 10, 2009).
15. Cruz City 1 Mauritius Holdings v. Unitech Limited 2017 SCC OnLine Del 7810

### **Learning outcomes:**

At the end of the course the students will be able to -

1. *Acquire knowledge on arbitration as a dispute settlement mechanism in international commercial disputes.*
2. *Analyse the forms and important aspects of International Commercial Arbitration.*
3. *Assess the cooperation between Arbitration and National Judicial Systems.*
4. *Compare and understand the relationship between UNCITRAL Model Law and International Commercial Arbitration.*

## **(a) : INTERNATIONAL LAW AND INTELLECTUAL PROPERTY RIGHTS**

### **INTELLECTUAL PROPERTY LITIGATIONS**

#### **Objectives of the Course**

*This course is intended to teach the application of law in terms of court's principles and procedures exclusively for deciding intellectual property cases. Most significantly, in deciding Intellectual property cases both Supreme Court and High Courts in India are apparently following foreign judgements in many occasions. Intellectual property laws confer monopoly to the owners of intellectual property so the enforcement of intellectual property rights is getting more crucial.*

*The main objective of the course is-*

- a. to impart practical perspective of IPR enforcement mechanism by discussing various tests, rules and procedures laid down by the courts in case of infringement of IPRs.*
- b. to teach international and cross border litigations of intellectual property rights.*

#### **COURSE OUTLINE**

##### **Module 1 Litigation Relating to Copy rights and Industrial Designs**

- a) Copy right infringement- Acts constituting infringement- Direct infringement and indirect infringement (Vicarious liability and Contributory liability)
- b) Jurisdiction of the court -idea/expression dichotomy-abstraction test-Lay observer test  
-Infringement of Neighbouring rights –Infringement of Moral rights –Online Copyright Piracy-Peer to peer technology-liability of internet service provider
- c) Exception to Copyrighted work-Exhaustion of Copyrighted work -fair use/fair dealing-Test of transformation-Reverse engineering of Computer programme -  
Doctrine of staple articles-Doctrine of Copyright Misuse-
- d) Remedies-Criminal liability under anti circumvention law;
- e) Piracy of Design –Fraudulent or obvious imitation of design- Jurisdiction of the court – Remedies.

##### **Module II Litigation Relating to Patent and Trade Secret**

- a) Acts amount to infringement of patent-Jurisdiction of the Court –Claim interpretation or Construction(intrinsic and extrinsic aids)-Literal

infringement-Doctrine of Equivalents/Doctrine of Pith and Marrow-  
Exception to DOE-All element rule, doctrine of public dedication, existence  
of prior art-prosecution history estoppel

- b) limitation and exception-doctrine of first sale-parallel import-Bollar  
exception- Patent  
Misuse-Remedies;
- c) Infringement of trade secrets- breach of trust- Springboard doctrine.

### **Module III Litigation Relating to Trade Marks and Geographical Indications**

- a) Infringement of trademarks –jurisdiction of the court-Deceptive similarity-  
likelihood of confusion-Polaroid Factors-Concept of Dilution-Passing off and  
Reverse passing off Action
- b) Fair use of trademark-Comparative Advertisement-Counterfeit trademark-  
exhaustion of right in trademark-Remedies-functions of IPAB.
- c) Infringement of registered Geographical Indications- Special provision  
relating to Trademark and Prior user-Jurisdiction of the Court– Remedies.

### **Module IV- Enforcement of IPR under TRIPS Agreement**

- a) Prior to TRIPS Agreement –Berne Convention and Paris Convention-  
reference to  
International Court of justice
- b) TRIPS Provisions Articles 41 to 61 – Minimum standard protection – civil,  
Criminal  
& Administrative Remedies
- c) Dispute settlement mechanism –XXII and XXIII of GATT 1994-Violation,  
Non- Violation and Situation Complaints- Dispute Settlement Understanding  
(DSU) – Retaliation and cross-retaliation.

### **Module V: Cross–Border IPR Litigations**

- 1 Private International Law and Intellectual property law –Hague Convention on  
Choice of Court and Choice of law- Recognition and enforcement of foreign  
judgment-issues relating to administrative or judicial cooperation in  
collecting evidence- Brussels Convention – Cross border litigation under  
European Union Frameworks.

## **Recommended**

### **Readings Books:**

1. Arnaud Nuyts –International Litigation in Intellectual Property and Information Technology,(1<sup>st</sup> Ed.,) Wolters Kluwer, New York, 2008
2. Cornish and Llewelyn- Intellectual Property, 6<sup>th</sup> Ed. Sweet &Maxwell, 2007
3. V.K. Ahuja, Law Relating to Intellectual Property Rights ( Lexis Nexis) 2015
4. Elizabeth Verkey, Intellectual Property law and Practice ,Eastern Book Company, 2015
5. Taraporevala V J, Law of Intellectual Property,(2<sup>nd</sup> Edition) Thomason Reuters, 2013.
6. James J. Fawcett and Paul Torremans: Intellectual Property and Private International Law,2012, (oxford)

### **Journal/Articles:**

1. Mark A Lemley & R. Anthony Reese, Reducing Digital Copyright Infringement Without Restricting Innovation 56 Stan L. Rev 1345 (2004)
2. Ruth Okediji, Towards an International Fair Use Doctrine 39 Colum J. Transnat'l L. 75 (2000)
3. Andrew S. Brown, Amgen v. HMR: A Case for Deference in Claim Construction (2007) 20 Harv. JL Tech 479
4. Raj S Dave , A Mathematical Approach to Claim Elements and the Doctrine Of Equivalentents (2003) 16 Harv. J L Tech 508.
5. Hazel Carty, Dilution and Passing Off: Cause for Concern (1996) 112 LQR 632

## **Further Readings:**

### **Books:**

1. Graeme Austin: Private International Law and IPR Common Law : An Over View (2001),[https://www.wipo.int/edocs/mdocs/mdocs/en/wipo\\_pil\\_01/wipo\\_pil\\_01\\_5.pdf](https://www.wipo.int/edocs/mdocs/mdocs/en/wipo_pil_01/wipo_pil_01_5.pdf)
2. Copinger and Skomnes James on Copyright by Gillian Davies, Kevin Garnett, and Gwilym Harbottle(15<sup>th</sup> ed. 2005) Indian Reprint 2008
3. Rama Sarma, Commentary on Intellectual property Laws, Vol.2. Nagpur: Lexis Nexis Butterworths Wadhawa (2009)
4. Abbott, F., T. Cottier and F. Gurry (1999) The International Intellectual Property System: Commentary and Materials. The Hague, London and Boston, Kluwer Law International
5. Terrel on Patents, Sweet and Maxwell, London (1994)
6. Kerly's Law on Trademarks and Trade Names, Sweet and Maxwell. Wolters Kluwer (2015)
7. Russell Clarke, Industrial Design, Sweet and Maxwell, 9<sup>th</sup> Ed., (2016).
8. Julie E. Cohen and *Et al.*, Copyright in a Global Information Economy, Aspen Publisher, Wolters Kluwer, (2010)
9. Resource Book on TRIPS and Development, UNCTAD- ICTSD (2004)
10. John Cross, Global Issues in Intellectual Property Law- Cases and Materials, west Publisher (1<sup>st</sup> ed., ) 2010
11. Lemley, Menell, Merges and Samuelson, Software and Internet Law, (3<sup>rd</sup> Ed.,) Aspen Publishers, (2006).

### **Journals/Articles**

1. N S Gopalakrishnan, Administrative Remedies in Intellectual Property Protection under TRIPs and Indian Law: Border Control Measures 2000 CLC 1 (Jr) 23
2. Mabel Tsui, Access to Medicine and The Dangers of Patent Linkage: Lesson From Bayer Corp v. Union of India (2011) 18 Journal of Law and Medicine 577-88
3. Ron A Bouchard et al., Structure Function Analysis of Global Pharmaceutical Linkage Regulations (2011) 12 Minn J L Sci & Tech 391-457.
4. Peter S. Menell, Economic Implication of State Sovereign Immunity from Infringement of Federal Intellectual Property Rights, 33 Loy. L. A. L. Rev. 1399 (2000)
5. Pamela Samuelson & Tara Wheatland, Statutory Damages in Copyright Law: A remedy in Need of Reform 51 Wm & Mary L. Rev. 495 (2009)
6. Alan Latman, Probative Similarity as Proof of Copying: Towards Dispelling Some Myths in Copyright Infringement? (1990) Colum L. Rev 1187.
7. Adam V. Vickers, Comment, Peering Beyond Today's Internet File sharing Concerns: The Future of Bit Torrent Technology, 8 Tul. J. Tech & Intell. Prop. 133 (2006)
8. Neil Weinstock Netanel, Impose a Non Commercial Use Levy to Allow Free Peer to Peer File Sharing 17 Harv. J. L. & Tech 1 (2003)
9. Michael J Madison, A Pattern Oriented Approach to Fair Use, 45 Wm & Mary L. Rev 1525 (2004)
10. Pamela Samuelson & Suzanne Scotcher, The Law and Economics of Reverse Engineering, Yale L. J. 1575 (2002)

### **Cases for Guidance**

1. R. G. Anand v. Delux Films (1978) 4 SCC 118
2. Computer Associates International Inc v. Altai 982 F.2d 693 (3<sup>rd</sup> Cir 1992)
3. Kelly v. Arriba Soft Corp (2003)
4. Delhi University Photo Copying Case – The Chancellor Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services (2012)
5. Sega Enterprises Ltd v. Accolade Inc (1992)
6. A & M Records v. Napster Inc (2001)
7. Phillips v AWH Corporation (2005)
8. Larami Corp. v. Amron (1993)
9. Graver Tank v. Linde Air Products Co. 339 US 605 (1950)
10. Catnic Components Ltd v Hill & Smith Ltd (1982)RPC 183
11. Improver Corp. v Remington Consumer Products Ltd. (1990) FSR 181
12. Bajaj Auto Ltd v. TVS Motors Co Ltd (2008)
13. Monsanto v Nuziveedu (2019)
14. Britannia Industries Ltd v. Sara Lee Bakery AIR 2000 Mad 497
15. Erven Warnink v. J Townend & Sons Ltd (1979)
16. S M Dyechem Ltd., v Cadbury (India) Ltd (2000)
17. Cadila Health Care Ltd v Cadila Pharmaceutical Ltd (2001)
18. Scotch Whisky Assn., v Pravara Sahakar Shakar Karkhana Ltd AIR 1992 Bom 294
19. Syndicate of Press of University of Cambridge v B. D. Bhandari (2005) 31 PTC 58 (Del)

20. Kapil Wadhwa v. Samsung Electronics Co. Ltd (2012) 53 PTC 112 (Del)

### **Learning Outcome**

After completion of the course students will be able to –

1. Learn the practical application IP Laws
2. Examine different rules and tests laid down by the courts in different jurisdictions
3. Understand the interpretation of IP Laws
4. Discuss and learn about cross border IP litigations
5. Learn international IP enforcement mechanisms



## **(b) : CONSTITUTIONAL LAW AND PROPERTY LAW**

### **RERA AND TENANCY LAWS**

#### **Objectives of the Course:**

- 1. RERA is a most significant legislative measure to regulate the field of Real Estate Projects. It aims to regulate and promote the real estate sector by regulating the transactions between buyers and promoters of residential as well as commercial projects.*
- 2. Tenancy laws bring within its ambit the rules for residential and non-residential premises and further develop the policies to promote balanced rental housing. It is aimed at ensuring better access to housing opportunities, while alleviating fears of the house owners in granting tenancy rights and also establishes a better structure for enforcing rights and responsibilities of property owners and tenants.*
- 3. The Tenancy Laws includes building tenancy and law relating to cultivating tenants in the state of Tamil Nadu. This subject is most significant for civil side practice.*

### **COURSE OUTLINE**

#### **Module – I: Law Relating to Real Estate Regulation**

- Definitions – Registration of Real Estate Project and Registration of Real Estate Agents – Functions and Duties of Promoter- rights and duties of Allottees – The Real Estate Regulatory Authority – Central Advisory Council – The Real Estate Appellate Tribunal – offences and penalties
- Tamil Nadu Real Estate Regulatory Authority (General) Regulations, 2018.

#### **Module – II: Tenancy Laws in Tamil Nadu in relating to Buildings:**

Definitions - Tenancy – Rent – Obligations of Landlord and Tenant – Repossession of the Premises by the Landlord –Rent Authorities: Appointment, Powers and Functions – Rent courts and Rent Tribunals.

#### **Module – III: Laws relating to cultivating tenants in Tamil Nadu:**

- Definition: cultivating tenant, landlord- rights and liabilities of landlords- grounds for eviction of tenant- protection available to member of armed forces- restrictions on restoration of possession - Cultivating Tenants Special Provisions Act, 1968 with amendments
- The TN Cultivating Tenants Arrears of Rent (Relief) Act, 1972 [including all amendments]
- The TN Cultivating Tenants Protection From Eviction Act, 1989 [including all amendments]

## **Module - IV**

Definition- agricultural labourer - rent court and rent tribunal- kaieruvaramdhar and mattuvaramdhar- revision- record of tenancy rights – advisory committee.

## **Module– V:**

Definitions – occupant of Kudiyiruppu – alternative site – payment and recovery of compensation – prohibition of alienation **Statutory Materials:**

1. Real Estate (Regulation and Development) Act, 2016
2. The Tamil Nadu Regulation of Right and Responsibilities of Landlords and Tenants Act, 2017 [including amendments, rules]
3. The TN Cultivating Tenants Protection Act, 1955
4. The TN Cultivating Tenants (Payment of Fair Rent) Act, 1956
5. The TN Agricultural Land Record of Tenancy Rights Act, 1969
6. The TN Occupants of Kudiyiruppu (Conferment of Ownership) Act, 1971

## **Recommended Readings:**

1. A handbook of Land Tenures in Tamil Nadu by Sambandham and V.S.Rajaram, 2017 edition, C.Sitaraman & Co.Pvt. Ltd.
2. Taxmann's Guide to RERA with RERA check lists, 3<sup>rd</sup> edition, 2017.
3. Tamil Nadu Real Estate Regulatory Authority (General) Regulations, 2018 at [https://www.tnrrera.in/Downloads/Acts\\_Rules\\_Regulations/Regulations.pdf](https://www.tnrrera.in/Downloads/Acts_Rules_Regulations/Regulations.pdf)
4. Land laws of Tamil Nadu, Prof.A.Chandrasekaran, C.Sitaraman& Co.Pvt. Ltd, 2013 edition.
5. The Tamil Nadu Regulation of Right and Responsibilities of Landlords and Tenants Act, 2017 Bare Act

## **Cases for Guidance:**

1. Anandan v. Lingam on 22 February, 2013
2. P.K.Selvaraj v. The Revenue Divisional Officer on 17 February, 2006
3. K.Thangammal vs R.Murugan on 24 September, 2018
4. Nachayee Ammal and others v. Sri Venugopalakrishnaswamy on 1 March, 2003
5. Somasundaram v. Subramanian on 20 March, 2019
6. E.K.M.G.Bakir Ali v. G.Sundarraaj on 20 June, 2011
7. Maria Seeman Nadar v. Anna Muthu Ammal on 18 December, 2006
8. Church Of South India Trust v. The District Revenue Officer on 30 March, 2010
9. Shanmugham vs Arulmigu Vinayagar And Arulmighu on 18 June, 2002
10. R. Jayakumar vs P. Kaliyaperumal And Ors. on 17 February, 1999
11. Jayaraman (Died) vs Eswaran on 10 February, 2012
12. T.K.Ayub vs Mohammed Hanif on 23 March, 2010
13. B.Venkatesh vs Nagarajan on 12 July, 2018
14. G.Surya Kumari vs The Government Of Tamil Nadu on 1 September, 2017

15. Sanjay phulwaria and 22 others v. Mumbai metropolitan region development authority and 4 others, Bombay high court on 16 October, 2018

**Learning Outcomes:**

Students graduating with Land Laws will be able to:

1. Understand and describe legislative power to make laws relating to land and land ceiling is in the state list.
2. Different states have enacted their own laws on this subject and the application of these laws is varied from state to state.
3. The Constitutional perspectives relating to these subjects have to be taught as an essential part of this course.
4. Problem-solve complex issues in the land related matters and society related to policies, law enforcement, government bindings and etc.
5. Effectively apply knowledge to solve practical problems

## **(c) : CRIMINAL LAW AND FORENSIC SCIENCE**

### **PSYCHOLOGY OF CRIME**

#### **Objectives of the Course:**

*The course is designed to bring out the link between crime and psychology. It will highlight the causes of crime for victims, offender and of the wider society. The basic promise of the course is that multiple variables affect human behavior, hence focuses its attention to personality factors and how they intersect with situational variables. Student will acquire a new framework for interpreting criminal behavior and will examine the usage of psychology in the criminal justice system.*

#### **At the end of the course, the student will have:**

- *Knowledge of the key concepts and propositions of psychological models of Human behavior*
- *Inbuilt capacity to identify the varying perspectives of criminal behavior.*
- *Familiarity with research methodologies commonly employed in the field of criminal psychology.*

### **COURSE OUTLINE**

#### **Module I: Introduction to Psychology of Crime**

- a) Nature and scope of psychology- Psychology of Soul;Mind;Consciousness;Behaviour
- b) Study of Criminal Behavior
- c) Concepts of Crime, Law and Criminology
- d) Theories of Crime Causation.
- e) Psychological Theories of Crime

#### **Module II: Criminal Personality**

- a) Meaning and Nature of Personality
- b) Theories and Factors of Personality
- c) Meaning and Types of Criminal Personality
- d) Criminal Personality and Non Criminal Personality
- e) Personality Disorder- Psychopathic Personality

#### **Module III: Criminal Behavior**

- a) Nature and Scope of Criminal Behavior
- b) Factors that lead to Criminal Behavior- Biological factors- Situational factors-  
Learned factors
- c) Theories of Criminal Behavior- Developmental theories- Critical criminology
- d) Evaluation of Criminal - Psychological Tests
- e) Criminal Psychology- Roles of Criminal Psychologists

#### **Module IV: Criminal Typology**

- a) Violent Crimes – Homicide- Suicide
- b) Stalking and Sexual Offenses
- c) Property Crimes
- d) Public Order Crimes
- e) Substance Abuse

#### **Module V: The Criminal Justice System -The Psychological Approach**

- a) Police Psychology
- b) Treatment of Victims and Witnesses
- c) Suspects of Crime
- d) Court proceedings -Prison- Probation services- Juvenile Corrections
- e) Social Perspective

#### **Module VI: Correctional Psychology- Crime Prevention**

- a) Forensic and Correctional Psychology
- b) Intervention
- c) Correctional Counseling Process
- d) Group Counseling and Resocialisation Programmes
- e) Treatment of Criminals – Custodial- Non-custodial

#### **Recommended**

##### **Reading Books**

1. Evolutionary Psychology: The New Science of the Mind, David Buss , 4th Edition, Pearson, 2011
2. Abnormal psychology and modern life, [James C Coleman](#), Scott, Foresman; 7th Edition (1984)
3. Contemporary Criminal Law: Concepts, Cases, and Controversies, Matthew Lippman, SAGE Publications, 5 Edition 2018
4. Sociology of Deviant Behavior, [Marshall B. Clinard](#) , [Robert F. Meier](#) , Cengage Learning, 15 Edition, 2015
5. Crime classification manual. Lexington Books/Macmillan, Douglas, J. E., Burgess, A. W., Burgess, A. G., & Ressler, R. K. (Eds.), 1992

##### **Journals/ Articles**

1. Criminal Psychology, K. EGross HKallen H, Columbia Law Review (1912) 12(1) 90
2. Rehabilitating Criminal Justice Policy and Practice, Andrews DBonta J, Psychology, Public Policy, and Law (2010) 16(1) 39-55
3. Forensic Psychology, Louw D, Elsevier Inc., (2015), 351-356

4. Once a criminal, always a criminal?: 'Redeemability' and the psychology of punitive public attitudes, Maruna SKing A European Journal on Criminal Policy and Research (2009) 15(1-2) 7-24
5. The Encyclopedia of Criminology and Criminal Justice, Choice Reviews Online (2014) 52(01) 52-0041-52-0041

## **Further**

## **Reading**

## **Books**

1. The Psychopathology of Crime: Criminal Behavior as a Clinical Disorder, Adrian Raine , Academic Press; 1 Edition 1997
2. Psychology and Crime: Myths and Reality (Longman Criminology Series), [Peter B. Ainsworth](#), Addison-Wesley Longman Ltd, 2000
3. Criminology & Psychology Today: Peering Inside Criminal Minds: Uncovering The Complex Relationships Between Criminals Psychology, Neuroscience & Neuro- criminology (criminal psychology books) Kindle Edition, Alice Cole , Chris McGarry . Kindle Edition
4. The Psychology of Criminal Conduct, D.A. Andrews, James Bonta, Elsevier Inc., 5th Edition , 2010
5. Psychology and Crime: An Introduction to Criminological Psychology , [Clive R. Hollin](#), Routledge; 2 Edition 2012
6. Criminal psychology, Pakes F Pakes S, Taylor and Francis, (2012).
7. Introduction to Forensic Psychology, Shipley S Arrigo B, Elsevier Inc., (2012)
8. Crime and criminal justice, Marsha I, Taylor and Francis, (2011)
9. Psychology and law: truthfulness, accuracy and credibility, Memon AVrij ABull R, (2003)
10. Applying Psychology to Forensic Practice, Needs ATowl G wiley, (2008)

## **Journal/ Articles**

1. Handbook of Forensic psychology, Haward L, Behaviour Research and Therapy (1988) 26(4) 366
2. Offender profiling and investigative psychology, Canter D, Journal of Investigative Psychology and Offender Profiling (2004) 1(1) 1-15
3. Dennis Howitt, Introduction to Forensic and Criminal Psychology, Duff S, Psychology Learning & Teaching (2016) 15(1) 115-116
4. Applying Psychology to Criminal Justice, Carson DMilne RPakes , John Wiley and Sons, (2008), 1-314
5. Evolutionary theory and criminal behaviour, Quinsey V, Legal and Criminological Psychology, <https://doi.org/10.1348/135532502168324>
6. Psychology and crime, Kellogg A Psychological Bulletin (1917) 14(11) 379-387
7. History of forensic psychology, Bartol CBartol A, Edited by Weiner IOtto RWeiner (Ed) IOtto (Ed) R John Wiley & Sons Inc, (2014), 3-34

8. Offender coercion in treatment: A meta-analysis of effectiveness, [Parhar K](#), [Wormith J](#), [Derkzen D](#), Criminal Justice and Behavior (2008) 35(9) 1109-1135
9. Psychopathy and recidivism in adolescent sex offenders, Gretton HMcBride MHare, Criminal Justice and Behavior (2001) 28(4) 427-449
10. Does criminal offender treatment work, Simon L, Applied and Preventive Psychology (1998) 7(3) 137-159

### **Learning Outcomes**

1. The student will have the ability to examine critically specific offenses and apply psychological models of criminality.
2. They will have an awareness on different perspectives to be employed in crime prevention, investigation, and treatment.

## **(d) : INDUSTRIAL AND COMMERCIAL LAW**

### **SOCIAL SECURITY AND UNORGANISED LABOUR**

#### **Objectives of the Course**

*The bulk of India's labor force today is the unorganised sector. Suffering from poverty, without access to education, underpaid, unaware of their rights, and unable to enforce them, the odds are stacked against our unorganized sector. To address this problem, the legislature and the judiciary have, through laws and through judicial activism, repeatedly come to the rescue of these workers. This course is designed to introduce students to the challenges faced by this sector. The main objective is to instruct sector wise relevance which ensures the governance effectively. Other sectors can have identical/similar regulatory system and also be understood in the context of the treatment of the subject matter in this paper. The course work is within the viable framework.*

This course has been designed to:

- I. Provide a broad-based understanding of the concept of the informal sector/unorganised labour – their nature, categories, industries, and the challenges and injustices they face;
- II. Instruct the student on the role of the ILO;
- III. Delve into the concept of social security for unorganised labour;
- IV. Focus on critical, India-specific sectors of unorganised workers and examine their individual challenges; and
- V. Survey the various legislations that target the upliftment of, and provision of benefits to, such workers.

The syllabus has been prepared with these objectives and consists of 6 modules.

#### **COURSE OUTLINE**

##### **Module I – Introduction to Unorganised Sector**

- (a) Concept and Characteristics of Unorganized Sector.
- (b) Unorganised Labour Force in India.
- (c) Economic Contribution of Unorganised Workers.
- (d) Causes and Problems of Unorganized Workers.
- (e) Different Categories of Unorganized Workers-Beedi Workers, Construction Workers- Domestic Workers- Agricultural Workers- Plantation Labourers.
- (f) ILO and Minimum Conditions of Work.
- (g) Constitutional Safeguards.
- (h) Role of Judiciary in the Protection of Unorganized Workers.



## **Module II – Social Security for Unorganised Workers**

- (a) The Unorganised Workers' Social Security Act, 2008 – Scope and Coverage.
- (b) Definition of Unorganised Sector and Unorganised Worker.
- (c) Social Security Benefits – Schemes.
- (d) Social Security Board.
- (e) Registration of Unorganised Workers.

## **Module III - Beedi Sector Workers and Specific Legislative Measures**

### **1(a) Features of Beedi**

Industry (b) Production  
Process.

- (c) Living and Working Conditions.
- (d) Gender Discrimination.
- (e) Vulnerability of Children.
- (f) Occupational Health Hazard and Safety issues.

### **2(a) The Beedi And Cigar Workers (Conditions of Employment) Act, 1966 – Scope and Object – Definitions – Licenses - Appeals.**

- (b) Health and Welfare Measures.
- (c) Working Hours.
- (e) Annual Leave with Wages.
- (f) Application of The Payment of Wages Act, 1936 and The Industrial Disputes Act, 1947. (g) Inspectors.
- (h) Offences and Penalty.

### **3(a) Beedi Workers Welfare Fund Act, 1976 – Scope and Object – Definitions.**

- (b) Welfare Fund.
- (c) Advisory Committees.
- (d) Welfare Commissioner.
- (e) Power to make Rules.

### **4(a) Beedi Workers Welfare Cess Act, 1976 – Scope and Object.**

- (b) Fund – Levy and Collection of Cess on Manufactured Beedis.
- (c) Consolidated Fund of India.
- (d) Protection of Action Taken in Good Faith.

## **Module IV – Construction Workers and Regulation of Conditions of Employment**

### **1 (a) Construction Industry.**

- (b) Outsourcing of Labour through Contractor and Intermediaries.
- (c) Types of Construction Workers.
- (d) Women and Child Workers.

- (e) Living and Working Conditions of the Workers.
- (f) Occupational, Health and Safety Issues.
- (e) ILO Conventions on Construction Workers.
- 2.(a) The Building And Other Construction Workers (Regulation Of Employment And Conditions of Service) Act, 1996 – Scope and Object - Definitions.
  - (a) Advisory Committees and Expert Committees.
  - (b)Registration of Establishment .
  - (c) Registration of Building Workers as Beneficiaries.
  - (d) Welfare Board.
  - (e) Hours of Work.
  - (f) Welfare Measures - Safety and Health Measures.
  - (g) Responsibility of Employers.
  - (h) Inspecting Staff. (i) Offences and Penalties.
- 3. (a) Building and Other Construction Workers Welfare Cess Act, 1996 – Scope and Object - Definitions.
  - (b) Levy and Collection of Cess. (c) Furnishing of Returns
  - (d) Assessment of Cess.
  - (e) Recovery of Amount Due – Appeals. (f) Penalty – Offences by Companies.

## **Module V – Plantation Labour and Conditions of Employment**

- 1.(a) Characteristics of Plantation industry.
- (b) Intensity of Labour.
  - (c) Working and Living Conditions.
  - (d) Occupational and Health Hazards.
  - (e) Problems of Women and Child Workers.
- 2.(a) Plantation Labour Act, 1951 – Scope and Object – Definitions. (b) Inspecting Staff
  - (c) Provisions as to Health and Welfare.
  - (d) Hours and Limitation of Employment.
  - (e) Leave with Wages.
  - (f) Penalties And Procedure .

## **Module VI – Other Legislations Relating to Unorganised Workers**

- 1.(a) The Bonded Labour System (Abolition) Act, 1976 – Object and Scope – Definitions. (b) Abolition of Bonded Labour System – Agreement, Custom, etc. to be Void.
  - (c) Liability to Repay Bonded Debt to Stand Extinguished – Property of Bonded Labour to be Freed from Mortgage, etc., – Creditors not to accept Payment against Extinguished Debt – (d) Authorities for Implementation of the Act.

2.(a) Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act , 1979 – Scope and Object – Definitions.

- (b) Registering Offices-Registration and Revocation of Establishments.
- (c) licensing officers-Licensing of Contractors-Revocation, Suspension and Amendment of Licenses.
- (d) Duties and Obligations of Contractors.
- (e) Wages, Welfare and Other Facilities.
- (f) Displacement Allowance.
- (g) Liability of principal Employer.
- (h) Inspecting Staff.
- (i) Offences and Penalty.

3.(a) Contract Labour (Regulation & Abolition) Act, 1970 - Scope and Object - Definitions.

- (b) Advisory Boards.
- (c) Registration of Establishments.
- (d) Licensing of Contractors.
- (e) Health and Welfare Measure.
- (f) Offences and Penalties.

4.(a) Child Labour (Prohibition and Regulation) Act, 1986 – Scope and Object – definitions.

- (b) Prohibition of Employment of Children.
- (c) Regulation of Conditions of Work.
- (d) Procedure Relating to Offences.

5.(a) Mahatma Gandhi National Rural Employment Guarantee Act, 2005.

- (b) Guarantee of Rural employment to House Holds.
- (c) Conditions for Providing Guaranteed Employment.
- (d) Payment of Unemployment Allowance.
- (e) Non-Disbursement of Unemployment Allowance.
- (f) Planning and Implementation of Schemes.
- (g) Responsibilities of Gram Panchayaths.
- (h) Grievance Redressal Mechanism.
- (i) National Employment Guaranteed Fund.

**Recommended  
Reading Books  
Prescribed:**

1. Dr. V.G. Goswami, "Labour & Industrial Laws" (Central Law Agency, 2019).
2. Prof. (Dr.) S.C. Srivastava , "Legal Protection and Social Security in Unorganised Sector" (The Book Line, 2017).
3. Suresh C Srivastava, "Labour Law in Factories, Mines, Plantation, Transportation, Shops and other Establishments" (Prentice Hall of India, 1992).
4. S.N.Mishra, "Labour and Industrial Law" (Central Law Publications, 29<sup>th</sup> ed., 2019).
5. Gupta N.H., "Social Security for Labour in India" (Deep and Deep Publications, Delhi, 1986).

**Journals:**

- 1) M. D. Pradeep, B. K. Ravindra, *et.al.* , "A Study on the Prospects and Problems of Unorganised Labour in India", 2 IJAASR 94-100 (2017).
- 2) Lee Tucker, "Child Slaves in Modern India: The Bonded Labour Problem", 19 HRQ 572-628 (1997).
- 3) Jeet Singh Mann, "Employment Rights Protection and Conditions of Domestic Workers: A Critical Appraisal", 57 JILI 216-243 (2015).
- 4) Thomas Paul, "Child Labour – Prohibition v. Abolition: Untangling the Constitutional Tangle", 50 JILI 143-176 (2008).
- 5) M.S.Ramanujam and K.L.Rawal, "Unorganised Workers' Welfare: Imperatives and Initiatives", 46 IJIR 16-31 (2010).
- 6) Suresh C. Srivastava, "Equal Remuneration for Men and Women", 32 JILI 82-92 (1990).

**Further Reading  
Reference Books:**

1. Arun Monappa, Ranjeet Numbudiri, Patturaja Selvaraj, "Industrial Relations & Labour Laws" (Tata Mcgraw Hill, 2012).
2. S.C. Srivastava, "Social Security and Labour Laws" (Lucknow: Eastern Book Company, 1985).
3. R.W. Rideout, "Principles of Labour Law" (Sweet and Maxwell, 1988).
4. H.K. Saharay, "Industrial and labour Laws of India" (Calcutta: Eastern Law House, 1987).
6. Kanak Kanti Bagchi & Nirupam Gope, "Social Security for Unorganised workers in India" (Gurgoan: Madhav Books, 2012).
7. Nayan Barua, "Social Security and Labour Welfare in India" (New Delhi: Asish Publishing House, 1995).
8. Radhika.K, "Women in Agricultural Development" (New Delhi: Serials Publications, 2008).
9. Singh D.P, "Women Workers in Unorganised Sector" (New Delhi: Deep & Deep Publications, 2008).

10. Tripathy S.N, “Law for Unorganised Labour in India”, (Delhi: Mangalam Publications, 2008).

#### Articles:

1. A.Dharmalingam, “Conditions of Brickworkers in South Indian Village”, 30 EPW 3014-3018 (1995).
2. K.R.Lakshmy Devi, “The Women Beedi Workers in a Kerala Village”, 21 IJIR 251-259 (1985).
3. Manishi Pathak, “An Overview of Contract Labour Related Laws in India” *NLS Bus. L.Rev.* 20 (2017).
4. Rashmi Tiwari and Shivani Tiwari, “Women Employment in Unorganised Sector: An Empirical Analysis”, 35 JRD 645-664 (2016).
5. Paramita Ray, “Contract Labour System in India: Issues & Perspectives”, 3 IJLLJS 297-306 (2016).

#### Cases for Guidance:

1. Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P. &Ors., 1985 AIR 652.
2. People Union for Democratic Rights v. Union of India& Ors., 1982 AIR 1473.
3. Bandhua Mukti Morcha v. Union of India, 1984 SCR (2) 67.
4. Neeraja Chaudhary v. State of Madhya Pradesh, (1984) 3 SCC 243.
5. Daily Rated Casual Labour v. Union of India, 1988 SCR (1) 598.
6. State v. Banwari, 1957 CriLJ 539.
7. M.C. Mehta v. State of Tamil Nadu and Others, (1996) 6 SCC 756.
8. Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers, 12 July, 2011.
9. KothuVelu V. Joseph, 1987 II LLJ 174 (Kerala).
10. N Krishna Devi v. Vishnu Mitra, AIR 1982 Raj 281.
11. Bijay Cotton Mills v. State of Ajmer, (1955) 1 LLJ 129 (SC).
12. Municipal Corporation of Delhi v. Female Workers, (2000) 3 SCC 224.
13. Rajangam, Secretary, Dist. Beedi Worker's Union v. State of Tamil Nadu, 1992 SCC (1) 221.
14. B. M. Lakshmanamurthy v. The Employees' State Insurance, AIR 1974 SC 759.
15. Olga Tellis & Ors v. Bombay Municipal Corporation, 1985 SCR Supl. (2) 51.
16. Gammon India Ltd. v. Union of India &Ors., 1974 SCR (3) 66.
17. Salal Hydro Electric Project v. State of Jammu and Kashmir, 1983 (3) SCC 538.

#### Learning Outcomes

Upon completing this course, the student will be able to:

1. Comprehend the complex issue of unorganised labour and their challenges;
2. Appreciate the crucial role played by ILO in their upliftment;
3. Critically analyse social security law through the lens of unorganised labour;

4. Discern and perceive the problems of unorganised labour in various specific sectors in India and critically examine the efforts taken to legislate for their improvements.

## **DRAFTING, PLEADING, CONVEYANCING AND CHAMBER VISIT (Clinical Course -III)**

### **Objective of the Course:**

*Drafting means a composition or writing of a document in common parlance. In a legal profession drafting is an art which means a legal drafting includes various form of legal composition. In a lawyering drafting of legal notice shall be an inevitable. In every lawyering preparation of legal notice shall be at a first level. In order to plead before the court drafting of pleading includes criminal, civil and other kind of pleadings it is to be prepared in accordance with provisions of law. Usually pleadings are statements drawn by parties either the party who sued or the opponent sometimes third party (Third Party Affidavit). The pleading shall be specific and must not be conflict with governed procedure allowed in the court. The purpose of pleadings rule shall be access to justice and to prevent multiplicity of proceedings. Conveyancing is the process in which parties are transferring their legal title or legal entitlement of a property. Conveyancing a document is governing under a prescribed form derived in a law of conveyancing like sale deed, gift deed and other form of documents. This course must be substantially considerable of a lawyering and legal practice.*

### **COURSE OUTLINE**

#### **Module I: Introduction**

- a. Drafting – the meaning, scope and significance
- b. Legal drafting – Legal notice, Sec.138 N.I Act notice, Suit Notice, Matrimonial issues  
Notice, M.V. Act cases Notice, Reply Notice –
- c. Complaint – depth knowledge in legal language and legal writing – use appropriate legal terminology – purpose of notice – time prescribed in notice – appropriate remedy required

Module – II: Pleadings – Civil Pleadings – Substantive provisions (theoretical approach) and Forms (practical exercise)

- a. Meaning, Scope and significance – civil pleadings
- b. Trial court pleadings: Plaint, Written Statement, L R Petition, Counter petition, Affidavit, Execution Petition, Interlocutory Application, Sub-Application,
- c. Appellate court pleadings: Civil Appeal, First Appeal, Second Appeal, Civil Revision

Petition, Appointment of Advocate Commissioner, Restoration Petition, Adjournment Petition

**Module – III: Pleadings – Criminal Pleadings – Substantive provisions (theoretical approach) and**

**Forms (practical exercise)**

- a. Meaning, scope and significance – criminal pleadings
- b. Prosecution Pleading – Police custody petition, Petition for withdrawal from prosecution,  
Criminal Appeal from prosecution, Counter Affidavit filed by prosecution –
- c. Defense Pleading – Bail Petition, Anticipatory Bail, Discharge Petition, Criminal Appeal from conviction – other petitions – Quash Petition
- d. Third party pleading - Return of Property petition, intervener petition, transfer of criminal cases, Direction petition,

**Module – IV: Pleadings – Appellate Side, Original Side Pleadings and High court and Supreme Court pleadings (theoretical approach and practical exercise)**

- a. Civil Miscellaneous Appeal,
- b. Civil Miscellaneous Petition,
- c. Writ Petitions and Habeus CorpusPetition, Writ Appeal
- d. Civil Suit, Original Petition,
- e. Company Petition,
- f. Criminal Original petition,
- g. Public InterestLitigation

**Module – V: Pleadings – Other Pleadings – Substantive provisions (theoretical approach) and Forms (practical exercise)**

- a. Private complaint,
- b. Matrimonial cases petition,
- c. Motor Accident Claimant Original Petition,
- d. Rent Control Original Petition,



- e. Labour Issues Petition

## **Module VI: Conveyancing – General principles**

- a. Meaning, scope and significance, elements and components of deed, Registration –  
Compulsory registration, optional registration and not necessary to register –
- b. Stamp Act – types of stamps – judicial stamp and non-judicial stamp, impressed stamp and adhesive stamp – rights of property - transferable and non-transferable properties

## **Module – VII: Conveyancing – Substantive provisions (theoretical approach) and Deeds (practical exercise)**

- a. Sale Deed – Agreement for sale and Agreement of sale,
- b. Gift Deed and Power of Attorney – within family members and others,
- c. Mortgage Deed – Classification of Mortgage, registration of Mortgage and its stamp duty –
- d. Lease and Licence –
- e. Testamentary deeds: Will – Partition Deed – Settlement Deed,
- f. Hire purchase Agreement,
- g. Cancellation Deed,
- h. Release Deed and other deeds

## **Module – VIII: Chamber visit – Chamber visit report (practical exercise)**

- a. Introduction-Purpose of the chamber visit
- b. Observation of Law Chamber
- c. Maintenance of Law Chamber
- d. Structure of The Law Chamber
- e. Function of Law Chamber Staff and Juniors
- f. Maintenance of client details and cases
- g. Observation of client discussion and legal opinion

Apart from explaining the relevant substantive provisions of law in a theoretical method / lecture method of teaching, this is a practical and clinical course so class room exercise may include 15 practical exercise in pleadings and 10 practical exercise in conveyancing and each exercise may carry 2 marks, hence total 50 to be awarded in a practical approach of every student. Chamber visit 30 marks, viva-voce -10 marks, 5 marks for mid – semester and 5 marks shall be for attendance. Hence total marks shall be 100. This course is a clinical paper hence it is an internal assessment of a student.

***Recommended Readings:***

1. Murali Manohar, Conveyancing and Pleading, 2nd Edn -2004, EBC,Lucknow.
2. KS Gopalakrishnans Pleadings and Practice, ALT Publications, Hyderabad,2004.
3. MC Agarwal & GC Mogha, Mogha's Pleading, 17th Edn - 2006, EBC,Lucknow.
4. GF Harwood, Odgers on Pleadings and Practice, 20th Edn- 1971, Universal Law Publishing Co. PvtLtd.,Delhi.
5. Justice Thakker, Code of Civil Procedure, 5th Edn - 2007, EBC,Lucknow

**Statues for reference in substantive provisions and Forms**

1. Code of Civil Procedure, 1908
2. Code of Criminal Procedure,1973
3. Transfer of Property Act,1872
4. Indian Contract Act,1872
5. Motor VehiclesAct
6. Appellate SideRules
7. Original SideRules
8. RegistrationAct
9. StampAct
10. Civil and Criminal Rules ofPractice

## **E – Source**

[www.tnregin.in/](http://www.tnregin.in/)( Guideline value, Encumbrance and other e  
services) **Cases for**

### **Guidance:**

1. Lakshmi Narayan DeoVasti Temple v. Narayan F. Marathy (1995) 2 Bom CR610
2. PrabodhVerma v. State of UP (1984) 4 SCC251
3. Someswer v. Tribhuban AIR 1934 PC130
4. NarinderNath v. Jaswant Singh AIR 1994 P&H 111
5. Syed Muhammed v. Fattah Muhammed ILR 22 Cal. 324(PC)
6. Viswanath v. Ram Narayan AIR 1940 All405
7. TikaKhawas v. Pasupathi AIR 1986 Sikk.6
8. Motilal v. Yudhistir AIR 1950 PC73
9. Brijlal v. Parvathy AIR 1982 Del.114
10. Firm Gopal & Co. Ltd v. Firm Hazarilal AIR 1963 MP37
11. Keshab Rao v. Chandrabhan AIR 1980 Bom380
12. OnkarNath v. Vedvyas 1978 Ren.CR 408 (HP)
13. IyakkuMatho v. Julius Elias Metropolitan AIR 1962 Ker19
14. Rooplal v. Nachhittar AIR 1982 SC1559
15. A K Gupta v. DVC AIR 1967 SC961
16. G. Nagamma v. Siromanamma (1996) 2 SCC25
17. Phula Devi v. MangtuMaharaj AIR 1969 Pat 284
18. Jagjiban Das v. Gunan Bhai AIR 1967 Guj1
19. N.Naidu v. K.Naidu AIR 1969 Mad329
20. N.Naidu v. K.Naidu AIR 1969 Mad329

21. Jogeshwar v. Sheopujan AIR 1986 Pat35
22. State of Maharatsra v. Glaxo 1979 Bom CR321
23. Raghunath Das v. Union of India AIR 1969 SC674
24. State of MP v. Lajjaram AIR 1961 MP 339 **Learning Outcomes**

It is a practical and clinical course hence the student community has to learn not only from the text but also practical approach must be required. Experienced and learned advocates are used to take part in teaching this course. After successful completion of this course, the students shall be equipped to start / establish a law firm and will co-ordinate registration work. Here the document writer or an advocate who is empowered to draft deeds. The deed shall have certain legal conditions and other formalities these are governed by law of contracts, property law, land laws, registration act, stamp act and other legal provision of law. In digital India, the form of conveyancing has been digitalized and the registration department has uploaded all type of deeds in their portal to make easy access of conveyancing to every citizen. The law students shall have depth knowledge in this subject matter and to understand the nature of drafting in pleadings and conveyancing. After successful completion of law degree students will take practice before the court drafting of pleading is most necessary.

### **LAW - CHAMBER VISIT REPORT (Annexure -1)**

**NAME OF THE ADVOCATE:**

**ADVOCATE ADDRESS:**

**DATE:**

**DAY AND TIME:**

#### **CHAMBER OBSERVATION**

**NUMBER OF CLIENTS VISITED:**

**NUMBER OF CASE DISCUSSED:**

**CLIENT NAME AND DETAILS \*:**

**CASE TYPE:**

**CASE FACT:**

**SENIOR ADVOCATE OPINION:**

## **VI SEMESTER**

### **CIVIL PROCEDURE CODE AND LIMITATION ACT**

#### **Objectives of the Course:**

*The course intends to study a crucial and uniform procedure in civil cases which was enacted in 1908 along with its amendments which is fair and simple applicable to all the courts in the country. The Code of Civil Procedure 1908 guarantees fair justice by upholding the rights and liabilities of the parties. It makes the procedure to be followed in the Civil Courts very basic and compelling. It is one of the vital parts of procedural laws and it is the one regulating the method to be trailed by the Civil Courts in India. The course also highlights on the electronic method of filing the civil suits including the e-vakalatnama. The Limitation Act 1963 is an additional enactment and address a very key aspect of civil law. It is pivotal to a student of law to have an exhaustive knowledge of the code of civil procedure and the limitation law*

#### ***After undergoing the study the student will be able to understand the following***

- i. An overall view of the Civil Procedure Code 1908 along with its amendments which is fair, simple and applicable to all the courts in the country.*
- ii. To equip the students with various stages through which a civil cases passes in the court till its final order.*
- iii. To emphasizes on the electronic method of filing the civil suits including the e-vakalatnama.*
- iv. To comprehend the difficult nuances that revolves around civil suits in our country.*
- v. To understand the computation of limitation period for the Institution of suit, appeal and applications along with Exclusion.*

### **COURSE OUTLINE**

#### **MODULE – I: Introduction to Civil Procedure Code**

- a) Genesis of civil procedure in India before the advent of British rule
- b) Features of the Civil Procedure Code-Extent, its application, Definitions
- c) Types of procedures-Inquisitorial and Adversarial, Difference between Substantive law and

Procedural law

- d) Importance of Amendments in The Code of Civil Procedure

#### **MODULE –II: Jurisdiction of The Courts**

- a) Meaning of Jurisdiction, Kinds of Jurisdiction-Pecuniary, Territorial, Jurisdiction as to subject matter, original and appellate jurisdiction
- b) Jurisdiction of the civil courts over commercial disputes with special reference to The Commercial Courts Act 2015
- c) Jurisdiction of the civil courts over IPR infringement and passing off action (Trademark, Copyright, Patent etc)
- d) Suits of civil nature- Place of suing, Res SubJudice, Res Judicata, Applicability of the ResJudicata on Right to information- Difference between Res Judicata and estoppel, Foreign Judgment, Finality of Foreign Judgment-Presumption as to Foreign Judgment.

### **MODULE –III: Pleadings and Summons**

- a) Meaning of pleadings generally, Complaint-Material Facts
- b) Traditional and the latest electronic trends involved in the filing of civil suits, summons and e-vakalatnama
- c) Presumptions of law, Striking out, Amendment of Pleadings, Rejection of complaint, Written statement, Showing of defendant's interest and liability, Grounds of limitation
- d) Set off-Counter claim - Misjoinder and Non-joinder of Parties.

### **MODULE –IV: Appearance and Examination of Parties**

- a) Appearance of parties to the proceedings and consequences of their non appearance
- b) Discovery, Inspection and production of documents, Framing of issues, Admission, Affidavit, Adjournment
- c) Death, marriage and Insolvency of the parties
- d) Withdrawal and compromise of suits, cost and interest.

### **MODULE –V: Orders, Judgment, Decrees, Execution and Appeals**

- a) Meaning of interim order, Appointment of Receiver, Commissioner, Injunction, Remand, Restitution, Transfer of suit, Caveat-Arrest before judgment, Attachment before judgment
- b) The concept of Judgment and Decree, Difference between order and decree

c) The Concept of Execution, General principles of Execution, Questions to be determined by the executing court, Precept, Garnishee order, Procedure for Execution, Enforcement and Sale.

d) Appeals from original decrees, First appeal, Second appeal, Appeals from orders, Appeals to Supreme court, Reference, Review, Revision and Inherent powers of court.

#### **MODULE –VI : Suits in particular cases**

- a) Suit by or against Government
- b) Suits by Alien, Suits by or against Foreign rulers, Ambassadors
- c) Suits relating to public matters, Incident and supplementary procedures
- d) Suits by (or) against minors, persons with unsound mind, indigent person, Interpleader Suits

#### **MODULE–VII: Overview of The Limitation Law**

- a) Scope, purpose and object of the Limitation Act
- b) Powers of the courts to condone delay, sufficient cause, legal disability, subsequent disability
- c) Computation of period of limitation, Fraud or mistake in computation of limitation, Appeals
- d) Meaning of Acknowledgement-Acknowledgment of liability in writing, Acknowledgment by part payment, Acknowledgment or payment made by another person, Acquisition of ownership by possession.

#### **Recommended Readings:**

1. M.P.Jain, The Code of Civil Procedure, Lexis Nexis India (5<sup>th</sup> Edition 2019)
2. Dr.Avtar Singh, The Code of Civil Procedure, Central Law Publications (5<sup>th</sup> Edition 2019)
3. Narayan Laxmanrao, Commentary on Code of Civil Procedure 1908, Asia Law House (2<sup>nd</sup> Edition 2019)
4. Basu's Law on Limitation Act 1963, Delhi Law House(10<sup>TH</sup> Edition 2020)
5. T R Desai, The Limitation Act, Lexis Nexis (12<sup>th</sup> Edition, 2019)

#### **Further Readings:**

- 1) Dinshaw Fardauzi Mulla, Mulla's Code of Civil Procedure(3 Vols) Lexis Nexis (19th Edition)
- 2) Sudipto Sarkar & V.R. Manohar, Sarkar's Code of Civil Procedure (2 Vols), Lexis Nexis (12th Edition 2017)
- 3) C.K. Takwani, Code of Civil Procedure, Eastern Book Company (8<sup>th</sup> Edition 2019)
- 4) M.R. Malik, Ganguly's Civil Court Practice and Procedure, Eastern Law House (2012).
- 5) Universal's Concise Commentary The Limitation Act, 1963 (36 of 1963) With Exhaustive case Law (3<sup>rd</sup> Edition 2018)

#### **JOURNALS FOR SCHOLARLY ARTICLES:**

1. Supreme Court Cases Civil
2. The MLJ Manual of the Civil Procedure Code
3. Madras Weekly Notes (Civil)
4. Current Civil Cases
5. Indian Civil Cases

#### **E-JOURNALS WITH RESEARCH ARTICLES AND WEBSITE SOURCES**

1. Doctrine of Res Sub-Judice-<http://lawtimesjournal.in/doctrine-of-res-sub-judice/>
2. Res Judicata And Right to Information-  
<https://cic.gov.in/sites/default/files/Res%20Judicata%20and%20RTI%20by%20Avni%20Tiwari.pdf>
3. India: Changing face of serving Summons: From Post to What's App-  
<https://www.lexology.com/library/detail.aspx?g=f9a5830e-239b-4f84-89f6-8addd782f069>
4. WORKSHOP FOR HIGH COURT JUSTICES ON INTELLECTUAL PROPERTY RIGHTS AT THE NATIONAL JUDICIAL ACADEMY 2 nd & 3rd November, 2019 Jurisdictional Issues in Trademark, Copyright & Patent Disputes-  
[http://www.nja.nic.in/Concluded\\_Programmes/2019-20/P-1186\\_PPTs/6.Session-III%20IPR.pdf](http://www.nja.nic.in/Concluded_Programmes/2019-20/P-1186_PPTs/6.Session-III%20IPR.pdf)
5. Commission of examination of witnesses-<http://lawtimesjournal.in/commission-of-examination-of-witnesses/>



6. Enforcement of Foreign Judgments And Decrees In India, [Jonathan Jose](#) and [Shruti Mania](#) - <https://www.mondaq.com/india/Litigation-Mediation-Arbitration/434962/Enforcement-Of-Foreign-Judgments-And-Decrees-In-India>
7. Suits by indigent persons & Interpleader suits - <http://lawtimesjournal.in/suits-by-indigent-persons-interpleader-suits/>
8. Critical analysis of Provision for 'Cost' under civil procedure code, 1908, [Saurabh Kumar](#) [National Law Institute University](#) [https://www.researchgate.net/publication/332342958\\_Critical\\_analysis\\_of\\_Provision\\_for\\_'Cost'\\_under\\_civil\\_procedure\\_code\\_1908](https://www.researchgate.net/publication/332342958_Critical_analysis_of_Provision_for_'Cost'_under_civil_procedure_code_1908)
9. Process of Trial of Civil Cases/Suits In India, Vijay Pal Dalmia <https://www.mondaq.com/india/Litigation-Mediation-Arbitration/654652/Process-Of-Trial-Of-Civil-Cases-Suits-In-India>
10. Suits With Basic Relief Of Challenging Decree Passed By DRT Not Maintainable: Supreme Court - <https://www.livelaw.in/top-stories/suits-challenging-decree-passed-by-drt-not-maintainable-153292>

#### **Cases for Guidance:**

1. A.N. Kumar vs Arulmighu Arunachaleswara Devasthanam Thiruvannamalai and Ors  
And A.N. Kumar vs Arulmighu Arunachaleswara Devasthanam Thiruvannamalai 2011 -2- L.W. 1 12
2. Amar Kumar Jha vs. CPIO, RTI Cell and Ors, CIC/IARMY/A/2017/189009/SD
3. Anser Bi vs Sherfunissa Begum Sahiba Mosque Wakf, rep. by its Secretary Fasiuddin and Ors (2011) 3 MLJ 44 14
4. C.S. Mani (deceased) by LR C.S. Dhanapalan Vs B. Chinnasamy Naidu (deceased) by LRs. (2011) 3 MLJ 506 (SC)
5. Essar Constructions Vs N. P. Rama Krishna Reddy [(2000) 6 SCC 94]
6. Anuradha Bhasin vs Union Of India Writ Petition (Civil) No. 1031 Of 2019
7. Board of Revenue Vs M/S Raj Brothers Agencies etc., 1973 (3) SCR 492
8. Deb Ratan Biswas and Ors vs Most. And Moyi Devi & Ors 2011 (4) SCALE 656
9. Gayathri Womens Welfare Association vs Gowramma & Anr 2011 2 – L.W. 481
10. Balkrishna Chatrabhuj Thacker v. Devabai, AIR 1985 Guj. 133.

11. Gurmukh Singh vs Jaswant Kaur 2011 (4) SCALE 221
12. BALCO Employees Union v. Union of India AIR 2002 SC 350
13. Chitivalase Jute Mills v. Jaypee Rewa Cement AIR 2004 SC 1687
14. Chandrabhai K. Bhoir v. Krishna A. Bhoir, AIR 2009 SC 1674. 13
15. GC Care Centre and Hospital v. OP Care Pvt. Ltd. AIR 2004 SC 2339

### **Learning Outcomes**

#### **After learning the subject, the students shall be able**

1. To achieve a complete grasp and understanding of the general principles of Civil Procedure and gain a mastery over the subject.
2. To accumulate a thorough explanation on all the essential aspects of civil procedure and practice, right from the inception of a civil suit until its finality, with reference to limitation laws.
3. To gain knowledge on the latest trends involved in the electronic filing of civil suits including e-vakalatnama.
4. To understand about the latest amendments incorporated along with its effects.
5. To train themselves as future advocates in civil side practice.

## **CODE OF CRIMINAL PROCEDURE 1973 (Law of Crimes II)** **(Including Juvenile Justice Act and The Probation of Offenders Act)**

### **Objectives of the Course:**

*This course is aimed to equip the students to understand the various criminal procedures of investigation, arrest, bail, charges, trial proceedings, sentencing process etc. The Principle of Natural Justice is sine qua non in proper implementation of CrPC. Though the objectives of maintenance are to provide monetary sanction, it is been included in the Criminal Procedure for the achievement of social welfare measures. The Juvenile Justice (Care and Protection of Children) Act, 2015 discuss about the need for reformation and rehabilitation of Child in Conflict with Law and Child in need of care and protection, the statutory bodies, the reformatory mechanism etc. The Probation of Offenders Act, 1958 discuss about the correctional process of offenders.*

### **COURSE OUTLINE**

#### **Module I: Introduction:**

- a. Objective of CrPC.
- b. Historical development of Criminal Law in India.
- c. Contributions of Law Commission of India.
- d. Classification of Offences.
- e. Functionaries of the Code – Police – Prosecutor – Defence Counsel – Criminal Court – Correctional Institution.

#### **Module II: Investigation:**

##### **(a) Pre-Investigation and Investigation procedures**

- a. FIR – Investigation
- b. Search and Seizure
- c. Summons and Warrants
- d. Arrest
- e. Recording Statement of Witnesses and accused
- f. Case Diary and General Diary
- g. Final Report
- h. Inquest and Investigation on unnatural death and dowry death
- i. Concept of bail
- j. Types of Bail – Bail by Court of Sessions and High Court – Anticipatory Bail – Appeal Bail – Bail Bonds – Sureties and Securities.

##### **(b) Post Investigation Procedures:**

- a. Limitation in taking cognizance

- b. Taking cognizance of case
- c. Dismissal of Complaint
- d. Local Jurisdiction of the Courts
- e. Commencement of Proceedings - Supply of copies of documents
- f. Committal Proceedings
- g. Charges - Forms and Content of Charges –Alteration of Charges – Joinder of Charges – Charges for doubtful offence and more than one offence
- h. Withdrawal of charges.

### **Module III: Trial Procedure:**

- a. Common features of Trial - Fair Trial Principles
- b. Types of Trial – Trial of Warrant cases before the Court of Sessions – Trial of Warrant cases before the Magistrate
- c. Opening of case – Discharge – Framing of Charges – Pleading Guilty – Prosecution Witness – Examination of Accused – Defence Witness – Arguments – Previous conviction and acquittal.
- d. Summons Trial
- e. Summary Trial
- f. Disposal of cases without full trial
- g. Judgement
- h. Compensation
- i. Plea bargaining.

### **Module IV: Execution, Suspension of Sentences & Appellate Jurisdiction:**

- a. Execution of Death Sentence – Postponement of execution of death sentence
- b. Execution of Life imprisonment
- c. Suspension of Sentence
- d. Remission of Sentence
- e. Commutation of Sentence
- f. Types of Appeal – Procedure for Appeal – Powers of Appellate Court
- g. Reference to High Court
- h. Revision – Call for records from lower Court – Power of High Court and Court of Session on Revision
- i. Transfer of cases

### **Module V: Preventive Measures and Security Proceedings:**

- a. Preventive actions of police
- b. Security Proceedings
- c. Dispersal of Unlawful Assemblies
- d. Removal of Public Nuisance – Urgent cases of apprehend danger or nuisance
- e. Disputes as to Immovable Property.

## **Module VI: Common Provisions of maintenance – Social welfare measures**

- a. Objective of maintenance procedures
- b. Invoking of Social Welfare Measures
- c. Persons entitled to claim maintenance
- d. Persons liable to pay maintenance
- e. Jurisdiction – Order of maintenance and enforcement
- f. Alteration to maintenance
- g. Cancellation of maintenance order.

## **Module VII: The Juvenile Justice Act, 2015& Probation of Offenders Act, 1958**

- a. Objective of the Act – Definitions
- b. Statutory bodies
- c. Reformatory institutions – Powers and functions of Juvenile Justice Board
- d. Orders may be and may not be passed against Juvenile
- e. Heinous Crime – Children Court
- f. Child in need of Care and Protection
- g. Powers and functions of Child welfare Committee
- h. Reformatory homes
- i. Rehabilitation Process - Adoption, Foster care
- j. Offences against children and penalties – State Rules
- k. Probation of Offenders Act - Objective of the Act
- l. Procedural Law and Probation
- m. Conditions to release on Probation – Powers of Magistrate Court
- n. Role of Probation of Officers – Validity of Report of Probation Officers
- o. Condition and relaxation of Probation Conditions.

## **Recommended Reading**

### **Books:**

1. Ratanlal and Dhirajlal, Criminal Procedure Code, Lexis Nexis, Butterworth Wadhawa, Nagpur, 2017.
2. S.C. Sarkar, The Law of Criminal Procedure, Wadhawa & Co, Nagpur, 2017.
3. K.N. Chandrasekharan Pillai, R. V. Kelkar's Lecture on Criminal Procedure, Eastern Book Company, 2015.
4. Woodroffe John, Commentaries on Criminal Procedure Code, Vol.1 & 2, 1997, Law Publishers (India) Ltd, Ahmedabad.
5. Kathuria, Supreme Court on Code of Criminal Procedure, Vol 1 & 2, Professional Publishers.

### **Journals/Journal Articles:**

1. Prakash Chandra Agarwal 2016, "Law Relating to Bail in India: A Study of Legislative and Judicial Trends", *International Journal of Law* Vol.2, Issue.4, pp.28- 30.
2. Vikramaditya S Khanna & Kartikey Mahajan 2016, "Anticipatory Bail in India: Addressing Misuse of the Criminal Justice Process?", *Research Handbook on Comparative Criminal Procedure*,
3. Ravinder Barn, Ved Kumari 2015, "Understanding Complaint Credibility in Rape Appeals: A Case Study of High Courts Judgements and Judge's Perspectives in India" *The British Journal of Criminology*" Vol.55, Issue.3, pp.435-453.
4. Dr. Prativa Panda 2016, "Right to maintenance of Hindu Women under Hindu Adoption and Maintenance Act", *Global Journal for Research Analysis* Vol.5, Issue.1, pp.130-132.
5. Isha Kansal 2017, "A Critical Study on Probation of Offenders Act, 1958", *International Journal of Commerce and Management Research*, pp.43-47

### **Further Readings:**

#### **Books:**

1. Criminal Law Manual, 2017, Universal Publications
2. Aiyer, Mitter, Law of Bails – Practice and Procedure, Law Publishers (India) Pvt Ltd, 2016.
3. P.V. Majumdar, Law of Bail, Bonds and Arrest, Orient Publications, 2015.
4. Justice P.S. Narayana, Code of Criminal Procedure, ALT Publications, 2015.
5. Basu N.D, Code of Criminal Procedure, Ashoka Law House, Delhi, 2004.
6. Sprack John, Practical Approach to Criminal Procedure, Oxford University Press, 2015.
7. Bare Acts: (i) Code of Criminal Procedure, 1973.
  - i. (ii) Criminal Law Amendment Act, 2013.
  - ii. (iii) Juvenile Justice (Care and Protection of Children), Act 2015
  - iii. (iv) The Probation of Offenders Act, 1958.

#### **Law Commissions Report relating to Amendment:**

8. Report Numbers: 14, 32 & 33, 36 & 37, 41, 48, 73, 102, 132, 154, 200, 203, 212, 233, 237, 268 – Reports Relating to modifications in CrPC.
9. Justice Verma Commission Report on Amendment of Criminal Law.

#### **Journals:**

1. American Criminal Law Quarterly
2. American Criminal Law Review
3. American Journal of Criminal Law
4. Buffalo Criminal Law Review
5. Crime and Justice: A Review of Research
6. Criminal Law Quarterly
7. European Criminal Law Review
8. Howard Journal of Crime and Justice
9. Howard Law Review
10. Journal of Criminal Law and Criminology

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## Case for Guidance:

1. Khatri (2) v. State of Bihar, (1981) 1 SCC 627
2. Joginder Kumar v. State of U.P. (1994) 4 SCC 260
3. D.K. Basu v. State of West Bengal (1997) 6 SCC 642
4. Christian Community Welfare Council v. State of Maharashtra 1995 CrLJ 4223(Bom)
5. Husainara Khatoon (4) v. State of Bihar, (1980) 1 SCC 98
6. Mohd. Ajmal Amir Kasab v. State of Maharashtra (2012) 9 SCC 1
7. Sheela Barse v. State of Maharashtra (1983) 2 SCC 96
8. Manu Sharma v. State (NCT of Delhi) (2010) 6 SCC 1
9. Nandhini Satpathy v. P.L. Dhani (1978) 2 SCC 424
10. Jagan Mohan Reddy v. CBI (2013) 3 SCC CrI 552
11. R. Rathinam v. State (2000) 2 SCC 391
12. Zahira Habibulla Sheikh (5) v. State of Gujarat (2006) 3 SCC 374
13. Mohd. Shahabuddin v. State of Bihar (2010) 4 SCC 653
14. K. Anbazhagan Raju v. Supt of Police 2004 SCC CrLJ 882
15. Bachan Singh v. State of Punjab (1980) 2 SCC 684

## Learning Outcome:

### At the end of the course, the students will be able to:

1. Understand the modes of execution of Substantive Criminal Law with the aid of Procedural law and Practical application of Criminal Laws.
  2. Familiar with the procedures of arrest, bail, trial and judgement.
  3. Understand the Appeal, Revision procedures under criminal jurisdiction.
  4. Understand and analyse the procedure for claiming maintenance and Probation Laws.
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# ENVIRONMENTAL LAW

## Objectives of the Course:

*The objective of the course is to make environmental law familiar to the students by understanding all dimensions of the subject. This module addresses the UGC mandate to introduce the 'environmental studies' and Bar Council framework syllabus for the subject.*

*The paper chooses certain international legal regimes to introduce the interface between international and national laws. The module is aptly divided to have a comprehensive understanding of natural resource law and pollution control laws. Emerging regimes such as mining, nuclear energy and health laws are introduced. The module will also introduce disaster management, coastal regulation and biodiversity laws. An introduction to state laws is provided to highlight the role of states in the environmental governance. The student will have the following competencies after studying the subject:*

- 1. Students will understand the interface amongst the academic disciplines in relation to environment and identify the relevance of law in the resource discourse.*
- 2. Students will appreciate the legal structure governing environmental concerns from global scale to individual level.*
- 3. Students will be able to apply the environmental law for situations that may arise in the judicial, administrative and political platforms.*

## COURSE OUTLINE

### Module I: Introduction<sup>1</sup>

- A. Historical Perspectives- Ancient India –Vedas –Kautilya - Sangam Tamil  
Classification - Ashoka and Buddhism – Medieval India - Colonial Perspectives of Environment –Environmental History of Europe
- B. Social, and Political dimensions of Natural Resources Use- Global commons – Rural and Urban Commons -Environmental Pollution – Poverty, Development and Environment - consumerism and minimalism – Ecological Footprint, Carbon Footprint, Water Footprint and Virtual Water
- C. Factors Affecting Environment – Deforestation - – Habitat Loss - Green House Gases – Acid Rain – Climate Change

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<sup>1</sup> This module is framed in consonance with the UGC mandated 'environmental studies' paper for all the UG courses.



## **Module II Constitution and Environment**

- A.Environment and Fundamental Rights – Public Interest Litigations on Environmental Protection – Higher Judiciary and Environment – Fundamental Rights – Right to Environment, Health, Food, Nutrition, Water and Sanitation – Right to Environment vs Right to Development
- B.Directive Principles and Environment – Obligations of the State to Protect Environment - Fundamental Duties to Protect Environment
- C.Legislative Powers of Union and State over Environmental Aspects – Environmental aspects in VII Schedule – Role of Local Bodies in Protection of Environment

## **Module III Principles of Environmental Law**

Principles of Environmental Law - sustainable development - Public Trust - Environmental Impact Assessment - precautionary principle - polluters' pay - inter-generational equity - permanent sovereignty over natural resources - *Equitable Utilisation*

## **Module IV: International Environmental Law**

- A.United Nations and Environment– UN Institutions - UN conferences (from Stockholm to Rio+20)
- B.Selected international legal regimes - Climate Change Convention –Convention on Biological Diversity – World Heritage Convention - Nuclear safety conventions and IAEA

## **Module V: Pollution Control Laws**

- A.Water (Prevention and Control of Pollution) Act, 1974 –Air (Prevention and Control of Pollution) Act, 1981 –Environment (Protection) Act, 1986- –Noise Pollution Rules
- B.Rules relating to Hazardous wastes, Plastic Waste, Bio-Medical Waste, E-Waste, Solid Waste, and Batteries

## **Module VI: Ecological Conservation and Animal Welfare Laws**

- A.Enactments relating to Forests, Wildlife, Prevention of Cruelty to Animals and Bio-diversity - Groundwater and surface water regulation – Rainwater Harvesting – Encroachment of Water bodies – Irrigation Laws
- B.Laws and Policies relating to Food Security, Organic farming, Seeds and Pesticide

## **Module VII Environmental Degradation, Disasters and Public Health**

A.Regulation of Fisheries - Coastal Regulation – Marine Environment

B.Energy Laws -Regulation of Mines and Minerals

C.Disaster Management Act – Public Health Laws – Laws relating to Communicable Diseases in Human and Animal Population

## **Module VIII Remedies for Environmental Pollution**

Common Law Remedies/Remedies under Law of Tort –Penal Remedies –Indian Penal Code and Code of Criminal Procedure -Public Liability Insurance Act –The National Green Tribunal Act, 2010.

## **Statutory Materials: Bare Acts International Conventions**

### **Recommended Readings:**

#### **Books**

1. P. Leelakrishnan, Environmental Law in India (Butterworths, 2019)
2. S. Shanthakumar, Environmental Law –An Introduction (Butterworths 2004)
3. ShyamDiwan and Armin Rosencranz, Enviromental Law and Policy in India (Oxford 2002)
4. NawneetVibhaw, Environmental Law: An Introduction (Lexis Nexis 2016)
5. Alan Boyle and Patricia Bernie, International Law and Environment (Oxford 2009)
6. Philippe Sands, Principles of International Environmental Law (Cambridge 2018)

#### **Selected Articles**

- Armin Rosencranz(ed) Supreme Court and India's Forests, EPW (2008) <https://www.epw.in/journal/2008/05/commentary/supreme-court-and-indias-forests.html>
- Gitanjali Gill, "Precautionary principle, its interpretation and application by the Indian judiciary..." Environmental Law Review (2019) <https://journals.sagepub.com/doi/full/10.1177/1461452919890283>
- Glyn Williams and Emma Mawdsley, "Postcolonial environmental justice: Government and governance in India" Geoforum 37 (2006) 660–670
- Nupur Chowdhury(ed), the National Green Tribunal in India: Examining the question of jurisdiction, Asia Pacific Journal of Environmental Law, (2018) <https://www.teachenvirolaw.asia/sites/default/files/jurisdiction-ngt-nupur-nidhi-2018.pdf>
- Philippe Cullet(ed), "Inter-Sectoral Water Allocation and Conflicts: Perspectives from Rajasthan" EPW (2015) <http://www.ielrc.org/content/a1503.pdf>
- Sakthivel.P (ed) "Managed aquifer recharge: the widening gap between law and policy in India," Water Supply (2015) <https://doi.org/10.2166/ws.2015.074>
- Sax, Joseph L. "Public Trust Doctrine in Natural Resource Law: Effective Judicial

Intervention” Michigan Law Review (1970)  
<https://heinonline.org/HOL/LandingPage?handle=hein.journals/mlr68&div=32&id=&page=>

- Shibani Ghosh(ed), ‘Appellate Authorities under Pollution Control Laws in India: Powers, Problems and Potential’, 14/1 Law, Environment and Development Journal (2018), p. 45, available at <http://www.lead-journal.org/content/18045.pdf>
- Sujith Koonan, “Constitutionality of the Plachimada Tribunal Bill, 2011: An Assessment” Law, Environment and Development Journal (2011) <http://www.lead-journal.org/content/11151.pdf>

## Recommended Case Laws

### India

- M.C. Mehta v Union of India (Oleum Gas Leakage case) (1987) 1 SCC 395
- Mrs. Susetha v State of T.N. (2006) 6 SCC 543,
- T.N. Godavarman Thirumulpad v. Union of India (1997) 2 SCC 267
- S. Jagannath v Union of India (1997) 2 SCC 87
- Murli S. Deora v Union of India (2001) 8 SCC 765
- Vellore Citizens’ Welfare Forum v Union of India (1996) 5 SCC 647 □ *Ratlam v. Vardhichand* (1980) 4 SCC 162.
- *Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P* AIR 1985 SC 652
- Indian Council for Enviro-legal Action vs. Union of India 1996 AIR 1446
- Tripur Dyeing Factory Owners Association V/s Noyyal River Ayacutdars Protection Association & Ors. AIR 2010 SC 3645
- Almitra H. Patel v. Union of India <http://www.indiaenvironmentportal.org.in/files/Almitra%20Patel%20Corrected%20Order%202%20Jan%202017%20NGT.pdf>
- Save Mon Region Federation v. Union of India <https://indiankanoon.org/doc/189583188/>
- Samit Mehta v. Union of India <https://www.casemine.com/judgement/in/5b17d5604a932678010063da>
- Srinagar Bandh Aapda Sangharsh Samiti v. Alaknanda hydro Power <https://www.casemine.com/judgement/in/5c062c18b338d16e11efe962>

### International

- Certain Activities Carried Out by Nicaragua in the Border Area <https://www.icj-cij.org/en/case/150>
- Pulp Mills on the River Uruguay <https://www.icj-cij.org/en/case/135>
- Nuclear Tests <https://www.icj-cij.org/en/case/58>
- Whaling in the Antarctic <https://www.icj-cij.org/en/case/148>
- South China Sea Arbitration Case <https://pca-cpa.org/wp-content/uploads/sites/6/2016/07/PH-CN-20160712-Award.pdf>
- Indus Waters Kishenganga Arbitration <https://pca-cpa.org/en/cases/20/>

### Foreign

- Urgenda Foundation v. The State of the Netherlands <https://elaw.org/nl/urgenda.15>
- Jam v. International Finance Corporation [https://www.supremecourt.gov/opinions/18pdf/17-1011\\_mkhn.pdf](https://www.supremecourt.gov/opinions/18pdf/17-1011_mkhn.pdf)

### **Learning Outcome**

After undergoing this course,

1. Students will know the basic environmental concerns from scientific, historical and political perspectives.
2. They will be able to identify the constitutional scheme and propositions relating to environmental management.
3. They will understand the complexities of institutions, stakeholders' interest and politics over natural resources from villages to globe.
4. The students will understand, apply and think on the laws and governance structure of pollution control and natural resources management laws. They will have a clear understanding of various remedies for environmental wrongs.

# **LAW OF TAXATION**

## **Objective of the Course**

*Taxation plays a pivotal role in meeting a variety of public expenditure by generating major revenue to the government. While the direct taxes levied under the provisions of Income Tax Act has not been much on public domain for criticism, the indirect taxes levied under various statutes was criticized for its cascading effects, which was removed by the implementation of GST. The main object of this course is to create an understanding on the basic aspects of taxation, both direct and indirect taxing system in India along with the constitutional amendments.*

The Course has been designed to:

- I. To explore and understand the concept of tax along with its relevance.
- II. To understand the relevance and importance of the Constitution of India in shaping the taxing statutes and tax system.
- III. To explore how direct taxes are being levied and to thoroughly investigate the steps in arriving at the taxable income.
- IV. To enhance the knowledge on Goods and Services Tax (GST), the new indirect tax regime in its true legal sense.
- V. To appreciate the role of tax authorities and the importance of The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

## **COURSE OUTLINE**

### **Module-I - General Introduction**

- a) Definition of Tax – Definition under the Constitution.
- b) Evolution of Tax - Distinction between Tax and Fee, Duty, Surcharge, Toll and Cess.
- c) Mutual Relationship between Income Tax Act and Finance Act - Difference Between Money Bill and Finance Bill.
- d) Canons of Taxation
- e) Taxing System – Types of Taxes – Direct – Proportional, Progressive, Regressive, Degressive Taxation – Indirect- Specific – Ad Valorem.
- f) Interpretation of Taxing Statutes – Event Theory and Aspect Theory.
- g) Tax Evasion v. Tax Avoidance.

### **Module-II - Constitutional Basis of Taxing Powers**

- a) Constitutional Provisions relating to Taxation – Articles 246, 248, 265 & 286.
- b) Doctrines such as Taxation and Equity are Stranger – Pick and Choose Rule – Pith and Substance – Repugnancy and Inconsistency – Territorial Nexus – Unjust Enrichment – Immunity of Instrumentality – res extra commercium.

- c) Historical Development of Tax on Supply of Goods and Services (along with A comparative study of GST in India with Brazil, Canada, Singapore and Malaysia) - 101<sup>st</sup> Constitutional Amendment.
- d) Amendment of various Articles in Indian Constitution - Amendment of Sixth and Seventh Schedules.
- e) GST Council - Constitutional Limitations - Exemptions to the Levy of Goods and Services Tax on Petroleum Products and Alcoholic Liquor for Human Consumption - Power of the GST Council to Regulate these Goods by Notification.

### **Module-III - The Income Tax Act, 1961**

#### **Part I –Steps in the Determination of Taxable Income**

- a) Preliminaries- Concepts: ‘Income’, ‘Agricultural Income’, ‘Casual Income’, ‘Assessee’, ‘Person’, Residential Status, ‘Previous Year and Assessment Year’.
- b) General Charging Section and Specific Charging Sections – Income: Received – Deemed to be Received – Arising – Accrual – Deemed to Arise or Accrue in India.
- c) Income which does not form part of Total Income (Exemptions).
- d) Taxability of Income under Specific Heads: i) Income from Salaries - ii) Income from House Property - iii) Profits or Gains from Business or Profession - iv) Income from Capital Gains - v) Income from Other Sources.
- e) Clubbing of Income: Income of other Persons to be included in Calculating in Assessee’s Total Income.
- f) Treatment of Losses - Set off and Carry Forward of Losses.
- g) Chapter VI-A Deductions

#### **Part II – Procedural Aspects**

- a) Double Taxation - Double Taxation Relief.
- b) Procedure for Assessment of Tax - Assessment of Special Class of Assesses.
- c) Search, Seizure and Adjudication.
- d) Fines and Penalties – Demands & Recovery.
- e) Appeals & Revision.

### **Module- IV – Goods and Services Tax**

#### **A. Central Goods and services Tax Act, 2017**

- a) Definitions
- b) Levy and collection of Tax - Composition Levy
- c) Scope of Supply – Kinds of Supply – Time, Place and Value of supply

- d) Input Tax Credit (ITC)
- e) Registration - Tax Invoice
- f) Credit and Debit Notes – Returns – Payment – Refunds – Assessment – Audit.
- g) Inspection, Search, Seizure and Arrest - Demand and Recovery - Liability to Pay in Special Cases.
- h) Advance Ruling, Appeals and Revision
- i) Offences and Penalties
- j) Transitional Provisions
- k) Anti-Profiteering Measures
- l) GST Compliance Rating.

#### **B. Tamil Nadu Goods and Services Tax Act, 2017**

- a) Definitions
- b) Levy and Collection of Taxes – Composition Levy
- c) Scope of Supply – Tax Liability on Composite and Mixed Supplies - Time, Place and value of supply
- d) Power to Grant Exemption from Tax
- e) Input Tax Credit
- f) Registration
- g) Tax Invoice - Credit and Debit Notes – Returns – Payment – Refunds – Assessment – Audit
- h) Inspection, Search, Seizure and Arrest, Demand and Recovery - Liability to Pay in Special Cases
- i) Advance Ruling, Appeals and Revision
- j) Offences and Penalties
- k) Transitional Provisions
- l) Anti-Profiteering Measures
- m) GST Compliance Rating.

#### **C. Integrated Goods and Services Tax Act, 2017**

- a) Collection and Levy of Integrated Goods and Services Tax
- b) Determination of Nature of Supply, Inter-state Supply and Intra-state Supply - Location of Supply - Place of Supply of Goods and Services or both - Zero Rated Supply.
- c) Cross Utilization of Credit - Utilization of IGST Credit
- d) Refund of Integrated Tax to International Tourist
- e) Apportionment of Tax Revenue.

#### **D. Significance of Union Territory Goods and Services Tax Act, 2017.**

## **E. Significance of the Goods and Services Tax (Compensation to States) Act, 2017.**

### **Module - V – Authorities under various Taxing Statutes**

- a) The Income Tax Act, 1961 – Income Tax Authorities, Powers and Functions.
- b) The Central Goods and Services Tax Act, 2017 – Officers under the Act, Powers and Functions.
- c) The Tamil Nadu Goods and Services Tax Act, 2017 – Officers under the Act, Powers and Functions.
- d) The Integrated Goods and Services Tax Act, 2017 – Appointment of Officers under the Act, Authorisation of Officers under SGST and UTGST as proper officers.
- e) The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 – Tax Authorities, Powers and Functions.

### **Recommended Readings:**

#### **Books Prescribed:**

1. N.A. Palkiwala, *The Law and Practice of Income Tax*, (2014), Lexis Nexis
2. T.N. Manoharan and G.R.Hari (35<sup>th</sup> Edition, 2020) *Students' Handbook on Taxation - Includes Income-Tax Law and Goods and Service Tax Law*, Snow White Publications.
3. Sampath Iyengar, *Law of Income Tax, Step by Step Guide to GST*, Wolters Kluwer.
4. V S Datey, *GST Ready Reckoner*, Taxmann 2017.
5. Dr. Vinod K Singhania, *Direct Taxes Ready Reckoner-As Amended by Taxation Laws (Amendment) Act 2019* (Taxmann Publications).

#### **Journal Articles:**

1. Kotha, Ashrita Prasad, “Place of Effective Management Test in the Income Tax Act, 1961: Is It the Right Way Forward” 8 NUJS L. Rev. 13 (January-June 2015).
2. Andharia, Prateek, “Section 9 of the Income Tax Act, 1961: Defaced and Defiled” 25 Nat'l L. Sch. India Rev. 119 (2013).
3. Dr. S.V.Ramana Rao , “ Input Tax Credit under GST in India: An Overview”, International Journal of Exclusive Global Research - Vol 3 Issue 2 February.
4. Vartikasahu and Somesh Kumar Shukla, “A Revolutionary Reform for Indirect Tax with an Analysis of the GST Constitutional 101<sup>st</sup> Amendment Act, 2016”, International Research Journal of Commerce and Law, ISSN: 2349 – 705X, Vol 04, Issue 9, September 2017.
5. Anand Nayyar and Inderpal Singh, “A Comprehensive Analysis of Goods and Services Tax (GST) in India”, Indian Journal of Finance, Vol 12, Issue 2, Feb 2018.

#### **Further Reading:**

#### **Books:**

1. Chaturvedi and Pithisaria, *Companion to Chaturvedi & Pithisaria's Income Tax Law –Wealth Tax Act 1957*, Eastern Book Company, Lucknow.
2. Girish Ahuja- (2019), *Law and Procedure- Professional approaches to Direct Taxes and International Taxation*, Wolters Kluwer India Pvt Ltd.



3. Vinod K Singhania & Kapil Singhania, *Direct Taxes Law & Practice*, (Taxmann).
4. Dr. Girish Ahuja & Dr. Ravi Gupta, *Direct Taxes Law & Practice*, (Wolters Kluwer).
5. CA.Ashok Batra, *GST Ready Recknor*, (Wolters Kluwer).
6. CA.Keshav Garg, *GST Ready Recknor*, (Bharat).
7. Jaya Vasudevan Suseela, *Indirect Taxes (GST and other Indirect Taxes)*, (EBC Explorer).
8. K.Vaitheeshwaran, *Students handbook on Indirect Taxes*, (Snow White).
9. Karthik Sundaram, *Tax, Constitution and the Supreme Court: Analysing the Evolution of Taxation Law in India*.
10. Dr.Sanjiv Agarwal & Sanjeev Malhotra, *Goods & Services Tax, Laws, Concepts and Impact Analysis*, (Bloomsbury).

#### **E-Books:**

1. A Comprehensive Guide Book on GST India – Clear Tax GST - [www.clearnav.com/gst](http://www.clearnav.com/gst)
2. Case laws of the Honourable Supreme Court of India and the Honourable High courts of India in favour of Revenue - Sarita Mishra Kolhe - [www.nadt.gov.in](http://www.nadt.gov.in)
3. Indian Tax System – An Overview – Habibulla & Co., Chartered Accountants India - [http://www.hcoca.com/Pdf/Indian\\_Tax\\_System.pdf](http://www.hcoca.com/Pdf/Indian_Tax_System.pdf)

#### **Journal Articles:**

1. R. Kalaivani, “Indian Constitutional Perceptive of Taxation”, IOSR Journal of Humanities and Social Science (IOSR-JHSS), e-ISSN: 2279-0837, p-ISSN: 2279-0845, Volume 22, Issue 9, Ver. 15 (September. 2017) PP 75-78
2. B. Anbuthambi and N. Chandrasekaran, “Goods And Services Tax (GST) And Training For Its Implementation In India: A Perspective”, Ictact Journal On Management Studies, ISSN: 2395-1664, May 2017, Volume: 03, Issue: 02.
3. Shely Rastogi , S. K. Agarwal, “Zero Rated GST on Indian SEZs: An Analysis”, Journal of Advances and Scholarly Researches in Allied Education, Ignited Minds Journals , E-ISSN : 2230 – 7540, Volume 15, Issue 9 , Oct 2018 , Pg. 124 – 131.
4. SANJOY ROY, “Transition to Goods and Services Tax (GST) Regime: Rationale and Impasse”, The NEHU Journal, ISSN. 0972 - 8406, Vol XIV, No. 1, January - June 2016, pp. 51-67.
5. Hedau Amit, “A Review of Canons of Taxation: India's Perspective”, Asian Journal of Research in Social Sciences and Humanities, Online ISSN: 2249-7315, (2018), Volume : 8, Issue : 2, pp 41 - 53 .
6. Sanjay K. Radadiya, “Income Tax Act 1961 V/S Direct Tax Code 2009”, Indian Journal of Applied Research, Vol.II, Issue.II November 2012.
7. Jasmine V.M, “GST & Evolution of Tax System in India”, IRA-International Journal of Management & Social Sciences ISSN 2455-2267; Vol.07, Issue 01 (2017) Pg. no. 65-72.
8. Anand Deo, “Goods & Services Tax (GST) – Impact Analysis & Road Ahead”, IBMRD's Journal of Management & Research, ISSN: 2277-7830, Online ISSN: 2348-5922, Volume 6, Issue 2, September 2017, pp 17 - 28.

9. Rakesh Chandra, "GST & cooperative federation: Through the eyes of Indian constitution", International Journal of Advanced Research and Development, ISSN: 2455-4030, Volume 2; Issue 6; November 2017; Page No. 607-610.
10. Nikhil Pilnu, "Interpretation of taxing statute as strict construction and exemption", Legal Service India, ISBN No: 978-81-928510-1-3.

#### **Cases for Guidance:**

1. *Indian Medical Association v. V.P. Shantha & Ors* 1996 AIR 550, 1995 SCC (6) 651.
2. *Mathuram Agrawal v. State of Madhya Pradesh Appeal* (civil) 1990 of 1995.
3. *UOI v. Azadi Bachao Andolan & Anr.* (2004) 10 SCC 1.
4. *A.V. Fernandez v. State of Kerala*, [AIR 1957 SC 657].
5. *Vodafone International Holdings BV v. Union of India*, (2012) 6 SCC 613.
6. *State of Travancore-Cochin v. Shanmugha Vilas Cashew Nut Factory* 1953 AIR 333, 1954 SCR 53.
7. *Chennai Properties and Investments Ltd. v. Commissioner of Income Tax* [2015] 373 ITR 673 (SC).
8. *CIT v. Smt. Pelleti Sridevamma* 1976 105 ITR 887 AP.
9. *Jagannath Hanumanbux v. ITO*, (1957) 31 ITR 603 Cal.
10. *Jay Bee Industries v. UOI*, (CWP No.2169 of 2018 order dt. 16.11.2019).
11. *Amit Cotton Industries v. Principal Commissioner of Customs* (Gujarat HC).
12. *Royal Care Speciality Hospital Ltd.* (AAR Tamil Nadu).
13. *Vinod Kumar Jain v. CIT* 344 ITR 501 (P & H).
14. *Chennai Properties and Investments Ltd. v. Commissioner of Income Tax* [2015] 373 ITR 673 (SC).
15. *Cape Brandy Syndicate v. I.R.C.* (1 KB 64, 71)

#### **Learning Outcome:**

After completion of the course students will be able –

- *To understand the meaning, nature and scope of tax along with its importance.*
- *To analyse the different kinds of taxes and understand the implications of them.*
- *To understand the sources of income and tax liability and exemption from tax liability.*
- *To analyse the taxable event under GST and determine the levy of tax and understand the procedural aspects embodied in both direct and indirect taxes.*

# MARITIME LAW

## Objectives of the Course:

*Maritime law course intends to educate law students in National and International Maritime Law which allows them to critically evaluate the laws and legal systems pertaining to water bodies and ports of India from a juristic perspective. It also creates a perfect opportunity to get expertise in areas rising out of international disputes under Maritime law. The subject is highly relevant and need of this hour in India, where India is rapidly integrating its economy with more than 90% of the country's trade being conducted through oceans and also the sea provides passageway to 45,000 merchant ships worldwide and over 90 percent of global trade. The curriculum includes a few compulsory subjects dealing in Indian Law, subjects covering Maritime Law, Admiralty jurisdiction, Maritime Zones, Shipping Contracts, Ship Mortgages, Ownership and managements of Ships, Port Management and Safety and security at Sea.*

## COURSE OUTLINE

### Module –I

#### Evolution, Nature, scope and sources

- a) History of admiralty law in England, other parts of the world
- b) Nature of Admiralty Law– Sources of maritime law and admiralty law
- c) Relationship between Admiralty Law, Maritime Law and the Law of Sea
- d) History of admiralty jurisdiction of High Courts of India
- e) The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017.

### Module - II Admiralty Jurisdiction and the Mode of exercise

- a) Admiralty and maritime jurisdiction (scope and extent) – Enforcement of maritime claims by *actions in rem* and *in personam*
- b) Definition of ship and its juridical personality
- c) Arrest of sea going ships -- Immunity of Government ships
- d) Maritime liens and priorities – Mareva Injunction
- e) Jurisdiction in matters of collision – Flag State – Extra territorial jurisdiction.

### Module – III

#### Law of Sea

- a) Changing concept of maritime frontiers-- International waters -- Territorial Waters -- Contiguous Zone – EEZ -- Continental shelf -- International straits – archipelagos -- International fisheries
- b) High seas – Piracy and hot pursuit
- c) Conservation and exploitation of maritime sources -- Sea as a common heritage of mankind

- d) Protection of Marine Environment
- e) Role of International Maritime Organisation

#### **Module - IV**

##### **Registration and Management of ships**

- a) Ship as property
- b) Ownership and registration of ships
- c) Concept of 'Genuine Link- Open Registries (flag of convenience)
- d) Ship mortgages
- e) Ship's sale and purchase

#### **Module –V**

##### **Maritime Safety and Security**

- a) ISM Code and issues of safety
- b) International Convention for the Safety of Life at Sea, 1974
- c) Maritime security and ISPS
- d) Liability and Jurisdiction in Collision cases
- e) Hijacking, Smuggling and Trafficking.

#### **Module –VI**

##### **Law on**

##### **Seafarers**

- a) Nature and Scope of Maritime Labour Law.
- b) Definition and Classification of Labourers under the purview of the terms 'seamen' and 'seafarer'.
- c) UNCLOS on seafarers.
- d) Introduction to Maritime Labour Convention, 2006.
- e) Human rights of seafarers – UDHR, ICCPR, ICESCR.

#### **Module – VII**

##### **Port Operations and Management**

- a) Major Ports in India
- b) Structure of Ports
- c) Laws and Policies relating to Port Management

- d) Ports and Coastal Management
- e) Project UNNATI – Indian Ports Association – Indian Private Ports and Terminals Association

### **Recommended Readings:**

#### **Statutes Prescribed:**

1. The Admiralty (Jurisdiction and Settlement of Admiralty Claims) Act, 2017.
2. The Merchant Shipping (Form of Certificate of Insurance for Civil Liability for Oil Pollution Damage) Rules, 1985.
3. Carriage of Goods by sea Act, 1925.
4. Bill of Lading Act 1856.
5. Merchant Shipping Act, 1958.
6. Marine Insurance Act, 1963.

#### **International Conventions:**

1. SOLAS Convention, 1974.
2. UNCLOS 1982.
3. MARPOL.
4. SUA Convention, 1988.
5. Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978.

#### **Books:**

1. Samareshwar Mahanty, Maritime Jurisdiction and Admiralty Law in India, Universal Publishing (2009).
2. Nagendra Singh, 'International Conventions of Merchant Shipping', Stevens Publications, (1973).
3. Kenneth C. McGuffic (ed), 'The Law of Collisions at sea', Stevens & sons, (1961).
4. Robert Force, Admiralty and Maritime Law, Federal Judicial Centre, 2004.
5. Graham, Caroline, Maritime Security and Seafarer's Welfare: Towards Harmonization, WMU Journal of Maritime Affairs, Vol. 8 (2009).

#### **Articles:**

1. Law of the Sea Forum: The 1994 Agreement on Implementation of the Seabed Provisions of the Convention on the Law of the Sea, Bernard H. Oxman, Lowis B. Sohn, Jonathan P. Charney, the American Journal of International Law (1994) Vol. 88.
2. Lionel H. Laing, 'Historic Origins of Admiralty Jurisdiction in England', 45 Mich.

L.Rev. 163 (1946).

3. George K. Walker, 'The Interface of Admiralty Law and Oceans Law', 45 J. Mar. L. & Com. 281 (2014).

4. David M. Dzidzornu, Four Principles in Marine Environment Protection: A Comparative Analysis, Ocean Development & International Law, 2009

5. Edgar Gold, The Fair Treatment of Seafarer, WMU Journal of Maritime Affairs, Vol.4, No.2, 2005.

6. Felicity Attard, IMO's Contribution to International Law Regulating Maritime Security, Journal of Maritime Law & Commerce, 2014.

### **Further Readings:**

#### **Books:**

1. Thomas J. Schoenbaum, Admiralty and Maritime Law, 2016 Pocket Part, West Academic Publishing, 2016

2. Couper, A.D. with Walsh, C. J. Stanberry, B.A. and Boerne, G.L., Voyages of Abuse: Seafarers, human rights and International shipping, Pluto Press, London, Sterling, Virginia, 1999.

3. Simon Baughen, Shipping Law, Routledge Taylor & Francis Group, London, New York, Sixth Edition, 2015.

4. Dr.ShrikantHathi and Ms.BinitaHathi, Ship Arrest In India and Admiralty Laws Of india, Brus Chambers Advocates and Solicitors, Twelfth Edition, 2019.

5. Paul Todd, Maritime Fraud and Piracy, Informa, Second Edition **Articles:**

1. The impact of the United Nations Convention on the Law of the Sea on the Progressive Development of International Law – RudigerWolfrum IJIL (1999) Vol. 39

2. M. Margaret McKeown, 'Celebrating Women on the High Seas – in Admiralty Law and Otherwise', 45 J. Mar. L. & Com. 119 (2014)

3. Rick L. Rambo, 'Admiralty Law', 30 Tex. Tech L. Rev. 363 (1999).

4. Couper, A.D. with Walsh, C. J. Stanberry, B.A. and Boerne, G.L., Voyages of Abuse: Seafarers, human rights and International shipping, Pluto Press, London.

5. John M. Krizt, Ship Mortgages, Maritime Liens, And their Enforcement: The Brussels Conventions of 1926 and 1952, 1958.

6. Edwin Fursdon (1996), "Sea Piracy - or Maritime Mugging?" INTERSEC, Vol.6 No.5 May 1996, p.166.

**Learning Outcomes:**

1. Appraise the International and Indian Admiralty and Maritime laws.
2. Articulate and analyze the roles of national governments and international organizations in the regulation of laws of sea.
3. Gain insights on practice in maritime and admiralty law in India.
4. Know how the admiralty system works in India with reference to ship management, safety and merchant shipping
5. Appraise the protection of maritime labourers.

# **MOCK COURT AND COURT TRAINING PROGRAMME**

## **(CLINICAL COURSE: IV)**

### **Objective of the Course:**

*Mock trials are an invaluable tool for law students to develop practical skills and gain hands-on experience in the legal system. For students of the School of Excellence in Law at the Tamil Nadu Dr. Ambedkar Law University, mock trials provide a range of benefits. Through participating in mock trials, students can develop practical skills such as public speaking, critical thinking, argumentation, legal research, and writing. They also gain valuable experience working with judges and attorneys, navigating the court system, and presenting their case in a professional and effective manner. Mock trials also help students to build confidence in their legal knowledge and abilities and enhance teamwork and collaboration skills that are essential in the legal profession. Furthermore, mock trials provide a practical application of legal theory, which can help students to better understand and retain the material they have learned in the classroom. Ultimately, mock trials prepare law students for a successful career in law by providing them with realistic simulations of what they will encounter in the legal profession and identifying areas where they need to improve their skills and knowledge. Court training programme will enable the students to gain experience of visiting courts, observe proceedings, take notes and watch advocates conducting trials, arguments, appreciation of evidence and logical reasoning.*

### **Mock Court and Court Training Programme**

This paper may have two components of 40 marks each and a viva for 20 marks.<sup>1</sup>

#### **(A)Mock Court (40 marks)**

Every student is required to do mock trial simulating the court proceedings **(40 marks)**.

#### **(B)Court Training Programme (40 marks)**

Students may be required to attend Court Proceedings and submit the observation report of proceedings attended by them attendance on different days in the Court assignment. (20 Marks)  
Submit the full case report for both the civil and criminal [20 Marks (10 marks for each)].

#### **(C)Viva Voce Examination**

There will be Viva Voce examination on all the above two aspects. This will carry **20 marks (10 marks for each component)**.

### **Recommended Readings:**

1. Glanville Williams, Learning the Law, (14<sup>th</sup> ed.,) Sweet and Maxwell, UK.
2. Nomita Aggarwal, A Beginners's Path to Moot Court, Universal Law Publishing, 2014
3. Kailash Rai, Moot Court ( Pre-Trial Preparation and Participation in Trial Proceedings) 5<sup>th</sup> ed, Central Law Agency 2015

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<sup>1</sup> NB: Attendance is a must while attending the court proceedings during the stipulated period of time. Anybody who fails to secure 90% attendance are not eligible to write the end semester and should repeat the same with the next batch of students in the next semester.



4. K.L.Bhatia, Moot court and Mock Trial –Art to and Art of Advocacy: Essential of Court Craft, Universal Law Publishing, 2013
5. K. Evans, Language of Advocacy, 1<sup>st</sup> Indian Reprint, Universal Law Publishing 2000
6. J Hill, Practical Guide to Mooting, 1<sup>st</sup> Indian Reprint, Palgrave Macmillan, 2009
7. J Snape and G. Watt, How to Moot-A Student Guide to Mooting, Oxford University Press 2005
8. U Sakhalkar, Developing Skills through Moot Court and Mock Trial, Allahabad Law Agency, 2014
9. B. Malik, Art of a Lawyer-Cross Examination, Advocacy, Courtmanship, Universal Law Publishing 2014
10. D. Pope and D Hill, Mooting and Advocacy Skills, 1<sup>st</sup> South Indian edn, Sweet and Maxwell, 2014.

**Learning Outcomes:**

After the completion of the course the students will be able to:

- Enhance analytical as well as critical thinking of students over interesting and contemporary legal issues
- Demonstrate a thorough and contextual knowledge of the various laws particularly in its application to real and hypothetical legal problems □ Acquire skill in advocacy, legal research and writing skills □ Gain interest in advocacy and competence as an advocate.