



தமிழ்நாடு டாக்டர் அம்பேத்கர் சட்டப் பல்கலைக்கழகம்
The Tamil Nadu Dr. Ambedkar Law University



SCHOOL OF EXCELLENCE IN LAW

LL.M CBCS PATTERN

CURRICULUM

FROM ACADEMIC YEAR 2025 – 2026

BRANCH – II

**DEPARTMENT OF CONSTITUTIONAL
LAW AND LEGAL ORDER**

DEPARTMENT OF CONSTITUTIONAL LAW AND HUMAN RIGHTS

The Tamil Nadu Dr. Ambedkar Law University was established with an objective of disseminating the knowledge of law at advanced level and to enhance the potential in legal research in the State of Tamil Nadu. Towards this end, in the year 2003 Post Graduate Department of Constitutional Law & Human Rights was established offering 2 Year LLM Fulltime course under semester pattern in accordance with UGC norms prescribed from time to time. In striving for high academic standards and excellence and also to facilitate the students into more flexible system of learning having inter disciplinary, skill oriented courses the University has restructured the curriculum into Choice Based Credit System (CBCS) from the Academic Year 2009 onwards.

The Indian Constitution being home-grown social document is mother of all the laws. The ever green Constitutional Law and Human Rights is much sought after branch with the growing demand for admission. LLM with Constitutional Law & Human Rights background is an additional qualification for the lawyering community. Since challenge to any law is subject to scrutiny on the touchstone of the Constitution and in the light of mounting constitutional litigation in the country, study of this specialized course offers tools and readymade solutions. Further, Indian Constitution is so loosely drafted in a way providing livelihood for so many lawyers needs no over emphasis. Students who opted this branch are shining with flying colours in the Constitutional Courts, appointed as Constitutional Law teachers in the Colleges and Universities across the country, selected as civil judges and some more as human rights activists. Two faculty members of this Branch securing Major Research Projects funded by UGC and ICSSR, New Delhi is the testimony for the research potentiality of the branch paving the way for creating new knowledge in the field.

The course components and syllabi is thoroughly reformed and restructured in tune with the global trends, changing times and circumstances enabling curriculum reforms better perform and transform the Indian society with effect from the academic year 2020-21. *Subject specialization core papers* will offer firm foundation in the subject so that the students/learners will be fully equipped with expertise on the field and requisite skills. *Subject Elective courses* are designed to acquire in depth knowledge of the Constitution, by the citizenry which is very much essential to render public service. The *Generic Electives* offered by the department are highly useful for public lawyering and policy making.

THE TAMIL NADU DR.AMBEDKAR LAW UNIVERSITY

BRANCH – II

DEPARTMENT OF CONSTITUTIONAL LAW AND LEGAL ORDER

LL.M. (CBCS) SYLLABUS

HARD CORE COURSES – 06

1. Transformative Constitutionalism, Pluralism & Federalism.
2. Introduction to Comparative Constitutional Law.
3. Law of Media and Communication: Contemporary Challenges.
4. Law of Education – Policy and Practice.
5. Dynamics of Election Laws.
6. Law of Property – Constitutional Perspectives.

DISCIPLINE ELECTIVE COURSES – 03

7. Law of Public Utilities in India (Railways, Telecommunications, Electricity, Banking & Insurance).
8. National Security, Public Order and Rule of Law.
9. Centre – State Financial Relations.

ELECTIVE COURSES – 02

10. Law of Public Policy and Governance.
11. Public Service Law – Comparative Constitutional Jurisprudence.

SUBJECTS IN SEMESTERS

First Semester	1. Legal Education and Research Methodology (Common Paper-I) 2. Judicial Process (Common Paper-II) 3. Transformative Constitutionalism, Pluralism & Federalism. (Core Course-I) 4. Introduction to Comparative Constitutional Law. (Core Course-II) 5. Law of Public Policy and Governance. (Elective Course-I) 6. Value Added Course – 1 : Communication Skills
Second Semester	1. Constitutional Law: The New Challenges (Common Paper-III) 2. Law and Social Transformation in India (Common Paper-IV) 3. Law of Media and Communication: Contemporary Challenges. (Core Course-III) 4. Law of Public Utilities in India (Railways, Telecommunications, Electricity, Banking & Insurance). (Discipline Elective Course-I) 5. Ability Enhancement Paper-I 6. Value Added Course – 2 : Personality Development & Soft Skills
Third Semester	1. Law of Education – Policy and Practice. (Core Course-IV) 2. Dynamics of Election Laws. (Core Course-V) 3. National Security, Public Order and Rule of Law. (Discipline Elective Course-II) 4. Public Service Law – Comparative Constitutional Jurisprudence. (Elective Course-II) 5. Ability Enhancement Paper-II
Fourth Semester	1. Law of Property – Constitutional Perspectives. (Core Course-VI) 2. Centre – State Financial Relations. (Discipline Elective Course-III) 3. Dissertation

PAPER – I
TRANSFORMATIVE CONSTITUTIONALISM, PLURALISM &
FEDERALISM

(Specialized Core Paper)

OBJECTIVES OF THE COURSE

No Constitution in the World is stable and it requires changes as the society desires and no society practice a single culture, language, religion in the federal structure of polity. The course discusses the significance of transformative constitutionalism in a pluralistic society with a federal form of government in a comparative constitutional law perspective with an in depth focus on Indian discourse. The formation of federal government is indispensable in a pluralistic society to protect and safeguard all sections of the society, particularly minorities. The inclusive pluralistic society often changes due to mix of different culture and traditions and undergoes transformation periodically and the Constitution should provide a space for it. This course attempts to bring into focus the practice of legislature and judiciary of major federal Constitutions in bringing smooth transformation of the society by avoiding revolt or revolution. After undergoing the study, the student will be able to understand the following.

- *Multitudinous and differentiated form of Constitutional practice.*
- *Constitutionalism from authoritarianism to democracy.*
- *Transformative Constitutionalism in Post- Colonial context in India.*
- *Unity in diversity in India and dynamics of federalism.*

COURSE OUTLINE

MODULE I - CONSTITUTIONALISM

- a) Historical evolution of Constitutionalism. - Natural Law Theory and Modern Constitutionalism.
- b) Types of Government –Limitations on the Government.
- c) Social - Contract Theory, Separation of Powers, Rule of Law, Procedure established by Law, Due Process of Law and principles of constitutionalism

MODULE II - TRANSFORMATIVE CONSTITUTIONALISM

- a) Constitutionalism in post-colonial period in the light of international human rights law.
- b) Transformative Constitutionalism in the Global South – Liberal model of constitutionalism in the Global North – Difference.
- c) Collaborative Constitutionalism; Constitutional Morality - The role of Legislature, Civil Society and Judiciary in the transformation process.

MODULE III - TRANSFORMATIVE CONSTITUTIONALISM IN INDIA

- a) Revisiting the Ancient Political thought on Constitutionalism- Constitutional History in Post British India.
- b) The Enactment of Indian Constitution – The Constituent Assembly Debates for the incorporation of Fundamental rights and Directive Principles of State Policy
- c) Constitutional Morality and the Judiciary- Gender Justice, Decriminalization of Adultery, Same Sex Relationship, Electoral Reforms, Religious Reforms,

MODULE IV - PLURALISM – CONCEPT AND PRACTICES

- a) Pluralistic society – Ethnic, Linguistic, cultural, political and regional pluralism.
- b) Hate speech- reasonable restrictions- tolerance and acceptance.
- c) Language policy in multi-lingual federal State – Challenges in Canada & India

MODULE V- UNITY AND DIVERSITY IN INDIA

- a) Indian Nationalism – Hindu and Secular State – Mob lynching - Gender & Religion Neutral Personal Laws.
- b) Protection of Religious and Linguistic Minorities –One Nation and One Language.
- c) Growing Urban-Rural Divide in India – Caste inequalities, poverty, education and Distinct identity of Tribal Groups.

MODULE VI - FEDERALISM AND ITS CONCEPTS

- a) Nature of the Polity and dynamics of federalism: Confederation, One country two systems, Unitary, Federal, Quasi-federal, Cooperative Federalism and Competitive Federalism.
- b) Patterns of Federal Government: U.S., Canada, Australia and India
- c) Emerging trends in federalism – separatism and its challenges.

MODULE VII -FEDERALISM AND ITS PRACTICE IN INDIA

- a) Concept of Cooperative federalism in India its experiences and practices.
- b) Distribution of Legislative & Executive powers – During Peace and Emergencies.
- c) Role of Judiciary in balancing the Indian federation.

MODULE VIII - FISCAL FEDERALISM AND DISPUTE RESOLUTIONS

- a) Finance Commission, NITI Aayog – Borrowing power and inter-State trade and commerce.
- b) GST- more unitary than federal; GST Council and Resolution process.
- c) Inter-State Council, National Development Council and Zonal Councils, Inter-State Water Disputes Resolutions

BIBLIOGRAPHY

RECOMMENDED READING:

BOOKS

1. Justice Jasti Chelameswar & Justice Dama Seshadri Naidu, M.P. Jain Indian Constitutional Law (18th ed., 2018), Lexis Nexis Publications, New Delhi.
2. Sujit Choudhry, Madhav Khosla, Pratap Bhanu Mehta (eds.), The Oxford Handbook of the Indian Constitution, Oxford University Press, 2016
3. Gautam Bhatia, The Transformative Constitution: A Radical Biography in Nine Acts (Harper Collins, Kindle Edition, Amazon, 2019).
4. Sudhir Krishnaswamy, Democracy and Constitutionalism in India: A study of the basic structure doctrine, Oxford University Press, 2010.

5. Satish Chandra, *State, Pluralism and Indian Historical Tradition*, Oxford University Press, 2008.

JOURNALS/ARTICLES

1. M.P. Singh, “Interpreting and Shaping the Transformative Constitution of India”, in *The Supreme Court of India, Constitution at 67 74* (The Supreme Court of India Publications, 2017).
2. Kim Lane Scheppele, “Aspirational and Aversive Constitutionalism: The case for studying cross-constitutional influence through negative models”, 1(2) *International Journal of Constitutional Law*, 296, 299 (2003).
3. Sujit Choudhry, “Postcolonial Proportionality: Johar, Transformative Constitutionalism and Same Sex Rights in India” in Philipp Dann, Michael Riegner, Maxim Bonnemann (eds.), *The Global South and Comparative Constitutional Law* (Oxford University Press, 2020).
4. ArunThiruvengadam and GedionTimothewosHessebon, “Constitutionalism and impoverishment: a complex dynamic”, *The Oxford Handbook of Comparative Constitutional Law* (2012):153.
5. V.M. Dandekar, ‘Unitary Elements in Federal Constitutions’ 22(44) *Economic and Political Weekly* 1865-1870 (1987).

FURTHER READING:

BOOKS

1. Christophe J, Blom T & A.P. Chatterji, *Majoritarian State: How Hindu Nationalism is changing India*, Harper India, 2019.
2. Chanchal Kumar Sharma & Wilfried Swenden (eds.), *Understanding Contemporary Indian Federalism: Competing Perspectives, New Challenges and Future Directives*, Routledge (2017).
3. Oscar Vilhena, Upendra Baxi and Frans Viljoen (eds.), *Transformative Constitutionalism: Comparing the Apex Courts of Brazil, India and South Africa*, available at <http://www.pulp.up.ac.za/component/edocman/transformative-constitutionalism-comparing-the-apex-courts-of-brazil-india-and-south-africa> (last visited on July 21, 2020).

4. Wendy Doniger & Martha C. Nussbaum (eds.), *Pluralism and Democracy in India: Debating the Hindu Right*, Oxford University Press, 2015.
5. Ronald L. Watts, 'Origins of cooperative and competitive federalism', Chapter 10, *Territory Democracy and Justice* (edt. Scott L. Greer) Palgrave Macmillan (2006).
6. Daniel J. Elazar, 'Exploring Federalism' University of Alabama Press (1991).
7. Douglas Verney, 'Federalism, federative systems and federations: USA, Canada and India' 25(2) Oxford University Press 81-97 (1995).
8. Y.V. Reddy and G.R. Reddy, *Indian Fiscal Federalism*, Asia University India Centre with Oxford University Press, (2019).
9. Upendra Baxi, *The Indian Supreme Court and Politics*, Eastern Book Co., 1980.
10. Ishwara Bhat, *Constitutionalism and Constitutional Pluralism*, Lexisnexis., Jan 2013.

JOURNALS/ARTICLES

1. Gautam Bhatia & ors., 'Guest Post: Inter-state Trade and Commerce' (2017) Accessed here at <https://indconlawphil.wordpress.com/2017/01/09/guest-post-the-supreme-courts-entry-tax-judgment-i-the-majority-opinions/>
2. Louise Tillin, 'United in Diversity: Asymmetry in Indian Federalism' 37(1) *The Journal of Federalism* 45-67 (2006).
3. Ronald L. Watts, 'Daniel J. Elazar: Comparative Federalism and Post Statism' 30(4) *The Journal of Federalism* (2000).
4. Karl Klare, "Legal Culture and Transformative Constitutionalism", 14 *SAJHR* 146, 147 (1998).
5. Pius Langa, "Transformative Constitutionalism", 17 *Stellenbosch L. Rev.* 351, 352 (2006).
6. Michaela Hailbronner, "Transformative Constitutionalism: Not only in the Global South", 65(3) *The American Journal of Comparative Law* 535-540 (2017).
7. Linda Colley, "Empires of Writing: Britain, America and Constitutions, 1776-148" *Law and History Review* 32.2 (2014):237-266.
8. Michaela Hailbronner, "Overcoming obstacles to North-South dialogue: Transformative constitutionalism and the fight against poverty and institutional failure", 49(3) *Special Issue: Theorizing Comparative Constitutional Law: New Approaches in German-speaking scholarship* 253, 255 (2016).

9. J.O. Arowosegbe, 'Techniques for Division of Legislative Powers under Federal Constitutions' 29 Journal of Law, Policy and Globalization 127 (2014).
10. Rochana Bajpai, Why did India Choose Pluralism? Lessons from a post-colonial State, Global Centre for Pluralism, University of London, April 2017.

CASES FOR GUIDANCE

1. National Legal Services Authority of India (NALSA) v. Union of India AIR 2014 SC 1863.
2. Navtej Singh Johar & Ors. v. Union of India AIR 2018 SC 4321
3. Indra Sawhney v Union of India AIR 1993 SC 477
4. ADM Jabalpur v Shivakant Shukla (1976) 2 SCC 521.
5. Bandhua Mukti Morcha v Union of India 1991 SCR (3) 524.
6. Peoples' Union for Democratic Rights v Union of India AIR 1982 SC 1473.
7. Joseph Shine vs Union of India, 2018 SCC OnLine SC 1676
8. Indian Young Lawyers Association vs The State Of Kerala ,2018 SCC OnLine SC 1690
9. Bandhua Mukti Morcha v. Union of India, AIR, 1984 SC 802
10. Shafin Jahan v. Ashokan K.M 2018 SCC OnLine SC 343
11. Atkins v. Virginia, 536 U.S. 304 (2002)
12. Babri Mosque-Ram Janam Bhumi Dispute
13. Griswold v. Connecticut, 381 U.S. 479
14. Marbury v. Madison, 5 U.S. 137 (1903)
15. Raja Ram Pal v. Hon'ble Speaker, Lok Sabha & Others, (2007) 3 SCC 184
16. A. K. Gopalan v. State of Madras, AIR 1950 SC 27.
17. Brown v. Board of Education, 247 U.S. 483 (1954)
18. Keshavanand Bharati v. State of Kerala, AIR 1973 SC 1461
19. Maneka Gandhi v. Union of India, AIR 1978 SC 593
20. Minerva Mills v. Union of India, AIR 1980 SC 1789

LEARNING OUTCOMES

On Completion of the course, students will be able to:-

- *Understand the debates accompanying the incorporation of 'Directive Principles of State Policy' in the Indian Constitution.*
- *Examines the gradual apotheosis of 'Directive Principles of State Policy' in the context of post-independence.*
- *Role of constitutional in social transformation.*
- *Appreciate the concept of pluralistic society and right to dissent in plural society.*
- *Analyze how the Regionalism is a challenge to Indian nationalism because of sub-territorial loyalty.*

PAPER - II
INTRODUCTION TO COMPARATIVE CONSTITUTIONAL LAW
(Specialized Core Paper)

OBJECTIVES OF THE COURSE

The course will cover a series of topics arising in the comparative study of constitutional systems. Concentrating on Constitutional Structure and law in India and in such other countries Australia, Canada, France, Great Britain, United States, and South Africa etc, the course is intended to make students familiar with the constitutional systems of a few countries. Students will be benefitted from deeper understanding of the doctrines and values underlying the provisions and principles from various constitutional systems.

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

- *Transformation of students understanding of the constitutional law role in establishing effective government system;*
- *Considering how comparative constitutional study can offer insights into our own constitutional system.*
- *Using a comparative approach to constitutional law with a view to developing a critical understanding of how different constitutional systems deal with similar issues*

COURSE OUTLINE

MODULE I -INTRODUCTION TO COMPARATIVE CONSTITUTIONAL LAW

- a) Sources, Methods and Limits of Comparative Constitutional Law
- b) Scope and Relevance of Comparative Constitutional Law in Global Age
- c) Resurgence and Legitimacy of Comparative Constitutional Law

**MODULE II-FUNDAMENTAL PRINCIPLES OF COMPARATIVE
CONSTITUTIONALISM**

- a) Constitutionalism - Forms of Constitutionalism – Classical, Contemporary, Modern, Liberal, Political and New Constitutionalism

- b) The concept of State in the Third World and the problematics of Constitutionalism, crisis in Modern Constitutionalism, twilights of comparative liberal-democratic constitutionalism
- c) From Balanced Constitutionalism to Sustainable Constitutionalism.

MODULE III - FORMS OF GOVERNMENT

- a) Parliamentary Form and Presidential Form
- b) Government under USA, UK & France
- c) Comparison with the Government in India

MODULE IV - CONSTITUTIONAL FOUNDATION OF POWERS

- a) Supremacy of Legislature in Law Making
- b) Rule of Law: Dicey's concept of Rule of Law, Modern concept of Rule of Law & Social and Economic Rights as part of Rule of Law.
- c) Separation of Powers & Doctrine of Checks & Balance

MODULE V - ORGANIZATION OF LEGISLATIVE AND EXECUTIVE POWERS

- a) Distribution of Legislative powers- Law making process in USA, UK and France in comparison with India
- b) Extent of Executive power
- c) Emergency powers

MODULE VI - JUDICIAL REVIEW

- a) Organization of Judiciary in USA, UK, France in comparison with India
- b) Judicial Review: Concept and Origin of Judicial Review, Method of Constitutional Review (Judicial and Political Review, Concentrated and Diffused Review and Anticipatory and Successive Review)
- c) Limitations on Judicial Review

MODULE VII - EVOLUTION AND DEVELOPMENT OF CIVIL RIGHTS IN USA, UK, FRANCE AND INDIA

- a) Status of Rights in USA comparison with the status of Rights in India
- b) Status of Rights in UK comparison with the status of Rights in India
- c) Status of Rights in France comparison with the status of Rights in India

MODULE VIII - DIFFERENT APPROACHES TO COMPARATIVE CONSTITUTIONAL LAW

- a) Constitutional Borrowings
- b) Legal Transplantation
- c) Migration of Constitutional Idea

BIBLIOGRAPHY

RECOMMENDED READING:

BOOKS

1. Chintan Chandrachud, *Balanced Constitutionalism: Courts and Legislatures in India and the United Kingdom*, Oxford University Press, 2017
2. Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford: OUP, 2008) at 156- 163.
3. U. Baxi, *Rule of Law in India: Theory and Practice* in Randall Peerenboom (ed.), *Asian Discourses of Rule of Law*, Routledge, London, 2004, pp 324-345
4. Goolam E Vahanvati, *Rule of Law: The Sieges Within*, in *Constitutionalism, Human Rights and the Rule of Law: Essays in Honour of Soli J Sorabjee*, Universal Book Punlishing Co., New Delhi, 2005, pp 165-173.
5. S.P Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits*, OUP, pp 63- 99, 249- 311

JOURNALS/ARTICLES

1. Douglas H. Ginsburg, *On Constitutionalism*, *Cato Supreme Court Review*, pp 7-20
2. Sujit Choudhry, *Living Originalism in India? “Our Law” and Comparative Constitutional Law*, *Yale Journal of Law & the Humanities*, Vol. 25 [2013], Issue. 1, Art. 2
3. S.P. Sathe, *Judicial Activism: The Indian Experience*, 6 *Wash. U. J. L. & Pol’y* 29, 70-80 (2001)

4. Richard H. Fallon Jr., The Rule of Law as a Concept in Constitutional Discourse, Columbia Law Review, vol.97 (1997) 1.
5. Nirmalendu Rakshit, Judicial Appointments, Economic & Political Weekly, 39:27, July 2004, 2959-2961.

FURTHER READING:

BOOKS

1. Sujit Choudhary, Constitutional Design for Divided Societies: Integration or Accommodation, Oxford University Press, 2008.
2. D.D. Basu, Comparative Constitution Law, 2nd (ed.), Wadhwa, 2008, pp 324-350 & 403-416.
3. Douglas V. Verney, The Struggle over Judicial Review: Supreme Court and Limited Government in M.P. Singh et al (eds.), Indian Judiciary and Politics: The Changing Landscape, Manohar Book, 2007 pp 41-67.
4. H.M. Seervai, Constitutional Law, pp. Vol.1, 260-275, Vol.3, 2613-2986
5. Michael Burgess, Comparative Federalism, Theory and Practice, Routledge, New York, 2006
6. Martin Loughlin and Petra Dobner, The Twilight of Constitutionalism, (Oxford Constitutional Theory), Oxford University Press
7. Tom Ginsburg (Editor), Comparative Constitutional Design (Comparative Constitutional Law and Policy) [Hardcover], Cambridge University Press, New York 2012
8. Mark Tushnet & Madhav Khosla, Unstable Constitutionalism: Law and Politics in South Asia, Cambridge University Press 2015
9. Louise Tillin, "Unity in Diversity? Asymmetry in Indian Federalism," Publius, 2006, 1-23.
10. Victor V. Ramraj and Arun K. Thruvengadam, Emergency Powers in Asia: Exploring the Limits of Legality, 2010

JOURNALS/ARTICLES

1. Mark Tushnet, The Possibilities of Comparative Constitutional Law (1999) 108 Yale.L.J. 1225.
2. Comparative Constitutional Law in Asia, R Dixon and T Ginsburg (eds), Edward Elgar, 2013

3. Jan M Smits (ed), *Elgar Encyclopedia of Comparative Law*, Edward Elgar, Cheltenham, UK, 2006, pp 57-65, 187-199.
4. Anata Kumar Giri, *The Rule of Law and Indian Society: From Colonialism to Post-Colonialism* in P Costa and D Zolo (ed.), *The Rule of Law: History, Theory and Criticism*, Springer, The Netherlands, 2007, pp 587-614.
5. Anil Kalhan, "Constitution and 'Extra-Constitution': Emergency Powers in Post-Colonial Pakistan and India," *Emergency Powers in Asia: Exploring the Limits of Legality* (Ramraj and Thiruvengadam, eds.) (Cambridge, 2010).
6. Arendt Lijphart, "Emergency Powers and Emergency Regimes," *Asian Survey*, 18:4, April 1978, 401.
7. Choudhry, Sujit (2007), 'Rethinking Comparative Constitutional Law: Multinational Democracies, Constitutional Amendment, and Secession', Paper presented at the annual meeting of the Law and Society Association.
8. Ran Hirschl, *The Rise of Comparative Constitutional Law: Thoughts on Substance and Methods*, *Indian Journal of Constitutional Law*, (2008).
9. Sujit Choudhry, *Globalisation in Search of Justification: Toward a Theory of Comparative Constitutional Interpretation* (1999) 74 *Ind. L. J.* 819.
10. Tom Ginsburg, *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*, Cambridge University Press, pp 34 – 64, 64- 89.

CASES FOR GUIDANCE

1. A. K. Gopalanv. *State of Madras*, AIR 1950 SC 27.
2. *Atiabari Tea Co. v. State of Assam*, (1961) 1 SCR 809
3. *Automobile Transport v. State of Rajasthan*, AIR 1962 SC 1406
4. *Bal Patilv. Union of india*, (2005) 6 SCC 690
5. *Becker v. Alberta*, 45 A.R. 37 (Q.B. 1983)
6. *Brown v. Board of Education*, 247 U.S. 483 (1954)
7. *Burronv. Baltimore*, 7 Pet. 243 (1833)
8. *Carter v. Carter Coal Co.*, 298 U.S. 238 (1936)
9. *Dred Scott v. Sandford*, 60 U.S. 393 (1857) 19
10. *Francis Coralie v. Union Territory of Delhi*, AIR 1978 SC 597
11. *Government of Andhra Pradesh v. P. Laxmi Devi*, 2008 (4) SCC 720

12. I.C. Golak Nath v. State of Punjab, AIR 1967 SC 1643 31.
13. I.R. Coelho (Dead) By Lrs v. State of Tamil Nadu & Others, (2007) 2 SCC 1
14. KeshavanandBharati v. State of Kerala, AIR 1973 SC 1461
15. KuldeepNayarv. UOI AIR 2006 SC 3127, (2006) 7 SCC 1.
16. Miranda v. State of Arizona, 384 U.S. 436 (1966)
17. R.M.D.C. v. Union of India, AIR 1957 SC 628
18. S.R. Bommai v. Union of India, (1994) 3SCC
19. Sankari Prasad Singh Deo v. Union of India, AIR SC 458 (1951)
20. Shamsheer v. State of Punjab, AIR 1974 SC 2192

LEARNING OUTCOMES

On successful completion of the paper, the students will be able to:

- *Compare the various forms of government, its branches and its functioning in different countries.*
- *Analyze the leading constitutional principles in different jurisdictions.*
- *Distinguish between constitution and constitutionalism.*
- *To critically analyze the process of amendment of the constitution in various countries and the limitations on the amendment power.*
- *Gain insights of the model of state, its practices and good governance*
- *Understand the significance of doctrine of judicial review and limitations thereof.*

PAPER - III
LAW OF MEDIA AND COMMUNICATION: CONTEMPORARY
CHALLENGES

(Specialized Core Paper)

OBJECTIVES OF THE COURSE

Mass media communication from the days of printing press has played a very important role in the formation of public opinion. Mass media such as press, radio, television, films and internet play a vital role in communicating information rapidly and thereby spreading culturalisation and modernization in the society. The visual media are bound to have a much greater impact on human mind. Law plays a dual role vis-à-vis such media. On the one hand, it protects the creative freedom involved in them, on the other hand, it has to regulate them so as to avoid their possible abuse. Advancement in science and technology has changed the scope and dimensions of mass communication. ICT has created digital era for us. While there are definite benefits from these technologies, experience shows that these technologies can be abused to harm the interests of the society. This course aims to provide basic understating of the evolution of mass media and its regulation with contemporary challenges.

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

- *To understand the legal, ethical and regulatory framework governing the media in India.*
- *To understand the various concepts and study the theories in relation to Media.*
- *To discuss and evaluate the latest developments, issues and analyze the principles laid down in the cases in the field of Media law.*
- *To acquaint the students with the importance and necessity of media ethics and develop and appreciate journalistic integrity.*

COURSE OUTLINE

MODULE I - MEDIA AND PUBLIC POLICY

- a) Concept, Evolution and development of media industry in India and entry of foreign print media;
- b) Ownership pattern– Public and Private – Press, Film, Radio, TV and Internet; Differences between visual and non-visual media; Problems of oligopoly.

- c) Airwaves and Government control – Licensing issues in Broadcasting sectors, Community Radio Advocacy. Pre-censorship of films in big screens.

MODULE II - FREEDOM OF SPEECH AND EXPRESSION

- a) Freedom of speech as a Human Right– Constitutional guarantee for Free Press – Reasonable restrictions on free speech.
- b) Media Freedom – boundaries of a free press.
- c) Freedom of Information v. Free Speech.

MODULE III - MEDIA AND PRIVACY

- a) Obscenity and pornography - Hicklin Test - Child pornography.
- b) Blasphemy - legal regulation of blasphemy.
- c) Privacy – Information privacy and reputation - Personal data protection - Internet privacy.

MODULE IV - PROTECTION OF REPUTATION

- a) Defamation – Overview – General framework for defamation law- Role of malice – IPC provisions – Remedies and damages.
- b) Internet as a platform of free speech – Regulation of content on Internet – Self regulation v. Government regulation.
- c) Libel and Slander in cyberspace – Cross border libel/slander – Jurisdictional problems.

MODULE V - CHANGING DIMENSIONS OF MEDIA & TECHNOLOGY

- a) Evolution of internet as new media - Cyber Journalism.
- b) Impacts of Information Technology.
- c) Global regulation of internet & e-commerce.

MODULE VI - MEDIA AND SOCIETY

- a) Role of media in social change and its ethics.
- b) Mass campaigns on specific issues – social concerns, environmental issues, human rights, gender equality.
- c) Uses and utilization of electronic media in education and research.

MODULE VII - MEDIA & ADVERTISEMENT

- a) Concept & Origin of Advertisement and its development.
- b) Advertisement & Ethics.
- c) The Advertising standards council of India - Issues of Consumer Protection.

MODULE VIII - MEDIA, ETHICS AND ADJUDICATION

- a) Copyright issues in mass media – protection for copyrighted work – plagiarism – pirated music - remedies for infringement.
- b) Media and Courts - Report of legal proceedings – Trial by media – Sensitive court reporting and Human Rights - Contempt of Court – Procedure and Punishment.
- c) Ethical dilemmas, issues and concerns in mass communication – foundation of ethics- different aspects of journalism’s ethical issues- Reporters privileges and protection of media sources.

BIBLIOGRAPHY

RECOMMENDED READING:

BOOKS

- 1. Cases and Materials on Media Law: Jethmalani, Ram and Chopra, D. S; Thomson Reuters
- 2. Durga Das Basu, “Law of the Press”, 2nd edition, Digitized, 27 August 2009, Prentice-Hall of India.
- 3. Bhagat Ram Sharma, “Freedom of Press under the Indian Constitution”, Deep & Deep publications, 1993.
- 4. S.Kudra, “Media Laws and Indian Constitution”, Anmol Publications, 2005.
- 5. Kiran Prasad, “Media Law in India”, Kluwer Law International, 2011.

JOURNALS/ ARTICLES

- 1. Media Laws in India: Origin, Analysis and Relevance in present Scenario”, International Journal of Humanities and Social Science Invention (IJHSSI), Vol 7, Issue 2, Feb 2018, pp13-15.
- 2. Rameshkumar.D,JayaprakashD, “An Examination on adequacy of law in India to Regulate and monitor Media” International Journal of Engineering and Advanced Technology(IJEAT),VOL.8,Issue 6S3,September 2019.

3. KevalJ.Kumar, Media Use: India, 8th July 2016, <https://doi.org/10.1002/9781118783764.wbieme0005>.
4. Meera Mathew, Media Self- Regulation In India: A Critical Analysis, ILI Law Review, Winder 2016.
5. Somu C.S, Cases and Materials on Media Law, Christ University Law Journal, 2, 1(2013),165-168.

FURTHER READING:

BOOKS

1. B.Manna, “Mass Media and Related Laws in India”, Second Edition, 2006, Academic publishers, Kolkata.
2. M.Neelamalar, “Media Law and Ethics”, 1st edition 2009, PHI Learning Pvt.Ltd.
3. Suresh K.Sharma(Editor), “Press in India : Documents”,Vol.2, 2006,Vista International publishing Home.
4. Irshad Hijazi, “Media Laws and Ethics”, Lulu.com
5. Umar Sama, “Law of electronic Media”, 2007, Deep & Deep Publications, 1993.
6. Ursula Smartt, Media and Entertainment Law, Routledge.
7. Roy L Moore, Mass Communication Law and Ethics.
8. Perry Keller, European and International Media Law, Oxford.
9. Sallie Spilsbury, Media Law, Cavendish.
10. Frank Leishmann, Policing and the Media, Lawman.

JOURNALS/ ARTICLES

1. NALSAR University of Law, Media Law Review, Volume1, MLR 2010.
2. Prashant Jaiwardhan, Media Ethics and Laws, “publisher Jharkhand Rai University.
3. Responses to internet Hate Sites: Is speech too free in Cyberspace?”Vol.6, 2001-Issue
4. Defining the field in the twenty-first century, Volume 9, 2004, Issue 2.
5. Justice PN Ray “Media And Law” Addressed at University Law College, Vidhi Bhawan, University of Rajasthan,<https://presscouncil.nic.in/OldWebsite/speechpdf/speech6.htm>.
6. Law Commission of India Report on “Media Trail: Free Speech v. Fair Trail under Criminal Procedure Code, 1973.
7. Gaur, K.D. “Constitutional Rights and Freedom of Media In India” Journal of the Indian Law

- Institute, vol. 36, no. 4, 1994, pp. 429–454. Jstor, www.jstor.org/stable/43952367.
8. Sorabjee, Soli J. “Freedom of the Press, Its Contents and Facets.” *India International Centre Quarterly*, vol. 13, no. 3/4, 1986, pp. 173–184. JSTOR, www.jstor.org/stable/23001444.
 9. Noorani, A. G. “The Press Council: An Expensive Irrelevance.” *Economic and Political Weekly*, vol. 44, no. 1, 2009, pp. 13–15. JSTOR, www.jstor.org/stable/40278353.
 10. Vishal Sharma “Regulatory Mechanism for Electronic Media: Protecting Freedom of Speech from the onslaught of Uncontrolled Media” *Journal of the Indian Law Institute*-winter issue 2008, <http://ili.ac.in/pdf/vsharma.pdf>.

CASES FOR GUIDANCE

1. Romesh Thappar v. State of Madras, AIR 1950 SC 124.
2. Sakal papers v. Union of India, AIR 1962 SC 305.
3. Secretary, Ministry of I&B v.CAB, (1995) 2SCC 161
4. K.A.Abhas v.Union of India, AIR 1971 SC 481.
5. Bobby Art International v.Om Pal Singh Hoon (1996)4 SCC 161.
6. Hamdard Dwarakhana v.Union of India, AIR 1960 SC 554.
7. Tata press Ltd. v Mahanagar Telephone Nigam Ltd., (1995)5 SCC 139
8. Ministry of I and B v. Cricket Association, Bengal, AIR 1995 SC 1236.
9. P.U.C.L v. Union of India, AIR 1997 SC 568.
10. P.U.C.L. v. Union of India, A.I.R. 2003 S.C. 2363
11. Hari Singh Nagra v. Kapil Sibal, AIR 2010 SC (Supp)55.
12. Superintendent, Central prison Fategarh v. Dr. Ram Manohar Lohia, AIR 1960 SC 633.
13. State of Madras v.V.G.Row, AIR 1952 SC 19.
14. SidharthVarshist v. State (NCT of Delhi) AIR, 2010 SC 2352.
15. R.K.Anand v.Registrar,Delhi High Court, (2009)11S.C.R.1026.
16. S.Khushboo v Kanniammal, AIR 2010 SC 3196.
17. BrijBhusan v. State of Delhi, A.I.R. 1950 S.C. 129
18. SidharthVashist v. State (NCT of Delhi), A.I.R. 2010 S.C. 2352.
19. R.Rajagopal v. State of T.N (Auto Shankar Case) (1994) 6 SCC 632.
20. Central Public information officer, Supreme Court of India v. Subhash Chandra Agwaral 1019 SCC OnLine SC 1459.

LEARNING OUTCOMES

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

- *Analyze the legal, ethical and regulatory framework governing Media in India.*
- *Discuss and analyze the Constitutional framework in relation to freedom of speech and expression, Freedom of Press, Right to Privacy.*
- *Evaluate the latest developments and issues in the field of Media Law.*
- *Explain and discuss the importance and necessity of media ethics and journalistic integrity.*
- *Devise a correct way to handle the legal problems.*

PAPER - IV
LAW OF EDUCATION - POLICY AND PRACTICE
(Specialized Core Paper)

OBJECTIVES OF THE COURSE

India happens to be the major hub for education and knowledge in the ancient era. It was considered as Vishwaguru/ Jagatguru. Institution like Nalanda, Dakshashrida have been considered as the top University in the world. Pataliputram in the north, Kancheepuram in the south have been considered as the knowledge capital in the world. However, it has slowly lost its glory and undergone a drastic change during the British regime.

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

- *This course aims to impart the glory and richness of Indian education system which was prevailing in the ancient era in general and vedic era and sangam era in particular.*
- *It also aims to inculcate the ethical, spiritual, cultural and rich constitutional heritage and values among the minds of the student community.*
- *In addition to this, this course would like to cultivate the national citizenship and global citizenship and to accept the realities of globalisation to face the challenges and to lead India with a greater respect in the international arena.*

COURSE OUTLINE

MODULE I - HISTORICAL BACKGROUND OF EDUCATION SYSTEM

- a) Education in Ancient India: Concept, Definition – Sangam Era, Vedic Education.
- b) Contributions of Scholars and Poets in strengthening Education system- Thirukkural and education
- c) Modern education system during British Era- Implication of Wood's Despatch Report and Macaulay Commission Report.

MODULE II - GENERAL PRINCIPLES OF EDUCATION

- a) Education- Instrument of inculcating ethical, spiritual and constitutional values.
- b) Education as an instrument of Socialisation and Transformation.
- c) Education System as inclusive, Accessible to Marginalized Sections: Beti Bacaho Beti Padhao on Right to Education - Adult and Continuing Education.

MODULE III - LAW RELATING TO EDUCATION

- a) Right to Education under Indian Constitution: Part III, IV & IVA.
- b) Statutory Law relating to Education- Sarva Siksha Abhiyan - Role SCERT and NCERT.
- c) Contribution of the Supreme Court and Right to Education.

MODULE IV - RIGHT TO EDUCATION AND THE CONCEPT OF RESERVATION

- a) Right to Education- Socio economically disadvantaged group.
- b) Reservation in Education System: School, Higher and Profession Education- Reservation for SC/ST, OBC and EWS in Educational Institutions
- c) Minority Rights relating to Right to Education

MODULE V - SPECIAL EDUCATION AND INCLUSIVE EDUCATION

- a) Right to Education for persons with disability including intellectual disability.
- b) Law relating to Right of Persons with disabilities on Inclusive Education - Implications of UNCRPD, 2006 on the right to education for persons with disability.
- c) Right to Education and Transgender.

MODULE VI - RIGHT TO PROFESSIONAL EDUCATION

- a) Medical Education, Legal Education and Technical Education.
- b) Role of regulatory authorities: Bar Council of India, Medical Council of India, ICMR.
- c) Right to Education and Access to Justice- Right to Free Legal Aid- Social Lawyering.

MODULE VII - IMPACT OF GLOBALISATION ON RIGHT TO EDUCATION

- a) Privatization of Education – Impact of various WTO agreements.
- b) Implications of Technology including ICT, Artificial Intelligence – Copyright, Patent and other IP rights in Education System.
- c) National Education Policy and other contemporary developments.

MODULE VIII - AMERICAN EDUCATIONAL SYSTEM

- a) Development of Educational System in America.
- b) Role of Judiciary in development of Education in US- relevant Doctrines.
- c) Recognizing Education Rights in India and the United States- Comparative Perspectives.

BIBLIOGRAPHY

RECOMMENDED READING:

BOOKS

1. Florian Matthey Prakash. (2019) "The Right to Education in India: The Importance of Enforceability of Fundamental Right."
2. Sinivasa.M.V. (2019) "Education in Contemporary India."
3. AjitMondal, Jayanta Mete. (2012) "The Right To Education."
4. Prof. Vijay Kumar.K. (2012) "Right to Education Act 2009: Its Implementation as to Social Development in India."
5. Aggarwal.J.C. (2010) "Landmarks in the History of Modern Indian Education."

JOURNALS/ARTICLES

1. Singh, Jai S. "Expanding Horizons of Human Right to Education: Perspective on Indian and International Vision." *Journal of the Indian Law Institute*, vol. 52, no. 1, 2010, pp. 34–59. JSTOR, www.jstor.org/stable/43953481.
2. Sadgopal, Anil. "Right to Education vs. Right to Education Act." *Social Scientist*, vol. 38, no. 9/12, 2010, pp. 17–50. JSTOR, www.jstor.org/stable/27896288.
3. Juneja, Nalini, "Constitutional Mandate for Free and Compulsory Education: New Light on the Intention of the Founding Fathers." *Contemporary Education Dialogue*, vol. 12, 2, 2015: pp 208-237, www.academia.edu/13861537.
4. Ashwini Balki, "Persons with Disabilities Act,1995 and Right to Education: An Impact Analysis." www.academia.edu/26974353
5. Gulyani, Ritika. "Educational Policies in India with Special Reference to Children with Disabilities." *Indian Anthropologist*, vol. 47, no. 2, 2017, pp. 35–51. JSTOR, www.jstor.org/stable/26494030.

FURTHER READING:

BOOKS

1. Klaus Dieter Beiter. (2005) "The Protection of Right to Education by International Law: Including a Systematic Analysis of Article 13 of the International Covenant on Economic, Social and Cultural Rights."
2. Dr.Mannava Munni Hemachand (2015) "Right to Education under Indian Constitution: A Sociol egal Perspective."

3. Kulshreshtha.V.D. (1959) "Landmarks in Indian Legal & Constitutional History" EBC Publication, New Delhi.
4. Praveen Jha, P.Geetha Rani (2015) "Right to Education in India: Resources, Institutions and Public Policy" Routledge India.
5. Altekar.A.S. (2009) "Education in Ancient India" Isha Books (1 January 2009).
6. Jagdish Chand (2007) "Education in Ancient and Medieval India." Shipra Publications (1 January 2007)
7. Ramesh Malhotra "Right to education: free and compulsory education for all" DPS Publishing House, New Delhi.
8. SuchitraDeshprabhu. (2014) "Inclusive Education in India: An Overview."
9. Florian Matthey-Prakash "The Right to Education in India: The Importance of Enforceability of a Fundamental Right" Oxford University Press.
10. Narendra Jadhav "Future of the Indian Education System: How relevant is the national Educational Policy 2020?" Konark Publishers Pvt.Ltd (23 September 2020).

JOURNALS/ARTICLES

1. Singh, Kishore. "Right to Education." India International Centre Quarterly, vol. 42, no. 3/4, 2015, pp. 119–130. JSTOR, www.jstor.org/stable/26316578.
2. Bhatti, Kiran. "Review of Elementary Education Policy in India: Has It Upheld the Constitutional Objective of Equality?" Economic and Political Weekly, vol. 49, no. 43/44, 2014, pp. 100–107. JSTOR, www.jstor.org/stable/24480999.
3. Ayushman, Aishwarya, and Deepthi Bavirisetty. "Right to Education: Edging Closer to Realisation or Furthering Judicial Conundrum?" National Law School of India Review, vol. 26, no. 1, 2014, pp. 87–101. JSTOR, www.jstor.org/stable/44283784.
4. Bhargava, Rajeev. "Religious Education in a Secular State." India International Centre Quarterly, vol. 40, no. 3/4, 2013, pp. 117–130. JSTOR, www.jstor.org/stable/24394393.
5. Akanksha Jumde, "The Interface between Right to Education and Copyright Laws: Does Copyright law inhibit the Enjoyment of Right to Education?" International Journal of Law and Legal Jurisprudence Studies: ISSN; 2348-8212, vol 2, Issue 5, 2015. <http://ijlljs.in/wp-content/uploads/2015/08/12>.

6. National Institute of Educational Statistic, US Department of Education Report on “Comparative Indicators of Education in the United States and Other G-20 Countries: 2015” <https://nces.ed.gov/pubs2016/2016100.pdf>.
7. Popenici, S.A.D., Kerr, S. Exploring the impact of artificial intelligence on teaching and learning in higher education. *RPTEL* **12**, 22 (2017). <https://doi.org/10.1186/s41039-017-0062-8>.
8. Carnoy, Martin, and Rafiq Dossani. “Goals and Governance of Higher Education in India.” *Higher Education*, vol. 65, no. 5, 2013, pp. 595–612. JSTOR, www.jstor.org/stable/23473514.
9. Pawan Agarwal. “Higher Education Policy: Many Contradictions.” *Economic and Political Weekly*, vol. 41, no. 45, 2006, pp. 4645–4648. JSTOR, www.jstor.org/stable/4418886.
10. Chitta, Kalyanlakshmi. “Foreign Direct Investment and Higher Education In India: Assessing The Link Between Internationalization, Competition And Efficiency.” *World Affairs: The Journal of International Issues*, vol. 18, no. 4, 2014, pp. 94–111. JSTOR, www.jstor.org/stable/48505124.

CASES FOR GUIDANCE

1. Aruna Roy vs. UOI (2002) INSC 386 [12 Sept. 2002]
2. Ashok Kumar Thakur vs UOI (2008) 6 SCC 1
3. Dr. Preeti Srivastava vs. State of Madhya Pradesh 1999) 7 SCC 120
4. Islamic Academy of Education vs State of Karnataka (2003) 6 SCC 697
5. Re Kerala Educational Bill Case (1959) 1 SCR 995
6. Mohini Jain vs. State of Karnataka AIR 1992 SC 1858
7. PA Inamdar vs. State of Maharashtra (2005) 6 SCC 537
8. Pranati Educational and Cultural Trust vs UOI (2014) 8 SCC 1
9. PRE-PG Medical Sangharsh Committee vs. Dr. BajranjSoni (2001) 1 SCC 694
10. ShyamSundar vs. State of TamilNadu (2011) 8 SCC 737
11. St. Xavier’s College vs State of Gujarat 1974 AIR SC 1389
12. State of Maharashtra vs. Sant Dhyaneswar Shikshan Shastra Mahavidyalaya (2006) 9 SCC 1
13. State of Punjab vs. Dayanand Medical College (2001) 1 SCC 664
14. State of Uttar Pradesh vs. Pavan Kumar Divedi (2014) 9 SCC 692

15. TMA Pai Foundation vs. State of Karnataka AIR 2003 SC 335
16. Unaided Private Schools of Rajasthan vs. UOI (2012) 6 SCC 1
17. Unni Krishnan vs. State of Andhra Pradesh AIR 1993 SC 2178
18. Brown vs Board of Education of Topeka 347 U.S. 483 (1954)
19. Lemon vs. Kurtzman 403 U.S. 602 (1971)
20. Forest Grove School District vs T.A. 557 U.S. 230 (2009)

LEARNING OUTCOMES

After completing of the course the students will be able to

- *The students are expected to learn the uniqueness of the ancient Indian education system.*
- *Impact of right to education on the right to life, freedom of expression, freedom of trade and occupation, respect for fraternity, dignity of individuals and the realisation of global standard of human rights.*
- *The students are also expected to learn the concept of special education, inclusive education, gender equity, quality accessibility and affordability of world class education.*

PAPER – V
DYNAMICS OF ELECTION LAWS
(Specialized Core Paper)

OBJECTIVE OF THE COURSE

This course has been designed so as to provide with global understanding of practices relating to election and electoral procedure prevailing in leading civilized constitutional systems and largest democracies. This paper helps the student to learn the best practices followed in the given electoral system. 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

- *Election law and the diversity of electoral institutions and arrangements.*
- *Procedural aspects of holding elections under various Constitutions.*
- *Effectiveness of Election law as the means to articulate, deliver and regulate the democratic rights.*
- *Role of Judiciary in adjudication of Election Disputes.*

COURSE OUTLINE

MODULE I – GENERAL PRINCIPLES RELATING TO ELECTION LAWS IN LAWS

- a) History of Elections in Ancient India and during British Rule.
- b) Elections –General Principles and Basic requirements –Different types of representation – the system of election
- c) System of Election-Universal Adult Suffrage- Special Provisions for Schedule Caste and Schedule Tribes.

MODULE II – ELECTION COMMISSION AND ELECTION MACHINERY

- a) Election Commission: Structure and Composition- Condition of Service and Protection- Functions.

- b) Role of Election Commission: Notification of Elections; Preparation and Revision Electoral Rolls- Jurisdiction- Removal or reduction of Disqualifications
- c) Administrative Machineries in conducting elections

MODULE III – ELECTIONS IN INDIA

- a) Election Laws in India- Allocation of Seats and Delimitation of Constituencies.
- b) Election Programme: Notification, Nominations, Scrutiny- Political Parties and Election Symbols.
- c) Presidential and Vice Presidential Elections –Parliamentary Elections- Elections to Legislative Assemblies and Councils.

MODULE IV – QUALIFICATION AND DISQUALIFICATION

- a) Qualification and Disqualifications for Membership of Parliament and State Legislatures.
- b) Concept of Office of Profit – Powers and Functions of Presiding Officers– X Schedule – Anti Defection Law: Model Code of Conduct.
- c) Judicial review – Breach of Parliamentary Privileges under the Constitution of India

MODULE V – POLLING AND COUNTING OF VOTES IN INDIA

- a) Polling and Counting- Ballot Paper, EVM- VVPAT- Postal Ballot- Special Vote- NOTA
- b) Returning Officer- Jurisdiction- Presiding Officers- Rejection of Ballot Papers
- c) Right to Vote- Counting of Votes- Systems of Counting and its procedures- Declaration of results.

MODULE VI – ELECTORAL OFFENCES, ELECTION DISPUTES AND ELECTION FUNDING

- a) Corrupt Practices and Electoral Offences.
- b) Election Disputes- Election Petition-Grounds for contest- trail- Decision of High Court- Appeals.
- c) Electoral Funding- Electoral Bonds- Corporate and Public Funding- Exemptions of Political parties under IT Act 1961- Application of RTI Act- Election Expenses.

MODULE VII – ELECTIONS TO LOCAL SELF GOVERNMENT AND CO- OPERATIVE SOCIETIES

- a) Concept and Constitutional perspectives of 73rd, 74th and 97th Amendments Law and Panchyat Raj.
- b) State Election Commission- State Financial Commission- Municipalities.
- c) Administration of Modern co-operative societies- different types of co-operative societies – election to co-operative societies- Role of RBI in regulating co-operative societies.

MODULE VII – PRESIDENTIAL ELECTION IN US

- a) Election to the office of President – Qualification and Disqualifications- Removal.
- b) Election to the membership of the Senate and House of Representative
- c) Associated Concepts: Concept of delegate, Super Delegate, Super Tuesday – Concept of Running mate – Allotment of Symbols –blue state, red state, purple state/swing state

MODULE VIII – ELECTORAL SYSTEM IN FRANCE

- a) Party System.
- b) Two- Round System of voting- Effects and Features.
- c) Referendum and Participatory democracy.

BIBLIOGRAPHY

RECOMMENDED READING:

BOOKS

1. M.P Jain, Indian Constitutional Law, 5th Edn., (Wadhwa: 2005).
2. H.M. Seervai, Constitutional Law of India: A Critical Commentary, N.M. Tripathi, 1996
3. V.S Ramadevi and S.K. Mediratta, How India Votes: Election Laws Practice and Procedure, 2nd Ed., (LexisNexis : 2006)
4. P.C. Jain & Kiran Jain, Election Law and Practice, Chawla Publishers, 2012.
5. Democracy and Election Laws, Anand Ballabh Kafaltiya, 2003, Deep and Deep Publications.

JOURNALS/ARTICLES

1. E. Sridharan, Electoral Coalitions in 2004 General Elections – Theory and Evidence, EPW, Vol. 39 No. 51 5418 (2004).

2. Asghar Ali Engineer, Minorities and Elections – What are the Options?, EPW Vol. 39 No. 13 1378
3. A.K Roy, Role of Election Commission in Ensuring Fair Polls, EPW Commentary, Sept. 11, 1999.
4. KatjuManjari, Election Commission and Functioning Democracy, EPW Vol. 41 No 17 p. 1635, 2006.
5. SriramPanchu, Free and Fair Election Commissioners, EPW Vol. 44 No. 17 p. 93 (2009).

FURTHER READING:

BOOKS

1. Rajni Kothari, Rethinking Democracy (Orient Longman: 2005).
2. Ramesh Thakur, Government and Politics of India, (Palgrave Macmillan: 1995).
3. Reimann, Mathuas and Zimmermann, Reinard, The Oxford Handbook of Comparative Law, OUP, Oxford, 2006, pp 1225-1257.
4. Francine R Frankel, Contextual Democracy: Intersections of Society, Culture and Politics in India, in Francine R Frankel, Transforming India: Social and Political Dynamics of Democracy (Oxford: 2000).
5. Election Laws and Practice in India, R N Choudhry, 3rd Ed., Orient Publishing Co.
6. Office of Profit, Disqualification and Anti-Defection, P. Chakraborty, 2009 Ed., Capital Law House, Delhi.
7. P RathnaSwamy, Handbook on Election Law, Lexis Nexis, Gurgaon, Reed Elsevier India Pvt Ltd. 2014.
8. Dr. K.C.Sunny, Commentaries on Corrupt Practices in Election Law, EBC Publications.
9. C KashyapSubhash, Anti-Defection Law and Parliamentary Privileges. Universal Law Publications, New Delhi.
10. Bott, J. Alexander “Hand Book of United States- Election Laws and Practice: Political Rights” Greenwood Press, 1990

JOURNALS/ARTICLES

1. B. Venketesh Kumar, Anti-Defection Laws: Welcome Reforms, EPW Commentary, 2003
2. ManjariKatju, Election Commission and Changing Contours of Politics, EPW Vol. 44 No. 14 p. 8 (2009).

3. MadhavGodbole, Reform of Political System Growing Concern after election 2004, EPW Perspectives, July 10, 2004.
4. David T. Canon, Electoral Systems and the Representation of Minority Interests, Legislative Studies Quarterly, Vol. 24, No. 3 (Aug., 1999).
5. Thomas Feliner and Lidija R. Basta, Constitutional Democracy in a Multicultural Globalised World, (Springer: 2009).
6. TrilochanSastry, Electoral Reform and Citizens Initiatives- Some Breakthrough, EPW Perspectives, March 27, 2004.
7. Arora Dolly, State Funding of Elections – Some Posers, EPW Vol. 35 No. 37 3283 (2000).
8. Richard Briffault, Public Funding and Democratic Elections, University of Pennsylvania Law Review, Vol. 148, No. 2 (1999).
9. Richard Briffault, Reforming Campaign Finance Reform: A Review of Voting with Dollars, 91 Calif. L. Rev. 643
10. Brad Alexander, Good Money and Bad Money: Do Funding Sources Affect Electoral Outcomes? Political Research Quarterly, Vol. 58, No. 2 (2005).

CASES FOR GUIDANCE

1. N.P Ponnuswami v. R.O Namakkal AIR 1952 SC 64
2. JyotiBasu v. Debi Ghosal AIR 1982 SC 983
3. NallaThampy v. B.L Shankar AIR 1984 SC 135
4. Anukul Chandra Pradhan v. Union of India AIR 1993 SC 2814
5. Rama Kant Pandey v. Union of India AIR 1993 SC 1766
6. C Narayanaswamy v. C.K Jaffar Sheriff (1994) Supp (3) SCC 170
7. PUCL v. UOI 2003 (3) SCALE 263
8. Indira Gandhi v. Raj Narain AIR 1975 SC 2299
9. R.C Poudyal v. Union of India AIR 1993 SC 1804
10. T.N Seshan v. Union of India AIR 1995 SC 852
11. M.S Gill v. CEC AIR 1978 SC 851
12. Election Commission of India v. Ashok Kumar AIR 2000 SC 2979
13. Election Commission of India v. Dr. Manmohan Singh (2000) 1 SCC 591
14. KuldipNayar v. Union of India

15. Common Cause- A Registered Society v. UOI (1996) 2 SCC 752
16. Union of India v. Assn. for Democratic Reforms (2002) 5 SCC 294
17. Lakshmi Charan Sen v. A K M Hassam Uzzaman AIR 1985 SC 1233
18. K. Venketachalam v. A Swamickan AIR 1999 SC 1723
19. GajananKrishnajiBapat v. D R Meg AIR 1995 SC 2284
20. Rajendra Prasad v. SheelBhadra AIR 1967 SC 1445

LEARNING OUTCOMES

On Completion of this paper, Students will be able to

- *Familiarize the existing legal framework of elections to various democratic bodies/ posts in India and USA.*
- *Critically analyse the present regime of laws with reference to the postulate of free and fair elections as the fundamental point of democracy.*
- *Equipped to appreciate the role of the Election Commission in the conduct of free and fair elections.*
- *Understand the holistic view of deflections law in India.*

PAPER - VI
LAW OF PROPERTY – CONSTITUTIONAL PERSPECTIVES
(Specialized Core Paper)

OBJECTIVE OF THE COURSE

The objective of this paper is to know about the property rights 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; 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. Land reform constitutes the most important package of measures to improve the economic condition of agricultural tenants.

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

- *Jurisprudential aspects of property.*
- *Beneficiaries of Agrarian reforms.*
- *Concept of Eminent Domain and its parameters.*
- *Indigenous Land Rights and Sustainable land Management*

COURSE OUTLINE

MODULE I - EVOLUTION AND JURISPRUDENTIAL ASPECT OF PROPERTY

- a) Concept of land and property
- b) Theories of property- Concept of ownership- modes of acquisition of property
- c) Kinds of property – tangible, intangible, corporeal, incorporeal

MODULE II - AGRARIAN REFORMS IN PRE AND POST INDEPENDENT ERA/PLANNED ECONOMIC GOALS

- a) Zamindari system, Inamwari, Mahalwari- Ryotwari-Melwaram-Kudiwaram- Balwant Rai Mehta Committee
- b) Rights and responsibilities of Ryotwari pattadar.
- c) Boodan Movement and its Developments.

MODULE III - CONSTITUTIONAL PERSPECTIVES OF RIGHT TO PROPERTY

- a) Constitutional protection relating to property-relevant Provisions and Amendments

- b) Implications relating to Schedules under the Indian Constitution.
- c) Legislative powers of center and state in enacting land laws.

MODULE IV - DOCTRINE OF EMINENT DOMAIN

- a) Doctrine eminent domain and its Applicability in India
- b) Compulsion, compensation and property rights- India, UK and USA and Australia
- c) Economic analysis of Eminent domain

MODULE V - ACQUISITION OF PROPERTY

- a) The Right to Fair Compensation and Transparency in Land Acquisition.
- b) Abolition of urban land ceiling- Acquisition of Lands for Industrial Purposes.
- c) Establishment of Special Economic Zone-

MODULE VI - PROPERTY RIGHTS OF TRIBES

- a) Definition – Tribes and Scheduled tribes; Rights of Tribes
- b) Scheduled area – V schedule – prohibition of alienation of tribal land.
- c) Individual rights v. communal intellectual property rights- Human Rights Perspectives

MODULE VII - LAW RELATING TO REAL ESTATE REGULATION

- a) Definitions – Functions and Duties of Promoter- rights and duties of Allottees
- b) The Real Estate Regulatory Authority – Central Advisory Council – The Real Estate Appellate Tribunal.
- c) Regulations of Tamil Nadu Real Estate

MODULE VIII - REGULATIONS RELATING TO SUSTAINABLE USES OF LAND

- a) Coastal regulations - Wet land management
- b) Usage of lands by Religious and charitable institutions- Regulations
- c) Conversion of agricultural land into non-agricultural land- Regulations

BIBLIOGRAPHY

RECOMMENDED READING:

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, Hein online
5. Land System in India: A Historical Review, Rekha Bandyopadhyay, Economic and Political Weekly, Vol. 28, No. 52 (Dec. 25, 1993), pp. A149-A155.

JOURNALS/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>

FURTHER READING:

BOOKS

1. Constitutional law of India by H.M.Seervai, Universal Law Publishing, 4th edition 2015.
2. VG Ramachandran's Law of Land Acquisition and Compensation Edited G.C Mathur EBC Publications, 2000.
3. Commentary on The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, Universal Law Publishing
4. New Law Relating to Land Acquisition Rehabilitation & Resettlement, 2013, by Taxmann
5. Commentary on The New Land Acquisition Act (LARR), 2013: Comprehensive Analysis of LARR-13, with Case Laws diagram and process flow charts by Naveen Kumar Shelar
6. Taxmann's Guide to RERA with RERA check lists, 3rd edition, 2017.
7. Tamil Nadu Real Estate Regulatory Authority (General) Regulations, 2018

8. Husro, A.M., "Land Reforms Since Independence" in V. B. SINGH, ed., *Economic History of India: 1857-1956* (Bombay: Allied Publishers, 1965, reprinted 2002)
9. Dr.N.Maheshwara Swamy., "Land Laws under the Constitution of India" Asia Law House Publications.
10. Astha Saxena., "Land Law in India" Routledge publisher, 2020.

JOURNALS/ARTICLES

1. R. S. Gae, "Land Law in India: With Special Reference to the Constitution", *The International and Comparative Law Quarterly*, Vol. 22, No. 2 (Apr., 1973), pp. 312-328, Cambridge University Press, available at <https://www.jstor.org/stable/758169>
2. Oskarsson, Patrik. "Adivasi Land Rights and Dispossession." In *Landlock: Paralyzing Dispute over Minerals on Adivasi Land in India*, 29-50, 2018. Munch, Patricia. "An economic analysis of eminent domain." *Journal of Political* .
3. Epstein, Richard A. "Property Rights Claims of Indigenous Populations: The View from the Common Law." *U. tol. L. rev.* 31 (1999): 1.
4. Lenhoff, Arthur. "Development of the Concept of Eminent Domain." *Columbia Law Review*, vol. 42, no. 4, 1942, pp. 596-638. www.jstor.org/stable/1117730.
5. B. H. Baden-Powell, "The Origin of Village Land-Tenures in India", *The Journal of the Royal Asiatic Society of Great Britain and Ireland*, (Jul., 1898), pp. 605-616 Cambridge University Press, available at <http://www.jstor.org/stable/25208012>.
6. Hoffman, Frank Sargent. "The Right to Property." *International Journal of Ethics* 19, no. 4 (1909): 477-87 at www.jstor.org/stable/2377017.
7. Madhusudan Bandi, "Forest Rights Act: Towards the End of Struggle for Tribals?", Vol. 42, No. 1/2 (January-February 2014), pp. 63-81, *Social Scientist Stable*.
8. Majumdar, Arjya, *Developments in the Apartment and Urban Real Estate Laws in India* (March 13, 2016). Available at SSRN: <https://ssrn.com/abstract=2747086>.
9. WAHI, Namita, "Land Acquisition, Development and the Constitution" *Seminar Magazine* (February 2013).
10. Singhal, M.L., "Right to Property and Compensation under the Indian Constitution" (1995) 1(2) *Judicial Training and Research Institute Journal*.

CASES FOR GUIDANCE

1. *Coffee Board v. Commissioner of Commercial Taxes*, AIR 1988 SC 1498

2. State of West Bengal v. Bella Banejee, AIR 1954 SC 170
3. R.C.Cooper v. Union of India, AIR 1970 SC 564.
4. Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461
5. Minerva Mills Limited v. UOI, AIR 1980 SC 1789
6. Narmada Bachao Andolan v. State of Madhya Pradesh, AIR 2011 SC 2001.
7. Greater Noida Industrial Development Authority v. Devendra Kumar, (2011) 12 SCC 375
8. Narendra kumar and Ors v. Union of India and ORs, AIR 1960 SC 430
9. Commissioner of Hindu Religious Endowment v. Sri Lakshmindra Tirtha Swamiar of Shirur Mutt, AIR 1954 SC 282(289).
10. I.C. Golak Nathv. State of Punjab, AIR 1967 SC 1643 31.
11. Kameshwar Singh v. State of Bihar, AIR 1951 Pat. 91.
12. P.Vajravel Mudaliar v. Special Deputy Collector, Madras AIR 1965 SC 1017.
13. State of Gujarat v. Shantilal Mangaldos (1969) 1 SCC 509.
14. KK Kochuni v. State of Madras and Ors 1960 AIR 1080.
15. Karimbil Kunhikoman v. State of Kerala, 1962 AIR 723.
16. State of Jharkhand v. JK Srivastava AIR 2013 SC 3383.
17. Laljibhai Kadvabhai Savaliya v. State of Gujarat AIR 1916 SC 4715.
18. Wazir Chand v. State of UP, AIR 1954 SC 415.
19. KT Plantation (P) Ltd. v State of Karnataka (2011) 9 SCC 1.
20. Kelo v. City of New London 545 U.S 469

LEARNING OUTCOMES

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

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

PAPER - VII
LAW OF PUBLIC UTILITIES IN INDIA
(Discipline Specific Elective Paper)

OBJECTIVES OF THE COURSE

Public utilities are a unique form of business undertakings which are engaged in the supply of essential public services in limited market area on a monopolistic basis. The public Utility Service refers to a set of services, provided by the public or the private organization, consumed by the public at large. The public utility service agencies provide services such as water, electricity, natural gas, transport services, telephone service and other essential services to the public. The Utility function is an important concept that measures preferences over a set of goods and services. The law of public utilities is contained in the statutes of incorporation and judicial decisions given by courts while resolving disputes between the utilities and their consumers or employees or traders or others entering into business relations with them.

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

- *To understand the government policy in regard to such utilities in general and to each utility in particular.*
- *To know about the growth and evolution of the public utilities.*
- *To discuss about the statutes of incorporation and judicial decisions given by courts.*
- *To understand powers, functions and liabilities of the public utility Services.*

COURSE OUTLINE

MODULE I - PUBLIC UTILITIES

- a) Public Utilities- Meaning and its necessity in modern State.
- b) Railways, Electricity, Gas, Road Transport, Telephone, Post and Telegraph Service, Police, Fire Brigade, Banking service, etc.
- c) Growth and Evolution of Public Utilities and their Legislation.

MODULE II - PUBLIC UTILITIES - WHY GOVERNMENT MONOPOLY?

- a) Government Control
- b) Parliamentary Control
- c) Constitutional division of power to legislate.

MODULE III - UTILITIES LEGISLATION

- a) Administrative Authorities.
- b) Structure of the Administrative Authorities.
- c) Subordinate legislation.

MODULE IV - PUBLIC UTILITIES AND FAIR HEARING

- a) Fair Hearing in Administrative rule making and its components.
- b) Quasi-Judicial Decision.
- c) Administrative Discretion.

MODULE V - PUBLIC UTILITIES AND CONSUMER PROTECTION

- a) Rights of consumers protected by the Consumer Protection Act.
- b) Rights arising from Law of Contract.
- c) Rights arising from Law of Torts.

MODULE VI - PUBLIC UTILITIES, THEIR EMPLOYEES AND FUNDAMENTAL RIGHTS

- a) The Right to Equality: The Airhostess Case - application of Art. 16 and 311
- b) Are the Public Utilities are "State" for the purpose of Article 12 of the Constitution? - Extension of the concept of State.
- c) Application of Industrial Law - Right to strike

BIBLIOGRAPHY

RECOMMENDED READING:

BOOKS

1. Bagus Enrico & Partners, The International Legal Guide to: Telecom, Media and Internet Laws and Regulations, 2017, 10th Edition, published by Global Legal Group.
2. Mamta Rao, Public Utility Services under the Consumer Protection Act, Deep & Deep Publication, 2002.
3. Shiva Gopal's Law relating to Electricity revised by Justice V.K. Mehotra, 6th Edition, Eastern book Company, 2001.
4. P.L. Malik, Handbook of Electricity Laws, 4th Edition, Eastern Book Company, 1997.

5. Mohammad Naseem, Saman Naseem, Energy Law in India, Kluwer Law International, Third Edition, 2017.

JOURNALS/ARTICLES

1. Dr. N. Sathish Gowda & Shilpa.M.L” Legal regulations on Public utility Services in India: Issues and Contemporary Challenges,” International Journal of Legal Research and Studies, Vol.2, Issue 4, October –December 2017.
2. World Bank, “India Inclusive Growth and Service Delivery: Building on India’s Success, Development, policy review”(Report No.34580-IN, Washington DC: World Bank, 2006), pg.31-32.
3. Paul A. Grout,” Private Delivery of public Services,” Keynote address at the European Commission’s Euro social Taxation Conference, Mexico, 24th-28th November 2008.
4. Stilpon Nestor and Ladan Mahboobi- “Privatization of public Utilities: The OECD Experience,” April 23,1999.
5. Sundarapandian Vaidyanathan and Vidya Sundar,” The role of public sector enterprises in Rural Development and Social Welfare,” International Journal of Managing Public Sector Information and Communication Technologies (IJMPICT) Vol.2, No.1, September 2011.

FURTHER READING:

BOOKS

1. Dr.Archana Ranka, Public Utilities Laws, [http://www.amazon.in/public-utilities Laws-Archana Ranka/dp/9383154098](http://www.amazon.in/public-utilities-Laws-Archana-Ranka/dp/9383154098).
2. Edited by Fereidoon Sioshansi, Future of Utilities-Utilities of the future, 1st Edition, Academic press, 2016.
3. P.M. Bakshi, Television and the Law, (1986)
4. S P Sathe, Administrative Law, 7th Edition, Wadhwa Book Company, Reprint 2010.
5. M.P.Jain& S.N. Jain, Principles of Administrative Law, 7th Edition, LexisNexis, 2011.
6. H.W.R. Wade, Administratis Law, 147-56 (5th ed., 1982).
7. Bagus Enrico & Partners, ‘The International Legal Guide to: Telecoms, Media and Internet Laws and Regulations, 2017, 10th Edition, Published by Global Legal Group.
8. Shiva Gopal “Law relating to Electricity” EBC Publications.
9. P.L Malik “Handbook of Electricity Laws” 4th Edition EBC Publications.

10. JVN Jaiswal “Postal and Courier Service and the Consumer”^{1st} Edition EBC Publications.

JOURNALS/ARTICLES

1. Goel, Ashish, The Curious Case of Right to Strike Under the Indian Constitution - A Comparative Perspective (March 5, 2011). NLIU Law Review, 2011, Available at SSRN: <https://ssrn.com/abstract=1778069>
2. 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.
3. Vasant Kelkar, "Business of Postal Service" 33 I.J.PA. Pp. 133-141 (1987).
4. Scott Douglas & Albert Meijer, “Transparency and Public Value - Analyzing the Transparency and Public Value Creation of Public Utilities,” International Journal of Public Administration, Vol.39, Issue 12, 2016, Pp. 940-951.
5. G. Ramesh, "Characteristic of Large Service Organization in a Developing Country like India" 32 I.J.PA. 77 (1986).
6. Nalini Paranjpe, "Planning for Welfare in the Indian Railways" 31 I.J.PA. Pp.171-180 (1985)
7. Arvind K.Sharna "Semi-Autonomous Enterprise: Conceptual Portrait - Further Evidence on the Theory of Autonomy" 33 I.J.PA. Pp. 99-113.
8. D.M.Sarqf “Public Utility Services With Special Reference to Air Services andThe Consumer” Indian Law Institute Journal.
9. Scott Douglas & Albert Meijer “Transparency and Public Value—Analyzing the Transparency Practices and Value Creation of Public Utilities” International Journal of Public Administration, Volume 39, 2016 -Issue 12, Pages 940- 951, Published online: 16 Feb 2016
10. Malik, V., ‘Disinvestments in India: Needed Change in Mindset, Interfaces’, 2003., 28(3), Pp. 57-63

CASES FOR GUIDANCE

1. In Munn v. Illinois 94 U.S. 113 (1877)
2. Ridge v. Baldwin (1964) AC 40
3. A.K Kripal v. Union of India AIR 1970 SC 150
4. Gullapalli Nageswara Rao v. A. P.S.R.T.C AIR 1959 SC308

5. Maneka Gandhi v. Union of India AIR 1978 SC 597
6. Chairman, Prathama Bank, Moradabad v. Vivay Kumar, AIR 1989 SC 1977.
7. H.Anraj v. State of Maharashtra, AIR 1984 SC 782.
8. Ujjain Bai v. State of U.P AIR 1962 SC 1621
9. D.S.Nakara v. Union of India, AIR 1983 SC 130.
10. Shiv Cable TV System v. State of Rajasthan, AIR 1993 Raj 1997.
11. Oil and Natural Gas Commission v Association of Natural Gas Consuming Industries of Gujarat, AIR 1990 SC 181.
12. Karthik Enterprises v. Orissa State Electricity Board, AIR 1980 Ori.3.
13. Akhila Bharatiya Grahak Panchayat v. Andhra Pradesh State Electricity Board, AIR 1983AP 3
14. Ajay Hasia v. Khalid Mujib, AIR 1981 SC 487.
15. LIC V. Shakuntala Bai, AIR 1975 AP 68.
16. Union of India v. S.NarayanaIyer, (1970) 1 MLJ 19.
17. Ramana Dayaram Shetty v. The International Airport Authority (1979) SCC 489.
18. Cellular Operation Association of India and others v. Telecom Regulatory of India and others
19. P. Nalla Thampy Thera v. Union of India 1983(2) SCALE 686
20. TK Rangarajan v. State of Tamil Nadu and others A.I.R. 2003 SC 3032.

LEARNING OUTCOMES

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

- *Critically analyze the government policy in regard to such utilities in general and to each utility in particular.*
- *Analyze the growth and evolution of the public utilities.*
- *Examine the statutes of incorporation and judicial decisions given by courts.*
- *Discuss the powers, functions and liabilities of the public utilities' vis-a-vis their employees, consumers and others.*

PAPER - VIII
NATIONAL SECURITY, PUBLIC ORDER AND RULE OF LAW
(Discipline Specific Elective Paper)

OBJECTIVES OF THE COURSE

In every written constitution, provision is required to be made to equip the state to face grave threats to its existence arising from extra- ordinary circumstances created by war or external aggression or armed rebellion. Although “amidst the clash of arms, the laws are not silent” they do not speak the same language in war as in peace. Extra- ordinary circumstances warrant the invocation of extra- ordinary laws and such laws are known as emergency laws. They put grater fetters on individual liberty and also eclipse certain aspects of the due process. But in such circumstances, the democratic forces must assert that for survival of the State, the least possible liberty should be available. The students should be familiarized with different aspects of such emergency powers and scrutinizing intellectual attitude towards such powers. After undergoing the study, the student will be able to understand the following,

- *Balancing Civil liberties and National security.*
- *Preventive Detention and effect of Human Rights.*
- *Major Internal Security challenges in India.*
- *Role of Judiciary in protecting Civil liberties during emergencies.*

COURSE OUTLINE

MODULE I - A BRIEF HISTORY

- a) Emergency Detention in England- Civil Liberties.
- b) Subjective satisfaction or objective assessment?
- c) Pre- Independence law; Martial Law: Provisions in English Law, Indian Law.

MODULE II - PREVENTIVE DETENTION AND INDIAN CONSTITUTION

- a) Article 22 of the Constitution.
- b) Preventive Detention and safeguards.
- c) Central Laws and State Laws Authorizing Preventive Detention.

MODULE III - DECLARATION OF EMERGENCIES AND CIVIL LIBERTY

- a) 1962 Emergency (Indo – China War) - 1971 Emergency (Indo – Pakistan War) – 1975 Emergency.
- b) Article 19- Meaning of “Security of State”, “Public Order” and “Rule of Law”- Suspension of Article 19, rights on declaration of emergency.
- c) President’s right to suspend right to move any court- Article 21 – special importance – its non suspendability- Effect 44th amendment- Access to courts and Emergency- Article

MODULE IV - MAINTENANCE OF INTERNAL SECURITY

- a) Internal Security in India.
- b) Role of the Union in maintaining Internal Security- Present division of power between Union – State with respect to security.
- c) Suo – motu deployment of Forces of the Union.

MODULE V - NATIONAL SECURITY AND INTERNAL SECURITY

- a) Relationship between National Security and Internal Security.
- b) “Public Order” and “Law and Order” to maintain Internal Security.
- c) Contributory factors of major public order problem - Central Law Enforcement Agency- National Investigation Agency.

MODULE VI - EXCEPTIONAL LEGISLATION

- a) National Security Legislation- TADA: “the draconian law”- comments of NHRC.
- b) COFEPOSA and other legislations to curb economic offenders- Prevention of Black marketing and Maintenance of Supplies of Essential Commodities legislation (PBMSECA)
- c) Special courts and tribunals.

BIBLIOGRAPHY

RECOMMENDED READING:

BOOKS

1. H.M. Seervai, The Emergency, Future Safeguards and the Habeas Corpus: A Criticism.
2. M.P Jain-Indian Constitutional Law(Wadhwa Publishers)
3. Durga Das Basu“ Constitution of India” (Lexis Nexis)

4. N.C. Chatterji and Parameshwar Rao, Emergency and the Law (1966).
5. Sanjeev Chadha and Shailesh K. Singh “National Security Laws: In India Scenario”
Regal Publications, July 2012.

JOURNALS/ARTICLES

1. G.O. Koppell “The Emergency, The Courts and Indian Democracy” 8 J.I.L.I. 287(1966)
2. Jaideep Reddy, “Duty of the Union under Art.355 of the Constitution – remembering the Constitutional Ideal of Co-operative Federalism”, NUJS, 371, 2011.
3. N. N. Vohra, “National Governance and Internal Security”, AIR power Journal, Volume No.3, 2008.
4. C.Raj Kumar “Human Rights Implications of National Security Laws in India: Combating Terrorism While Preserving Civil Liberties, 33. Denv.J.Int’L&Pol’y 195(2005).
5. K.Jayasuda Reddy an Joy v. Joseph “Executive Discretion and Article 356 in India : A Comparative Critique”- Electronic Journal of Comparative Law, Vol -8.1 March 2004.

FURTHER READING:

BOOKS

1. Constitutional law of India by H.M.Seervai, Universal Law Publishing, 4th edition 2015.
2. Harish Narasappa “Rule of Law in India” A Quest for Reason, OUP India.
3. R. K. Mishra, “Facets of Naxalism-Threat to internal security”, Yking books, Jaipur, First Edition-2013.
4. K.M Mathur, “Crime, Human Rights and National Security”, (p. no 137, Gyan Publishing house, New Delhi, First Edition, 2011.
5. Surendra Malik and Sudeep Malik “Superme Court on Preventive Detention Laws” EBC Publishers
6. B.R Gupta Preventive Detention laws in J&K Jay &Kay Law Reporters (P) Ltd.
7. Brownlie, Ian, “Law of Public Order and National Security”, Butterworth – Heinemann, 2nd Revised Edition (1981).
8. Katherine B., Damer, Baird Robet, and Rosenbaum (eds.) Stuart Civil Liberties v. National Security in a Post- 9/11 World. Ambert: Prometheus Books, 2004.
9. VenkataTyer, States of Emergency. The Indian Experience (Butterworth, India 2000).
10. Human rights in global politics (timdunne&nicholas j. Wheeler, eds.,) Cambridge university press, 1999).

JOURNALS/ARTICLES

1. Chaitanya Ramachandran “PUCL v. Union of India revisited: why India’s surveillance law must be redesigned for the digital age” NUJS Law Review 7 NUJS L.Rev. 105 (2014).
2. SudhirKrishnaswamy, Madhav Khosla (2009) “Regional Emergencies under Article 356- The Extent of Judicial Review”- The Indian Journal of Constitutional Law, Vol 10.
3. Dominic McGoldrick “The Interface between Public Emergency Powers and International Law” OUP and New York University School of Law, 2004.
4. Gross, Emmanuel (2008) “How to Justify an Emergency Regime and Preserve Civil Liberties in times of terrorism” South Carolina Journal of International Law and Business: Vol-5 Iss-1, Article-2.
5. A Working Paper “Law and Emergencies: A Comparative Overview” The Minerva Centre for the Rule of Law under Extreme Conditions- January 2016.
6. Derek P.Jinks, the Anatomy of an Institutionalized Emergency: Preventive Detention and Personal Liberty in India, 22 Michigan Journal of International Law 311 (2001).
7. VD Sebastian “Martial Law and the Defence of Constitutional Order in India” Kerala University Law Review, 1971.
8. VIA MEDIA, Information Documentation Research and Analysis Kendra, Bombay “Special issue of TADA” June- August 1994.
9. Singh, Baljit. “India's Security Concerns: National, Regional And Global.” The Indian Journal of Political Science, vol. 65, no. 3, 2004, pp. 345–364. JSTOR, www.jstor.org/stable/41856061.
10. Adam Klien Benjamin “Preventive Dentition theory and Practice in USA” Harvard National Security Journal- Vol 2, 2011.

CASES FOR GUIDANCE

1. Liversidge v. Anderson (1941) 3 All E.R.338
2. Rex v. Halliday 1917 A.C 260.
3. AK Gopalan v. State of Madras 1950 AIR 27
4. AK Roy v. Union of India 1982 AIR 710
5. Wright v. Fitzgerald 130 Neb. 440(1936)
6. S.R.Bomma v. Union of India 1994 SCALE (2) 37.
7. SarbanandaSonwal v. Union of India

8. Kharak Singh v. State of U.P., AIR 1963 SC 129
9. H.S.Jain v. Union of India
10. Ahmed Noormohmad Bhatti v. State of Gujarat AIR 2005
11. Peoples Union for Civil Liberties v. UOI (1997) 1 SCC 301
12. Naga Peoples Movement of Human Rights v. Union of India AIR 1998 SC 431
13. Ram Manohar Lohia v. State of Bihar AIR 1966 SC 740
14. Indira Gandhi v. Raj Narain 1975 SCR (3) 333
15. Makhan Singh v. State of Punjab AIR 1964 SC 361
16. A.D.M. Jabalpur v. Shivakant Shukla (1976) 2 SCC 521
17. Arjun Singh v. State of Rajasthan 2013(14) SC 104.
18. Bhutnath Mete v. State of West Bengal 1974 AIR 806
19. Ghulam Sarwar v. Union of India 1967 SCR (2) 271
20. Yakub v. State of Jammu and Kashmir 1968 SCR (2) 227

LEARNING OUTCOMES

On the Completing of the Course, students will be

- *Appreciate the need for civil liberty to be protected under the Constitution.*
- *Understand the role played by the Judiciary in protection of civil liberty.*
- *Debate whether it is justifiable to violate civil liberties in the name of national security?*
- *Analysis the balance between the national security and civil liberties.*

PAPER - IX
CENTRE - STATE FINANCIAL RELATIONS
(Discipline Specific Elective Paper)

OBJECTIVES OF THE COURSE

This paper aims at giving the students an insight into the federal structure as envisaged in the Constitution of India and focuses upon educating them about the financial relationship between the Centre and State. The true essence of working of federalism lies with the proper division of powers and responsibilities in all arenas. The Indian Federalism has changed over the period of time from the concept of centralized federalism to the relative new concept of Cooperative federalism, one of the important factors for this change is increasing influence of regional parties in the Union Government, due the rise of coalition politics and the State Government has contributed to India's growth story, especially in the post liberalization era. This paper will examine the constitutional provisions relating to taxing powers and institutions for interstate governmental transfers to address the imbalances between the responsibilities and financial resources.

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

- *Insight into federal structure as envisaged in the Indian Constitution.*
- *Devolution of taxing powers between Union and the States.*
- *Tax Sharing and its problems.*
- *Concepts of Cooperative Federalism in India.*

COURSE OUTLINE

MODULE I - FEDERALISM ESSENTIALS

- a) Introduction- Federalism Meaning, Characteristics and scope of Indian Federalism.
- b) Evolution of federalism in India- Difference between Federalism and Confederation.
- c) Cooperative Federalism in India.

MODULE II - DEVOLUTION OF POWERS BETWEEN UNION AND STATE UNDER THE CONSTITUTION

- a) Constitutional Provisions – Centre- State relations- Taxing powers- Expenditure responsibilities.

- b) Position of States in India- Factors responsible for subordination of Indian States.
- c) Extent of Union Power of Taxation – Inclusion of Residuary Power in the Fiscal Power – Restriction of fiscal powers- Inter – Government Tax Immunities – Fundamental rights- Double taxation.

MODULE III - INTERGOVERNMENTAL TRANSFERS

- a) Characteristics of Federal Economy and its Problem.
- b) Imbalance between the Functional Responsibility and Financial Resources- Vertical and Horizontal Imbalance.
- c) Tax sharing under the Indian Constitution from itemized sharing to Universal sharing- Introduction to GST- Tax sharing after GST.

MODULE IV - FINANCE COMMISSION AND ITS ROLE IN DEVOLUTION

- a) Finance Commission- Constitution, Responsibilities and Functions- CAA Debates on role of Finance Commission.
- b) Finance Commission and Commonwealth grants Commission- Role of Finance Commission- Distribution of tax in the divisible pool- Fiscal Grants in aids to the States.
- c) Various approaches and criteria adopted by the Union Finance Commission to devolve funds- Planning Commission as the trespass to functions of Finance Commission- Planning Commission replaced as NITI Aayog.

MODULE V - BORROWING POWER OF THE UNION AND STATES

- a) Borrowing by the Government of India- Conditions under the Constitution.
- b) Borrowing by the State Governments- Analysis of Article 293- Scope and Conditions imposed under Cl (4).
- c) Larger Architecture of regulation on State Borrowing- Finance Commission- Reserve Bank of India- Central Fiscal Responsibility legislation (Fiscal Responsibility and Budget Management Act- 2003)- State Fiscal Responsibility legislations.

MODULE VI - INTER- STATE TRADE, COMMERCE AND INTERCOURSE AND COOPERATIVE FEDERALISM INSTITUTIONS

- a) Primary object and Aim of protecting freedom of trade in two tier polity, Constitutional provisions- Article 19(1)(g) and Article 301.

- b) Restriction on legislative power of the Union and States with regard to trade and commerce- saving clause- Need for authority under Article 307.
- c) Constitutional Bodies- GST Council- Constitution, Composition, Powers, Meetings, Voting patterns, Dispute adjudication. Inter- State Council- Composition- Powers, role- Extra Constitutional Bodies- Zonal Councils under State's Reorganization Act, 1955- Organization structure, Role and Objectives, Functions, Meetings. NITI Aayog- Composition- Functions.

BIBLIOGRAPHY

RECOMMENDED READING:

BOOKS

1. H.M. Seervai, Constitutional Law of India 4th Edition 2019 Universal Book Publication, New Delhi.
2. C. Rangarajan and D.K. Srivastava, Federalism and Fiscal Transfers in India, Oxford University Press India Publication.
3. Naseer Ahmed Khan (ed.,) Challenges and issues in Indian Fiscal Federalism, Springer, Singapore.
4. Y.V. Reddy and GB Reddy- India Fiscal Federalism Oxford University Press India Publication.
5. Mukherjee, S., Bagchi, A., Rao, R. K. (2019). Evolution of Goods and Services Tax in India. India: Cambridge University Press.

JOURNALS/ARTICLES

1. Prakash Chandra Jha. (2019) Current Trends and Issues in Indian Federalism. Indian Journal of Public Administration 35, pages 001955611984459.
2. Kelkar, V. (2019). Towards India's new fiscal federalism. Journal of Quantitative Economics, 17(1), 237–248.
3. Rao, M. G. (2019). Redesigning the fiscal transfer system in India. Economic & Political Weekly, 54(31), 52–60.
4. Amaresh Bagchi, Fifty Years of Fiscal Federalism in India an Appraisal, Working Paper- 03, National Institute of Public Finance and Policy.

5. Niranjana Sahoo "Centre-State Relations in India: Time for New Framework" Observer Research Foundation Occasional Paper 62.

FURTHER READING:

BOOKS

1. Anirudh Prasad "Centre-State Relations in India: Constitutional Provisions, Judicial Review, Recent Trends" Deep and Deep Publications, New Delhi.
2. M.M. Surya, Centre- State Financial Relationship in India- 1870 to 2010, India Tax Foundation.
3. Braun, Dietmar, Ruiz-Palmero, Christian, Schnabel, Johanna (2017) Fiscal Consolidation in Federal States. Conflicts and Solutions. Routledge Studies in Federalism and Decentralization. Routledge, Abingdon/New York.
4. Asok Chandra, Federalism in India, Allen & Unwin Publisher (1 April 1965)
5. K.C. Wheare, Federal Government (1963)
6. Musgrave, Richard A. (1959). The Theory of Public Finance. New York: McGraw-Hill.
7. R.K. Chaubey "Federalism Autonomy and Centre- State Relations" Satyam Books, New Delhi.
8. Dr. M.S. Khalsa "Dynamics of Centre- State Relations in India: Eroding or Strengthening"
9. S.N. Singh "Centre-State Relations in India: Najeor Iritants and Post Sarkaria Review" H.K. Publishers, New Delhi.
10. M. Burgess "Comparative Federalism: Theory and Practice" Routledge, 2006.

JOURNALS/ARTICLES

1. H.M. Rajashekhara, 'Nature of Indian Federalism: A critique' 37(3) University of California Press 245-253 (1997).
2. Tanvir Aejaz, Politics of Welfare: Comparisons across Indian States, edited by Louise Tillin, Rajeshwari Deshpande and K.K. Kailash, Publius: The Journal of Federalism, Volume 47, Issue 4, Fall 2017
3. Douglas V. Verney, Federalism, Federative Systems, and Federations: The United States, Canada, and India, Publius: The Journal of Federalism, Volume 25, Issue 2, Spring 1995.

4. Kenneth Kletzer and Nirvikar Singh Indian Fiscal Federalism: Political Economy and Issues for Reform, Working Paper-22, Stanford University, Centre for International Development.
5. Tewari, Manish, And RekhaSaxena. "The Supreme Court of India: The Rise of Judicial Power and the Protection of Federalism." Courts in Federal Countries: Federalists or Unitarists?, edited by NICHOLAS ARONEY and JOHN KINCAID, University of Toronto Press, Toronto; Buffalo; London, 2017.
6. W. R. Lane, The Grants Commission and Equalization Grants, Publius: The Journal of Federalism, Volume 7, Issue 3, Summer 1977.
7. Jay Kumar Singh, Dynamic De/Centralization in India, 1950–2010, Publius: The Journal of Federalism, Volume 49, Issue 1, Winter 2019
8. M. P. Singh and Rekha Saxena., Karabi Bezboruah, Federalizing India in the Age of Globalization, Publius: The Journal of Federalism, Volume 44, Issue 2, Spring 2014.
9. M. Govinda Rao, Incentivizing Fiscal Transfers in the Indian Federation, Publius: The Journal of Federalism, Volume 33, Issue 4, Fall 2003
10. R.B. Jain, 'Federalism in India: Emerging trends and future outlook' Indian Constitution: Trends and Issues. ILI (1978)

CASES FOR GUIDANCE

1. His Holiness Kesavananda Bharati Sripadagalvaru v. State of Kerala &Anr., (1973) 4 SCC 225
2. S.R.Bommai and Others v. Union of India (1994) 3SCC
3. State of West Bengal v. UOI, AIR 1963 SC 1241
4. State of Rajasthan v. Union of India (1977) 3 SCC 592.
5. The Secretary, Government of Madras, Home Department &Ors. v. Zenith Lamp and Electrical Ltd. AIR 1973 SC 724
6. State of West Bengal v. Kesoram Industries Ltd and Anr., AIR 2005 SC 1646
7. Atiabari Tea Co v. State of Assam AIR 1951 SC 232.
8. Bannari Amman Sugars Ltd. v. Commercial Tax Officer and Ors. (2005) 1 SCC 625.
9. The Commissioner Hindu Religious Endowments, Madras v. Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, AIR 1954 SC 282

10. Bangalore Development Authority v. The Air Craft Employees Cooperative Society Ltd. and Ors. 2012 (1) SCALE 646
11. C. Rajagopalachari v. Corporation of Madras AIR1964 SC 1172
12. State of Madras v. Gannon Dunkerley Company AIR 1958 SC 15
13. Hoechst Pharmaceuticals Ltd v. State of Bihar 1983 AIR 1019
14. Union of India v. H.S Dhillon (1971) 2 SCC 779
15. Jindal Stainless Ltd &Anr v. State of Haryana &Ors AIR (2016) SC 5617.
16. State of Karnataka v. Union of India, AIR 1978 SC 68
17. State of West Bengal v. Union of India, AIR 1963 SC 1241
18. Ganga Ram Mool Chandani v. State of Rajasthan AIR 2001 SC 2616
19. ITC Ltd v. Agricultural Produce Market Committee AIR 2002 SC 852
20. CIT v. Raja Benoy Kumar Sahas Roy (1957) 32 ITR 466(SC).

LEARNING OUTCOMES

On the Completion of this course, students will

- *Appreciate the Nature, Scope and Evolution of Fiscal Federalism In India.*
- *Understand the working of federalism in India.*
- *Learner will be able to comprehend the roles played by various Planning commission in Fiscal Interstate Transfer.*
- *Students will be able to analyze the issues and problems in Indian Federalism*

PAPER - X
LAW OF PUBLIC POLICY AND GOVERNANCE
(Generic Elective Paper)

OBJECTIVES OF THE COURSE

The overarching aim of the course is to provide students with a solid grounding in key themes of public policy and Governance as well as the practical and issue-oriented knowledge which will prepare students for their future roles as policy-makers, administrator, advisors, and analysts in governmental and non-governmental organizations. Through the core curricula of this course, students will gain a detailed and systematic understanding of how policy-making processes are shaped and influenced by both, actors and political institutions, and how public policies operate at each level of governance. Indian Constitution provides legal framework for laws and policies framed. Law provides a framework within which public policy is developed, shaped and implemented. In the Law and Public Policy module Students will explore the key ideas which underpin how legal systems work.

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

- *Scope, Significance and types of Public Policy.*
- *Various stakeholders' contributions in policy making.*
- *Political, Financial and popular difficulties in the implementation of policy.*
- *Analysis the policy cycle.*
- *Initiatives for Good Governance.*

COURSE OUTLINE

MODULE I - INTRODUCTION

- a) Concept of Public Policy and Governance and its relationship.
- b) Nature, Scope and Significance of Public Policy- Definition, Types of Public Policy- Regulatory, Welfare, Distributive and Re-Distributive.
- c) Stages of Public Policy making- conceptualization, Formulation, Implementation and Evaluation- Importance of Public Policy making.

MODULE II - POLICY MAKING IN INDIA

- a) Constitutional framework of Policy Making in India- Institutional factors: Legislative, Executive Judiciary, NitiAayog, National Development Council, etc. and other forces in Policy Making.
- b) Public opinion, Political Parties, Non- Governmental agencies, Think tanks, Interest groups and Pressure Groups, Mass Media, Social Movements.
- c) External influencing agencies- UNDP, WHO, UNEP, World Bank, IMF etc in Public Policy making.

MODULE III - POLICY IMPLEMENTATION

- a) Public Policy delivery agencies and Implementations- Role of Governmental agencies in Policy Implementation.
- b) Need of Private and scientific agencies for implementation.
- c) Problems in Public Policy Implementation: Conceptual, Political and Administrative Problems, Conditions for Successful Implementation.

MODULE IV - POLICY IMPACT AND EVALUATION

- a) Meaning of Policy Impact and its importance.
- b) Dimensions of Policy Impact- Assessment of Policy Impact and feedback.
- c) Policy Evaluation: Role, Process and Criteria, Types of Evaluation, Evaluating Agencies – Problems and Dilemmas in Policy Evaluation

MODULE V - PUBLIC POLICIES

- a) Case study- Population Policies, Education Policies,
- b) Environmental Policies, Health Policies,
- c) Public Accountability Policies, etc.

MODULE VI - DEMOCRACY AND GOVERNANCE CONCEPTS

- a) Democracy – Types of Democracy: Direct and Representative.
- b) Basic Principles of Democracy: Pluralism, Citizenship and Respect for Human Rights- Federalism- working of federal system in India.

- c) Governance: Meaning and Features - Government and Governance – Theories of Governance: Rational Choice, Systems and New Institutionalism- Good Governance - Features of Good Governance.

BIBLIOGRAPHY

RECOMMENDED READING:

BOOKS

1. Ayyar R V, Public Policymaking in India (2009).
2. Dye, T.R. (2002) Understanding Public Policy, 10th edition Pearson, New Delhi.
3. MathurKuldeep, Public Policy and Politics in India, How Institutions Matter (Oxford India Paperbacks) (2015).
4. Mohanty, Biswaranjan. (2009). Constitution, Government and Politics in India – Evolution and Present Structure, New Century Publications, New Delhi.
5. KuldeepMathur, From Government to Governance, National Book Trust, New Delhi, 2009.

JOURNALS/ARTICLES

1. Balmiki Prasad Singh, The Challenge of Good Governance in India: Need for Innovative Approaches, Harvard Journal of Law and Governance.
2. Vinod Vyasulu, Good' Governance in India: How Good or Bad?Millennial Asia, Sage Publication.
3. Yadav, Sushma. "Public Policy And Governance In India: The Politics Of Implementation." The Indian Journal of Political Science, vol. 71, no. 2, 2010, pp. 439–457. *JSTOR*, www.jstor.org/stable/42753707.
4. Anindya Chaudhuri, Policy Studies, Policy Making and Knowledge Driven Governance, EPW, Vol 51, Issue No- 23.
5. Saint-Martin, Jean-Guy. "Increasing Ngo Influence On Development Policy." Peace Research, vol. 26, no. 1, 1994, pp. 79–86. *JSTOR*, www.jstor.org/stable/23607473.

FURTHER READING:

BOOKS

1. Bevir, Mark (Ed.), The Sage Handbook of Governance, Sage, 2011.
2. B.C.Smith, Good Governance and Development, Palgrave Macmillan, 2007.

3. Jain, M. P. (2010). Indian Constitutional Law, 6th edition (2 vols), LexisNexis Butterworths Wadhwa, Nagpur
4. Laxmikanth, M. (2011). Governance in India, Tata McGraw-Hill Education, New Delhi.
5. World Bank. (1994). Governance: The World Bank's experience. Washington, D.C: The World Bank.
6. Sapru R.K (1996) Public Policy: Formulation, Implementation and Evaluation, Sterling Publication, New Delhi.
7. Anderson, James E., 1975, Public Policy-Making, Praeger, New York.
8. Robin, Jack (Ed.), 2005, Encyclopedia of Public Administration and Public Policy, Taylor & Francis, London.
9. Kabra, Karnal Nayan, 1997, Development Planning in India, Exploring an Alternative Approach, Sage Publications, New Delhi.
10. Dayal, Ishwar, "Organization for policy Formulation", Kuldeep Mathur, (Ed.) 1996, Development Policy and Administration, Sage Publications, New Delhi.

JOURNALS/ARTICLES

1. Shiv Visvanathan, A New Public Policy for a New India, Hindu dated 6th April 2015.
2. Mehta, Asha Kapur, 2004, Multidimensional overpopulation in India: District Level Estimates, CPRCCIPA Working Paper 9, IIPA, New Delhi.
3. Lasswell, Harold, "The Emerging Conception of the Policy Sciences", Policy Sciences, Vol, 1, 1970.
4. Wendy Doniger and Martha C. Nussbaum "Pluralism and Democracy: Debating the Hindu Right" Oxford University Press, India.
5. World Bank Policy and Research Bulletin, Vol. 11 and Vol. 12 No. 4 & No 1, October-December 2000, and January-March 2001.
6. Lindblom, Charles, E, "Policy Analysis", American Economic Review, 48 (3), 1958.
7. Ukeles, Jacob B, "Policy Analysis : Myth or Reality?", Public Administration Review, 37(3), 1977
8. Jain, R.B., "Managing public policy in India: The implementation gap", The Indian Journal of Public Administration Vol. XLIII, No. 3, July-September 1997.

9. United Nations ESCAP,.2006 "Enhancing Regional Cooperation in Infrastructure Development Including that related to Disaster Management", Economic and Social Commission for Asia and the Pacific, ,United Nations publication, New York.
10. John orth “The Role of the Judiciary in Making Public Policy” https://nccppr.org/wp-content/uploads/2017/02/The_Role_of_the_Judiciary_in_Making_Public_Policy.pdf.

CASES FOR GUIDANCE

1. His Holiness Kesavananda Bharati Sripadagalvaru v. State of Kerala (1973) 4 SCC 225
2. Smt. Indira Nehru Gandhi v. Shri Raj Narain&Anr. , 1975 (Supp) SCC 1
3. Apparel Export Promotion Council vs. A.K. Chopra [(1999) 1 SCC 759
4. Vishaka v. State of Rajasthan [(1997) 6 SCC 241]
5. ThussainaraKhatoon and others v. Home Secretary State of Bihar AIR 1979 SC 1360
6. Prem Shankar Shukla v. Delhi Administration 1980 SCC 526.
7. PUCL v. UOI AIR 1997 SC 568.
8. D.K Basu v. State of West Bengal AIR 1998 SC 610.
9. Akhil Bharatiya Shoshit Karmachari Sangh (Railway) v.UOI, AIR 1981 SC 281.
10. S.P. Gupta and others vs. Union of India AIR 1982 SC 149
11. Minerva Mills Ltd v Union of India AIR 1980 SC 1789
12. Unni Krishnan v State of AP (1993) 1 S.C.C. 645.
13. Ajay Hasia v Khalid Mujib AIR 1981 SC 487
14. M.C Metha v. UOI 1986 SCC 176.
15. M.C. Mehta v. Kamal Nath, [(1997) 1 SCC 388
16. Union of India v. Association for Democratic Reforms and Anr. (2002) 5 SCC 294
17. P.A. Inamdar&Ors. V. State of Maharashtra &Ors. (2005) 6 SCC 537.
18. BandhuaMuktiMorcha v Union of India (1984) 3 S.C.C. 161
19. ShayaraBano v. Union of India & Others (2017) 9 SCC 1
20. Joseph Shine vs Union of India, 2018 SCC OnLine SC 1676

LEARNING OUTCOMES

- *The learner will understand the nature and meaning public policy and its importance of public policy.*
- *Learner will be able to comprehend the roles played by various agencies in public policy making and implementation.*
- *Students will be able to list the political, financial and popular difficulties in the implementation of policy.*
- *Students will be able to analyze the cycle of selected public policies.*
- *On successful completion of the course, learner will describe the initiatives for good governance.*

PAPER - XI
PUBLIC SERVICE LAW: COMPARATIVE CONSTITUTIONAL
JURISPRUDENCE

(Generic Elective Paper)

OBJECTIVES OF THE COURSE

The service law jurisprudence in the country, owed its major growth from the English and American development is a recognized fact. Civil servants constitute a separate species of the labour force in India and are given rights as well as liabilities under the Constitution. Inevitably, the constitutional dimensions of these rights and obligations are to be studied in this course. The laws and regulations relating to their recruitment and promotion, conditions of service and the dispute settlement mechanisms form important components of the study. This course also contains Special Category Services such as Judicial Services, the Supreme Court and High Court Personnel and All India Services.

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

- *To understand the historical, constitutional and legal framework governing the civil service in India.*
- *To understand the problems that civil servants are facing in service.*
- *To discuss the recruitment and promotion, conditions of service and the settlement of disputes over service matters.*
- *To familiar with Special Category Services such as Judicial Services, the Supreme Court and High Court personnel and All India Services.*

COURSE OUTLINE

MODULE I - CIVIL SERVANTS AND CONSTITUTIONAL DIMENSIONS

- a) Civil Servants and the Fundamental Rights - Historical and Comparative Perspectives - Equality and Protective Discrimination: Principles and Practices.
- b) Service Regulations - The Constitutional Bases - Formulation of Service Rules – Doctrine of Pleasure - Limitations on Doctrine of Pleasure.
- c) Opportunity of being heard and its exceptions.

MODULE II - RECRUITMENT AND PROMOTION

- a) Central and State agencies for Recruitment (UPSC & SPSC).
- b) Union Public Service Commission - Jurisdiction, Qualification, Functions, Immunities, Consultation with Commission.
- c) State Public Service Commission - Jurisdiction, Qualification, Functions, Immunities, Consultation with Commission.

MODULE III - CONDITIONS OF SERVICE

- a) Pay, Dearness Allowance and Bonus: Machinery for fixation and revision, Pay Commission.
- b) Social Security: Provident Fund, Superannuation and Retiral benefits, Medicare, Maternity benefits, Employment of children of those dying in harness, Compulsory insurance.
- c) Kinds of leave and conditions of eligibility - Civil and Criminal immunities for action in good faith.

MODULE IV - CIVIL SERVICE: AMALGAM OF PRINCIPLES, COMPROMISES AND CONFLICTS

- a) Neutrality - Commitment dilemma, Permanency, Expertise and Institutional Decision Making.
- b) Relaxation of Age and Qualification in Recruitment, Spoils System, Seniority-cum Merit Recruitment and Promotion - Frequent transfers, Education of Children, Housing and Accommodation.
- c) Civil Service and Politics, Politicization of government servants organization and inter-union rivalry

MODULE V - SPECIAL CATEGORIES OF SERVICES

- a) Judicial services: Subordinate Judiciary - Judicial officers and servants: Appointment and Conditions of Service.
- b) Officers and Servants of the Supreme Court and the High Courts: Recruitment, Promotion, Conditions of Service and Disciplinary Action.
- c) All India Services: Objects, Regulation of Recruitment, Conditions of Service and Disciplinary Proceedings.

MODULE VI - SETTLEMENT OF DISPUTES OVER SERVICE MATTERS

- a) Departmental remedies: Representation, Review, Revision and Appeal - Remedy before the Administrative Tribunal:
- b) Judicial Review of Service Matters – Jurisdiction of the Supreme Court and High Courts.
- c) Comparative Position in England, United States and France.

BIBLIOGRAPHY

RECOMMENDED READING:

BOOKS

- 1. M. Rama Jois, Services under the State, Indian Law Institute, New Delhi, 2007.
- 2. M.R.Mallick, service Law in India, Eastern Law House, 2000.
- 3. Samaraditya Pal, Law Relating to Public Service, 3rd Edition, LexisNexis, 2011.
- 4. Babita Devi Pathania, Service Laws in India, Allahabad Law Agency, 1st Edition, 2016.
- 5. H.M.Seervai, Constitutional Law of India, Universal Law Publishing Co.Ltd, 4th Edition, 2005.

JOURNALS /ARTICLES

- 1. Arjun P.Aggarwal, Freedom of Association in Public Employment, 14 JILI (1972)
- 2. C.K.Kochukoshy, “All India Services-The role and the Future”, 1972. I.J.P.A. 67.
- 3. Douglas Vass, “The Public Service in Modern Society”, 1983. I.J.P.A. 970Z.
- 4. M.S. Siddiqi, “Sanction for the Breach of Contracts of Service”, 1983. I.J.P.A. 359.
- 5. O.P.Motilal, “Compulsory Retirement”, 1975. I.J.P.A. 247.

FURTHER READING:

BOOKS

- 1. M.P.Jain, Indian Constitutional Law, LexisNexis, Eighth Edition, 2018.
- 2. K.C Davis Administrative law, University of San Diego.
- 3. Soonavala, Supreme Court on Service Laws (1950-2017) 4th Edition, LexisNexis, 2017.
- 4. H L Kumar, Model Appointment Letters and Service Rules, 6th Edition, LexisNexis, 2016.
- 5. N.Narayan, Nair, The Civil Servant under the Law and Constitution, The Academy of Legal Publications, Trivandrum (1973).
- 6. K.K.Goyal, Administrative Tribunals Act (1985).

7. Doabia&Doabia, The Law of Services and Dismissals, 6th Edition, LexisNexis, 2015.
8. Balram K. Gupta, 'Administrative Tribunals and Judicial Review : A Comment on Forty-second Amendment', pp. 401-425, in Indian Constitution : Trends and Issues, (ed.) Rajeev Dhavan and Alice Jacob (N.M. Tripathi, Pvt. Ltd., Bombay 1978).
9. H.L Kumar "Law Relating to Dismissal, Discharge and Retrenchment under Labour Laws" 5th Edition, 2014 Universal Publication New Delhi.
10. Ranadhir Kumar De "Cases and Material on Service Disputes" EBC, 2012.

JOURNALS / ARTICLES

1. D.S. Chopra, "Doctrine of Pleasure-its scope implication and limitations", 1975 I.J.P.A.92 G. C.
2. Subba Rao, "The O.N.G.C. Case and New Horizons in Public Services Law", 1975 S.C.J. 29.
3. Leelakrishnan, p. (2012). Reviewing decisions of administrative tribunal: paternalistic approach of the indian supreme court and need for institutional reforms. Journal of the indian law institute, 54(1), 1-26. Retrieved december 13, 2020, from <http://www.jstor.org/stable/43953523>
4. Sanjay Gupta and Smriti Sharma "Judicial Analysis of the Powers and Functions of the Administrative Tribunals" Christ University Law Journal 3, 1 (2014).
5. Anupa V. Thapliya "Central Administrative Tribunals and Their Power to Issue Directions, Orders or Writs under Articles 226 and 227 of the Constitution" EBC (1992) 4 SCC (Jour) 18.
6. Anupa V. Thapliyal, 'Role of the Central Administrative Tribunal: Whether Confined to Judicial Review'? A Critique of Union of India v. Parma Nanda, (1990) 1 SCC 11 (Jour).
7. Rajeev Dhavan, 'amending the Amendment: The Constitution (Forty-fifth Amendment) Bill, 1978', 20 J.I.L.I. (1978) 249-272 at p. 267.
8. Dial, Rameshwar. "Civil Servants under the Constitution." Journal of the Indian Law Institute, vol. 2, no. 4, 1960, pp. 481–508. JSTOR, www.jstor.org/stable/43949606.
9. Aggarwal, Arjun P. "Freedom of Association in Public Employment." Journal of the Indian Law Institute, vol. 14, no. 1, 1972, pp. 1–20. JSTOR, www.jstor.org/stable/43950116.
10. Tyagi, A. R. "Role of Public Service Commissions in India." The Indian Journal of Political Science, vol. 20, no. 4, 1959, pp. 343–357. JSTOR, www.jstor.org/stable/42743529.

CASES FOR GUIDANCE

1. S.B.Saha v. M.S.Kochar AIR 1979 SC 1841
2. Bajinath v. State of Madhya Pradesh AIR 1996 SC 220.
3. Chand Mal Chayal v. State of Rajasthan, AIR 2006 SC 3340.
4. Mathura Prasad v Union of India, AIR 2007 SC 381.
5. Veerendra Singh Hooda and other v. State of Haryana and another, AIR 2005 SC 137
6. Union of India v. R.K.Chopra, AIR 2010 649.
7. KendriyaVidyalayaSangathar&Another v. Satbir Singh Mahla, AIR 2008 SC 16126.
8. UP State Sugar Corporation Ltd. & another v.KamalSwaroopTandoon, AIR 2008 SC 1235.
9. Commr. of Police v. Syed Hussain, AIR 2006 SC 1246.
10. GOI & Another v. George Philip, AIR 2007 SC 705.
11. Addt. Manager, Human Resource, BHEL Ltd.v. Suresh Ramkrishna Burde, AIR 2007 SC 2048.
12. Shiv Pujan Prasad (died) by LRs. v. State of UP and another, AIR 2010 SC 256.
13. N.Ramanatha Pillai v.State of Kerala, AIR 1973 SC 245.
14. State of Bihar v. Abdul Majid, AIR 1954 SC 245.
15. Union of India v. Tulsiram Patel, AIR 1985 SC 1416.
16. M.Gurumoorthy v. Accountant General, Assam & Nagaland, AIRV 1971 SC 1850.
17. L.Chandra Kumar v. Union of India, AIR 1997 SC 1125.
18. J.Panduramga Rao v. The public Service Commission AP, AIR 1963 SC 268.
19. D.S.Nakara v. Union of India AIR 1983 SC 130.
20. Post Graduate Institute of Medical Education Research v. Faculty Association, AIR 1998 SC 1767.

LEARNING OUTCOMES

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

- *Analyze the historical, constitutional and legal framework governing the civil service in India.*
- *Highlight and critically analyze the problems that civil servants are facing in service.*
- *Examine the recruitment and promotion, conditions of service and the settlement of disputes over service matters.*
- *Identify the Special Category Services such as Judicial Services, the Supreme Court and High Court personnel and All India Services.*
- *Evaluate the latest developments and issues in the field of Service Law.*
