

## ANDHRA UNIVERSITY

### REGULATIONS AND SYLLABUS RELATING TO LL.M. DEGREE COURSE (TWO YEAR) SEMESTER PATTERN:

*(effective from the Academic Year 2013-2014)*

- **Admission:** Candidates admitted into 2 year LL.M. course should have;
  - i. Passed the Bachelor of Law Degree examination of this University or an examination of any other university recognized as equivalent thereto.
  - ii. Qualified in the LL.M. Entrance Test conducted in the year for which the candidate seeks admission.
  
- **For the award of LL.M. Degree:** A candidate shall be required to have i) received instruction and training for the prescribed course of study as full-time student for two academic years, and ii) qualified all the examinations prescribed for the award of the two Year LL.M. Degree.
- **Duration:** LL M Course has to be pursued in four semesters stretching over two academic years. Each academic year comprises of two Semesters. Each semester will be of the duration of 16 weeks.
- **Medium of Instruction** will be in English language
- **Attendance:** In order to be eligible to take the examination in any subject, candidate is required to put in 75% of attendance in each subject which includes lectures, tutorials and practical training.

If a student for any exceptional reason fails to attend 75% of the classes held in any subject, he/she may be condoned for the shortage of attendance if the student concerned attended at least 66% of the classes held in the subject concerned subject to the payment of the fine prescribed from time to time by the University.
- **Course Structure & Content:** LL.M Course is subject to UGC norms prescribed from time to time.

LL.M Course is to be pursued in a selected branch of specialization offered by the University.

The course consists of 4 compulsory theory papers, one practical examination and dissertation common to all LL.M students and 6 papers of specialization opted by the candidate..

In the first semester, the candidate has to offer two compulsory theory papers (Compulsory Papers 1&2) and two Papers from the branch of specialization.(Branch Papers1&2).

In the second semester, the candidate has to offer two compulsory theory papers (Compulsory Papers 3&4) and two Papers from the branch of specialization.(Branch papers3&4).

In the third semester the candidate has to offer two papers exclusively from the selected branch of specialization. (Branch papers 5 & 6) and practical examination comprising of doctrinal work, non doctrinal work and clinical work . In the fourth semester he/ she has to complete the dissertation in partial fulfillment of the LL.M degree.

SEMESTER	COMPULSORY CORE PAPER	SPECIALIZATION/BRANCH PAPERS	TOTAL PAPERS	MARKS
First	2	2	4	400
Second	2	2	4	400
Third	1 (Practical)	2	3	300
Fourth	Dissertation			100
				1200

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**Compulsory Papers:**

1. Law and Social Transformation in India
2. Indian Constitutional Law: the New Challenges
3. Judicial Process
4. Legal Education and Research Methodology
5. Dissertation

- **Practical Paper with the following components:**

*Doctrinal Research:*

Each student would be assigned in advance a topic and asked to write a doctrinal research paper.

*Non-Doctrinal Research:*

The student would be asked to go out of the class room and library and make an empirical study of a problem which has social, economic moral or political dimension. Field data can be collected through any model of data collection.

*Clinical Work:*

The modalities can be evolved by the law school. One method is that the legal aid clinic of the law school can involve itself with other legal aid programmes in the area. Students are encouraged not only to work with the clinic but also to acquaint themselves with court proceedings, working of a business organization, tackling of labour disputes, drafting of business or other deeds and with public interest litigation.

*Law Teaching*

A topic would be assigned to the student in advance. He is required to handle a class for 25 to 30 minutes. Where LL.B. programme co-exists with LL.M. programme, the students may be asked to teach the LL.B. students.

*Dissertation:*

Dissertation of a minimum length of 120 pages has to be carried by the candidate in the area of his/her area of specialization in fourth semester. Dissertation shall be evaluated internally and externally through viva-voce.

- **Credits:**

All papers carry six credits and the dissertation in fourth semester carries 12 credits. Total credits are 78.

- **Question Paper Pattern:**

For semester end written examinations in theory, the question paper carrying 80 marks consists of 8 essay questions. Eighth question consists of four short notes out of which the candidate may choose any two to answer. The candidate may choose to write any four questions out of eight questions. Each question carries 20 marks.

- **Marks:**

Every paper carries 100 marks.

Except for the practical papers, 80 marks are allotted for written examination and 20 marks are allotted for internal assessment the split of which is as follows;

Class and seminar participation	10 marks
Home assignment	10 marks

- **Practical Examination:**

The practical examination shall be held at the end of the third semester on Research Methodology, Law Teaching and Clinical Work.

Doctrinal research paper-25 Marks

Non-doctrinal research -25 Marks

Law teaching -25 Marks

Clinical work- 25 Marks

- **Examination:**

- Candidate shall take examination in each of the subjects prescribed for study at the end of the semester by registering for that semester examination and obtaining hall ticket for the same. Duration of the examination is three hours.

- The semester end examination shall be based on the question paper set by an external paper setter.

- A candidate will be declared to have passed in the concerned paper if the candidate secures a minimum of 40%. However, for practical papers, a minimum of 50% is essential. The **practical papers** of LL.M course are, paper 3 (compulsory practical paper) in the Third semester and the dissertation in the fourth semester.

For qualifying in the whole examination for obtaining the LL.M degree, the candidate has to secure a minimum overall aggregate of 50%. The calculation of the aggregate percentage required for qualifying in the examination would be done only at the end of the completion of the course.

- Grafting/Grace is permitted. Grafting allows a candidate an opportunity to utilize the excess marks he earned in a paper for filling up the shortage of marks in the paper in which the candidate failed. Eg, A candidate who secured

only 35 Marks, would fail having fallen short by 5 Marks of the required minimum pass mark which is 40 Marks. However, If such candidate happened to secure 45 marks in another paper, the extra five marks which is in excess of what is required for a pass could be notionally added to fill the deficit of 5 marks of the paper in which the candidate actually failed and thereby declare the candidate to have been passed in such paper.

Note: Grafting can be availed only when the candidate will be able to pass in the whole examination due to grafting. Grafting to the extent of one mark per hundred marks of each semester can be added to a maximum of two papers only.

- .5 or more will be rounded up to the higher value of 1 only for the purpose of obtaining pass mark or class elevation, third class to second class or second class to first class. Eg 4.96 will be treated as 5.0. Similarly, 5.45 becomes 5.5

#### **Scheme of Grading**

<b>S. No</b>	<b>Range of Marks</b>	<b>Grade</b>	<b>Grade Point</b>
1	91-100	O	10.0
2	81-90	A	9.0
3	71-80	B	8.0
4	61-70	C	7.0
5	51-60	D	6.0
6	40-50	E	5.0
7	<40 (0-39)	F (Fail)	0.0
8	<b>Incomplete</b> (Subsequently changed into pass or E to O or F grade on subsequent appearance of the examination)	I	0.0

- **Classification** of successful candidates is based on CGPA as follows:

- Distinction --- CGPA 8.0 or more
- I Class --- CGPA 6.5 or more but less than 8.0
- II Class --- CGPA 5.5 or more but less than 6.5
- Pass --- CGPA 5.0 or more but less than 5.5

Note: Only those candidates who appear and pass the examination in all the papers of the First semester, all the papers of the Second semester, all the papers of the Third semester, and similarly all the papers of the Fourth semester, at first appearance are eligible to be placed in O grade.

- **Awards:**

No candidate who has not passed all the papers relating to any semester at the first appearance shall be eligible for the Award of Medals or Prizes by the University and to receive certificates of rank obtained by them in the examination.

Explanation:

Credits, Grade Letter Grade Points, Credit Points

**Credit** means the unit by which the course work is measured. One credit means one hour of teaching work or one hour of practical work per week.

**Grade Letter** is an index to indicate the performance of a student in a particular course (Paper).

It is the transformation of actual marks secured by a student in a course/paper. It is indicated by a Grade letter O, A, B, C, D, E. There is a **range of marks** for each Grade Letter.

**Grade Point** is Weightage allotted to each grade letter depending on the marks awarded in a course/paper

**CGPA:** CGPA means Cumulative Grade Point Average. It will be calculated from 2<sup>nd</sup> semester onwards.

**SGPA** means Semester Grade Point Average. This is calculated for each semester of the programme

CGPA x 10 will be the overall percentage of the marks obtained by the candidate

## LL.M Course Pattern

### FIRST SEMESTER

Sl. No	Paper No	Title of the Paper	Hours per week			Max Marks		Credits
			L	T	P	E	I	
1	Compulsory Paper -01	Law and Social Transformation in India	4	2	-	80	20	6
2	Compulsory Paper -02	Indian Constitutional Law: the New Challenges	4	2	-	80	20	6
3	Branch Paper I	Constitutionalism, Pluralism and Federation/ Legal Regulation of Economic Enterprises/ Collective Bargaining and Trade Unions/ International Law, and Organization; Law, Practice and Future/ Indian Penal Code and Important Prevention Detention Laws/ Environment and Legal Order/ Concept and Development of Human Rights	4	2	-	80	20	6
4	Branch Paper II	Union- State Relations/ Corporate finance/ Wages/ Law of Peace, Diplomacy and Disarmament/ Comparative Criminal Procedure/ Environmental Legislation/ Human rights and International Order	4	2	-	80	20	6
								24

## SECOND SEMESTER

Sl. No	Paper No	Title of the Paper	Hours per week			Max Marks		Credits
			L	T	P	E	I	
1	Compulsory Paper-03	Judicial Process	4	2	-	80	20	6
2	Compulsory Paper-04	Legal Education and Research Methodology	4	2	-	80	20	6
3	Branch Paper III	Human Rights/ Law of Industrial and Intellectual Property/ Industrial Adjudication/ International Law and Contemporary Issues/ Penology and privileged Class Deviance/ Prevention and Control of Pollution/ Protection and Enforcement of Human Rights in India	4	2	-	80	20	6
4	Branch Paper IV	National Security Public Order and Rule of Law/ Law of Export- Import Regulations/ Law relating to Civil Servants/ Private International Law/ Drug Addiction, Criminal Justice and Human Rights/ Environment and International Legal order/ Human Rights of Disadvantaged Groups	4	2	-	80	20	6
								<b>24</b>

### THIRD SEMESTER

Sl. No	Paper No	Title of the Paper	Hours per week			Max Marks		Credits
			L	T	P	E	I	
1	Branch Paper V	Mass Media law/ Banking Law/ Social Security Law/ International Humanitarian Law/ Juvenile Delinquency/ Resource Management and Law/ International Humanitarian Law and Refugee Laws	4	2	-	80	20	6
2	Branch Paper VI	Public Utilities Law/ Insurance Law/ Agricultural Labour/ Law of the Sea and Environmental law/ Collective Violence/ Biological Diversity and Legal Order/ Science, Technology and human Rights	4	2	-	80	20	6
3	Compulsory Practical Paper	Doctrinal Work, Law Teaching Non Doctrinal Work, Clinical work,			12			6
								<b>18</b>

Sl. No	Paper No	Title of the Paper	Hours per week			Max Marks		Credits
			L	T	P	E	I	
1		Dissertation + Viva			24	50	50	12

		<b>TOTAL</b>						<b>78</b>
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## Syllabus

### 01. LAW AND SOCIAL TRANSFORMATION IN INDIA

#### Objectives of the course

This course is to be designed to offer (a) awareness of India approaches to social and economic problems in the context of law s a means of social control and change; and (b) a spirit of inquiry to explore and exploit law and legal institutions as a means to achieve development within the framework of law. The endeavour is to make the students aware of the role the law has played and has to play in the contemporary India society.

## Syllabus

### 1. Law and social change

- 1.1. Law as an instrument of social change.
- 1.2. Law as the product of traditions and culture. Criticism and evaluation in the light of colonization and the introduction of common law system and institutions in India and its impact on further development of law and legal institutions in India.

### 2. Religion and the law

- 2.1.1. Religion as a divisive factor.
- 2.1.2. Secularism as a solution to the problem.
- 2.1.3. Reform of the law on secular lines: Problems.
- 2.1.4. Freedom of religion and non-discrimination on the basis of religion. Religious minorities and the law

### 3. Language and the law

- 3.1. Language as a divisive factor: formation of linguistic states.
- 3.2. Constitutional guarantees to linguistic minorities.
- 3.3. Language policy and the Constitution: Official language; multi-language system
- 3.4. Non-discrimination on the ground of language

### 4. Community and the law

- 4.1. Caste as a divisive factor
- 4.2. Non-discrimination on the grounds of caste.
- 4.3. Acceptance of caste as a factor to undo past injustices.
- 4.4. Protective discrimination: Scheduled castes, tribes and backward classes.
- 4.5. Reservation; Statutory Commissions, Statutory provisions.

### 5. Regionalism and the law

- 5.1. Regionalism as a divisive factor.
- 5.2. Concept of India as one unit.

- 5.3. Right of movement, residence and business; impermissibility of state or regional barriers.
  - 5.4. Equality in matters of employment: the slogan “Sons of the soil” and its practice.
  - 5.5. Admission to educational institutions: preference to residents of a state.
- 6. Women and the law**
- 6.1. Crimes against women.
  - 6.2. Gender injustice and its various forms.
  - 6.3. Women’s Commission.
  - 6.4. Empowerment of women: Constitutional and other legal provisions.
- 7. Children and the law**
- 7.1. Child labour
  - 7.2. Sexual exploitation
  - 7.3. Adoption and related problems.
  - 7.4. Children and education
- 8. Modernisation and the law**
- 8.1. Modernisation as a value: Constitutional perspectives reflected in the fundamental duties.
  - 8.2. Modernisation of social institutions through law
    - 8.2.1. Reform of family law
    - 8.2.2. Agrarian reform – Industrialisation of agriculture
    - 8.2.3. Industrial reform: Free enterprise v. State regulation – Industrialisation Environmental protection.
  - 8.3. Reform of court processes
    - 8.3.1. Criminal law: Plea bargaining; compounding and payment of compensation to victims
    - 8.3.2. Civil law: (ADR) Confrontation v. consensus; mediation and conciliation; Lok adalats
    - 8.3.3. Prison reforms
    - 8.3.4. Democratic decentralization and local self-government
- 9. Alternative approaches to law**
- 9.1. The jurisprudence of Sarvodaya---Gandhiji, Vinoba Bhave; Jayaprakash Narayan--- Surrender of dacoits; concept of grama nyayalayas
  - 9.2. Socialist thought on law and justice: An enquiry through constitutional debates on the right to property
  - 9.3. Indian Marxist critique of law and justice
  - 9.4. Naxalite movement: cause and cure

### Select Bibliography

- Marc Galanter (ed.), Law and Society in Modern India (1997) Oxford.
- Robert Lingat, The Classical Law of India (1988), Oxford.
- U.Baxi, The Crisis of the Indian Legal System (1982). Vikas, New Delhi.
- U.Baxi (ed.), Law and Poverty Critical Essays (1988), Tripathi, Bombay.
- Manushi, A Journal about Women and Society.
- Duncan Derret, The State, Religion and Law in India (1999). Oxford University Press, New Delhi.
- H.M. Seervai, Constitutional Law of India (1996), Tripathi.
- D.D. Basu, Shorter Constitution of India (1996), Prentice – Hall of India(P) Ltd., New Delhi.
- Sunil Deshta and Kiran Deshta, Law and Menace of Child Labour (1997), Sage.
- India Law Institute, Law and Social Change: Indo-American Reflections, Tripathi (1988)

J.B.Kripalani, Gandhi: His life and Thought, (1970) Ministry of Information and Broadcasting, Government of India.

M.P. Jain, Outlines of Indian Legal History, (1993), Tripathi, Bombay

Agnes, Flavia, Law and Gender Inequality: The Politics of Women's Rights in India (1999), Oxford.

## 02. INDIAN CONSTITUTIONAL LAW: THE NEW CHALLENGES

### *Objectives of the Course*

The Constitution, a living document, is said to be always in the making. The judicial process of constitutional interpretation involves a technique of adapting the law to meet changing social mores. Constitution being the fundamental law, an insight into its new trends is essential for a meaningful understanding of the legal system and processes. The post graduate students in law who had the basic knowledge of Indian Constitutional Law at LL.B. level, should be exposed to the new challenges and perspectives of constitutional development while they are allowed to choose an area of law for specialization. Obviously, rubrics under this paper require modification and updating from time to time.

### **Syllabus**

#### **1. Federalism**

- 1.1. Creation of new states
- 1.2. Allocation and share of resources – distribution of grants in aid
- 1.3. The inter-state disputes on resources
- 1.4. Rehabilitation of internally displaced persons.
- 1.5. Centre's responsibility and internal disturbance within States.
- 1.6. Directions of the Centre to the State under Article 356 and 365.
- 1.7. Federal Comity: Relationship of trust and faith between Centre and State.
- 1.8. Special status of certain States.
- 1.9. Tribal Areas, Scheduled Areas

#### 2. "State": Need for widening the definition in the wake of liberalization.

#### 3. Right to equality: privatization and its impact on affirmative action.

#### 4. Empowerment of women.

#### 5. Freedom of press and challenges of new scientific development

Freedom of speech and right to broadcast and telecast

Right to strike, Hartal and Bandh.

#### 6. Emerging regime of new rights and remedies

6.1. Reading Directive Principles and Fundamental Duties into Fundamental Rights

6.2. Compensation jurisprudence

6.3. Right to education

6.4. Commercialization of education and its impact.

Brain drain by foreign education market.

7. Right of minorities to establish and administer educational institutions and state control.
8. Secularism and religious fanaticism.
9. **Separation of powers: Stresses and strain**
  - 9.1. Judicial activism and judicial restraint.
  - 9.2. PIL: implementation.
  - 9.3. Judicial independence.
  - 9.4. Appointment, transfer and removal of judges.
  - 9.5. Accountability: executive and judiciary.
  - 9.6. Tribunals
10. **Democratic Process**
  - 10.1. Nexus of politics with criminals and the business.
  - 10.2. Election
  - 10.3. Election commission: status.
  - 10.4. Electoral Reforms
  - 10.5. Coalition government, 'stability, durability, corrupt practice'
  - 10.6. Grass root democracy.

### **Select Bibliography**

No specific bibliography is suggested for this course since the course materials obviously depends upon the latest developments. These developments in the areas specified in the course can be gathered from the recent materials such as case law, changes and amendments of laws, critical comments, studies and reports, articles and research paper and lastly contemporary emerging ethos impacting on constitutional values.

## **03. JUDICIAL PROCESS**

### **Objectives of the course**

A lawyer, whether academic or professional, is expected to be competent to analyse and evaluate the legal process from a broader juristic perspective. The objective of this paper is to study the nature of judicial process as an instrument of social ordering. It is intended to highlight the role of court as policy maker, participant in the power process and as an instrument of social change. This paper further intends to expose the intricacies of judicial creativity and the judicial tools and techniques employed in the process.

Since the ultimate aim of any legal process or system is pursuit of justice, a systematic study of the concept of justice and its various theoretical foundations is required. This paper, therefore, intends to familiarise the students with various theories, different aspects and alternative ways, of attaining justice.

### **Syllabus**

#### **1. Nature of judicial process**

- 1.1. Judicial process as an instrument of social ordering
- 1.2. Judicial process and creativity in law – common law model – Legal Reasoning and growth of law – change and stability.

- 1.3. The tools and techniques of judicial creativity and precedent.
- 1.4. Legal development and creativity through legal reasoning under statutory and codified systems.

## **2. Special Dimensions of Judicial Process in Constitutional Adjudications.**

- 2.1. Notions of judicial review
- 2.2. 'Role' in constitutional adjudication – various theories of judicial role.
- 2.3. Tools and techniques in policy-making and creativity in constitutional adjudication.
- 2.4. Varieties of judicial and juristic activism
- 2.5. Problems of accountability and judicial law-making.

## **3. Judicial Process in India**

- 3.1. Indian debate on the role of judges and on the notion of judicial review.
- 3.2. The “independence” of judiciary and the “political” nature of judicial process
- 3.3. Judicial activism and creativity of the Supreme Court-the tools and techniques of creativity.
- 3.4. Judicial process in pursuit of constitutional goals and values – new dimensions of judicial activism and structural challenges
- 3.5. Institutional liability of courts and judicial activism – scope and limits.

## **4. The Concepts of Justice**

- 4.1. The concept of justice or Dharma in Indian thought
- 4.2. Dharma as the foundation of legal ordering in Indian thought.
- 4.3. The concept and various theories of justice in the western thought.
- 4.4. Various theoretical bases of justice: the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

## **5. Relation between Law and Justice**

- 5.1. Equivalence Theories – Justice as nothing more than the positive law of the stronger class.
- 5.2. Dependency theories – For its realization justice depends on law, but justice is not the same as law.
- 5.3. The independence of justice – means to end relationship of law and justice – The relationship in the context of the Indian constitutional ordering.
- 5.4. Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

## **Select Bibliography**

- Julius Stone, *The Province and Function of Law*, Part II, 1.8-16 (2000), New Delhi.  
 Cardozo, *The Nature of Judicial Process* (1995) Universal, New Delhi.  
 Henry J. Abraham, *The Judicial Process* (1998), Oxford.  
 W. Friedmann, *Legal Theory* (1960), Stevens, London.  
 Bodenheimer, *Jurisprudence – the Philosophy and Method of the Law* (1997), Universal, Delhi  
 J. Stone, *Legal System and Lawyers' Reasonings* (1999), Universal, Delhi  
 U. Baxi, *The Indian Supreme Court and Politics* (1980), Eastern, Lucknow.

Rajeev Dhavan, *The Supreme Court of India – A Socio-Legal Critique of its Juristic Techniques* (1977), Tripathi, Bombay.

John Rawls, *A Theory of Justice* (2000), Universal, Delhi

Edward H. Levi, *An introduction to Legal Reasoning* (1970), University of Chicago.

#### 04. LEGAL EDUCATION AND RESEARCH METHODOLOGY

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

A post-graduate student of law should get an insight into the objectives of legal education. He should have an exposure to programmes like organization of seminars, publication of law journals and holding of legal aid clinics.

Law is taught in different ways in different countries. The LL.M. course, being intended also to produce lawyers with better competence and expertise, it is imperative that the student should familiarise himself with the different systems of legal education. The lecture method both at LL.B. level and LL.M. level has many demerits. The existing lacunae can be eliminated by following other methods of learning such as case methods, problem method, discussion method, seminar method and a combination of all these methods. The student has to be exposed to these methods so as to develop his skills.

Growth of legal science in India depends on the nature and career of legal research. The syllabus is designed to develop also skills in research and writing in a systematic manner.

##### **Syllabus**

1. Objectives of Legal Education
2. Lecture Method of Teaching – Merits and demerits
3. The Problem Method
4. Discussion method and its suitability at postgraduate legal teaching
5. The Seminar Method of teaching
6. Examination system and problems in evaluation – external and internal assessment.
7. Student participation in law school programmes – Organisation of Seminars, publication of journal and assessment of teachers.
8. Clinical legal education – legal aid, legal literacy, legal survey and law reform.
  
9. **Research Methods**
  - 9.1. Social Legal Research
  - 9.2. Doctrinal and non-doctrinal
  - 9.3. Relevance of empirical research
  - 9.4. induction and deduction**Identification of Problem of research**
  - 9.5. What is a research problem?
  - 9.6. Survey of available literature and bibliographical research.
    - 9.6.1. Legislative materials including subordinate legislation, notification and policy statements.
    - 9.6.2. Decisional materials including foreign decisions; methods of discovering the “rule of the case” tracing the history of important cases and ensuring that these have not been over-ruled; discovering judicial conflict in the area pertaining to the research problem and the reasons thereof.

- 9.6.3. Juristic Writings – a survey of juristic literature relevant to select problems in India and foreign periodicals.
- 9.6.4. Compilation of list of reports or special studies conducted relevant to the problem.

**10. Preparation of the Research Design**

- 10.1. Formulation of the Research problem
- 10.2. Devising tools and techniques for collection of data: Methodology
  - 10.2.1. Methods for the collection of statutory and case materials and juristic literature
  - 10.2.2. Use of historical and comparative research materials
  - 10.2.3. Use of observation studies
  - 10.2.4. Use of questionnaires/interview
  - 10.2.5. Use of case studies
  - 10.2.6. Sampling procedures – design of sample, types of sampling to be adopted.’
  - 10.2.7. Use of scaling techniques
  - 10.2.8. Jurimetrics
- 10.3. Computerized Research – A study of legal research programmes such as Lexis and West law coding
- 10.4. Classification and tabulation of data – use of cards for data collection – Rules for tabulation. Explanation of tabulated data.
- 10.5. Analysis of data

**Bibliography**

High Brayal, Nigel Dunean and Richard Crimes, Clinical Legal Education: Active Learning in your Law School, (1998) Blackstone Press Limited, London.

S.K.Agrawal (Ed.), Legal Education in India (1973), Tripathi, Bombay.

N.R.Madhava Menon, (ed) A Handbook of Clinical Legal Education, (1998) Eastern Book Company, Lucknow.

M.O.Price, H.Bitner and Bysiewiez, Effective Legal Research (1978)

Pauline V. Young Scientific Social Survey and Research , (1962)

William J. Grade and Paul K.Hatt, Methods in Social Research, Mc Graw-Hill Book Company, London

H.M.Hyman, Interviewing in Social Research (1965)

Payne, The Art of Asking Questions (1965)

Erwin C.Surrency, B.Fielf and J.Crea, A Guide to Legal Research (1959)

Morris L.Cohan, Legal Research in Nutshell, (1996), West Publishing Co.

Havard Law Review Association, Uniform System of Citations.

ILI Publication, Legal Research and Methodology.

**5. OPTIONAL BRANCHES:**

**Branch I: Constitution and Legal Order**

- Paper-1 Constitutionalism: Pluralism and Federalism
- Paper-2 Union-State Financial Relations
- Paper-3 Human Rights

Paper-4 National Security, Public Order and Rule of Law'  
Paper-5 Mass Media Law  
Paper-6 Public Utilities Law

**Branch II: Administrative Law**

Paper-1 Administrative Process: Nature and Scope  
Paper-2 Administrative Process and Judicial Control  
Paper-3 Public Authorities: Liability  
Paper-4 Public Authorities and Power Holders: Controls on Maladministration  
Paper-5 Local Self-government Law  
Paper-6 Comparative Administrative Law

**Branch- III: Business Law**

Paper-1 Legal Regulation of Economic Enterprises  
Paper-2 Corporate Finance  
Paper-3 Law of Industrial and Intellectual Property  
Paper-4 Law of Export – Import Regulations  
Paper-5 Banking Law  
Paper -6 Insurance Law

**Branch-IV Labour, Capital and Law**

Paper-1 Collective Bargaining and trade unions  
Paper-2 Wages  
Paper-3 Industrial Adjudication  
Paper-4 Law Relating To Civil Servants  
Paper-5 Social Security Law  
Paper-6 Agricultural Labour

**Branch-V: International Law and Organisation**

Paper-1 International Law and Organization: Law, Practice and future  
Paper-2 Law of Peace, Diplomacy and Disarmament  
Paper-3 International Law and Contemporary Issues  
Paper-4 Private International Law  
Paper-5 International Humanitarian Law  
Paper-6 Law of the Sea and Environmental Law

**Branch-VI: Criminal Law**

Paper-1 Indian Penal Code and Important Prevention Detention Laws  
Paper-2 Comparative Criminal Procedure  
Paper-3 Penology and Privileged Class Deviance  
Paper-4 Drug Addiction, Criminal Justice and Human Rights  
Paper-5 Juvenile Delinquency  
Paper-6 Collective Violence

**Branch –VII Environment and Legal Order**

Paper-1 Environment and Development; Law and Policy  
Paper-2 Environmental Legislation  
Paper-3 Prevention and Control of Pollution

Paper-4	Environmental and International Legal Order
Paper-5	Biological Diversity and Legal Order
Paper-6	Resource Management and the Law

**Branch-VIII Human Rights Law**

Paper-1	Concept and Development of Human Rights
Paper-2	Human Rights and International Order
Paper-3	Protection and Enforcement of Human Rights in India
Paper-4	Human Rights of Disadvantaged Groups
Paper-5	International Humanitarian Law and Refugee Law
Paper-6	Science, Technology and Human Rights

**BRANCH-I CONSTITUTIONAL LAW AND LEGAL ORDER**

**Paper-1: Constitutionalism: Pluralism and Federalism**

**Objectives of the course**

Constitutionalism essentially means a limited government. Where government functions according to certain principles, it is said to be abiding by constitutionalism. Must it be a democracy or can it be an autocracy also. In ancient India, the king was supposed to act according to dharma. He was not absolute in the sense in which John Austin defined sovereignty. Constitutionalism may therefore be determined by a written constitution or by religion or tradition or by mere practice or convention as in England. In a plural society, where different religious as well as linguistic groups have to live together, various rules of accommodation and mutual recognition are incorporated in the Constitution. Usually these are contained in the bills of rights which contain guarantees of individual liberty and equality against majoritarian rule. Constitutionalism does not merely imply majoritarian rule, it has to be a consensual rule. However, where there is not only such vertical pluralism but also horizontal pluralism reflected by sub nations/regional loyalties, power is not only required to be restrained but it has to be shared. This calls for a federal government. The purpose of this paper is to provide exposure to the students to various models of pluralism and forms of constitutional governments and federal structures.

The following syllabus prepared with this perspective will be spread over a period of one semester.

**Syllabus**

**1. Constitutionalism**

- 1.1. Authoritarianism - Dictatorship
- 1.2. Democracy - Communism.
- 1.3. Limited Government - Concept - Limitations on Government Power.
- 1.4. What is a Constitution?
- 1.5. Development of a democratic government in England - Historical evolution of constitutional government.
- 1.6. Conventions of constitutionalism - law and conventions
- 1.7. Written constitutions U.S.A.Canada, Australia, Sweden, South Africa and India.
- 1.8. Separation of powers: Montesquieu

- 1.9. Rule of Law: Concept and new horizons
- 1.10. Marxist concept of constitutionalism
- 1.11. Dictatorship of the proletariat.
- 1.12. Communist State from Stalin to Gorbachov.
- 1.13. Fundamental Rights: Human rights
- 1.14. Judicial Review: European Court of Human Rights
- 1.15. Human Rights: International conventions
- 1.16. Limits & doctrine of domestic jurisdiction in international law.

## **2. Federalism**

- 2.1. What is a federal government?
- 2.2. Difference, between confederation and federation
- 2.3. Conditions requisite for federalism.
- 2.4. Patterns of federal government - U.S.A., Australia, Canada, India.
- 2.5. Judicial review - for federal umpiring
- 2.6. New trends in federalism: Co-operative federalism
- 2.7. India - Central Control v. State Autonomy
- 2.8. Political factors influencing federalism
- 2.9. Plural aspects of Indian Federalism: Jammu & Kashmir, Punjab, Assam.
- 2.10. Dynamic of federalism.

## **3. Pluralisms**

- 3.1. What is a pluralistic society?
- 3.2. Ethnic, linguistic, cultural, political pluralism
- 3.3. Individual rights - right to dissent
  - 3.3.1. Freedom of speech and expression
  - 3.3.2. Freedom of the press
  - 3.3.3. Freedom of association
- 3.4. Rights to separateness
  - 3.4.1. Freedom of religion
  - 3.4.2. Rights of the religious and linguistic minorities
  - 3.4.3. Compensatory discrimination for backward classes
  - 3.4.4. Women - rights to equality and right to special protection
  - 3.4.5. Scheduled Tribes, Distinct Identity - protection against exploitation - NSIS - Exclusion from Hindu Law.

## **4. Uniform Civil Code**

Non-State law (NSLS) and State Law Systems - Problem of Uniform Code v personal laws- vertical federalism

## **5. Equality in Plural Society.**

- 5.1. Right to equality and reasonable classification
- 5.2. Prohibition of discrimination on ground of religion, caste, sex, language.
- 5.3. Abolition of untouchability
- 5.4. Secularism - constitutional principles
- 5.5. Tribal Groups and Equality

## 6. Pluralism and International Concerns

- 6.1. International Declaration of Human Rights
- 6.2. Conventions against genocide
- 6.3. Protection of religious, ethnic and linguistic minorities
- 6.4. State Intervention for protection of human rights
- 6.5. Right of self-determination

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- Upendra Baxi, "Law, Democracy and Human Rights"- 5 Lokayan Bulletin 4 (1987)  
V.M. Dandekar "Unitary Elements in a Federal Constitution" 22 E.P.W. 1865 (1988)  
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M.A. Fazal "Drafting A British Bill of Rights" 27 J.LLL 423 (1985)  
M.P. Jain *Indian Constitutional Law* (1994), Wadhwa.  
Jagat Narain "Judicial Law Making and the Place of the Directive Principles in the Indian Constitution," J.LLL 198 (1985).  
Rhett Ludwikowski, "Judicial Review in the socialist Legal Systems: Current Development" 37 LC.LD. 89-108 (1988)  
S.P. Sathe, *Fundamental Rights and Amendment of the Indian Constitution*, (1968)  
H.M. Seervai, *Constitutional Law of India* (1993), Tripathi, Bombay.  
Students should consult relevant volumes of the Annual Survey of Indian Law published by the Indian Law Institute.

## Paper-2: Union-State Financial Relations

### Objectives of the course

The Indian Constitution adopts federal government for various reasons. Power is divided between the Union and the States in such a way that matters of national importance are entrusted to the Centre and matters of local importance are left to the States. The Constitution departs from the model of classical federalism in many ways. This departure was made to suit the peculiar Indian circumstances. However, the constitutional provisions were in practice further distorted so as to make the states totally subservient to the Centre. Distribution of fiscal power is the nerve centre of the federal system. In this paper a student will be made conscious of various aspects of federal principle, and their working in the Indian context with a view to ultimately assessing the Indian experience critically. He must clearly understand various emerging forces such as regionalism, sub-national loyalties and nationalism. He should be able to see the working of the constitutional process as a vital element of the political economy.

The following syllabus prepared with this perspective will be spread over a period of one semester.

### Syllabus

#### 1. Federalism – Essentials

- 1.1. Models of Federal Government - U.S.A., Australia, Canada
- 1.2. Difference, Between Federation and confederation

1.3. Evolution of federal government in India

## **2. Distribution of Legislative Power/Administrative Power**

2.1. Indian Constitution

2.2. Centre- State relations

2.3. Factors responsible for subordination of States

2.5. Administrative relations

## **3. Distribution of Fiscal Power**

3.1. Scheme of Allocation of taxing power

3.2. Extent of Union power of taxation

3.3. Residuary power - inclusion of fiscal power

## **4. Restrictions of Fiscal Power**

4.1. Fundamental Rights

4.2. Inter-Government tax immunities

4.3. Difference between tax and fee

## **5. Distribution of Tax Revenues**

5.1. Tax-Sharing under the Constitution

5.2. Finance Commission - Specific purpose grants (Article 282)

## **6. Borrowing Power of the State**

6.1. Borrowing by the Government of India

6.2. Borrowing by the States

## **7. Inter-State Trade and Commerce**

7.1. Freedom of Inter-State trade and commerce

7.2. Restrictions on legislative power of the Union and States with regard to trade and commerce

## **8. Planning and Financial Relations**

8.1. Planning Commission

8.2. National Development Council

8.3. Plan grants

## **9. Co-operative Federalism**

9.1. Full faith and credit

9.2. Inter-State Council

9.3. Zonal Councils

9.4. Inter-State disputes

## **10. Federal Government in India**

10.1. Model of Jammu and Kashmir

10.2. Sarkaria Commission Report

10.3. What Reforms are Necessary?

10.3.1. Report of the Commission to Review the Working of the Constitution-2002

10.4 Report of the Commission of Centre State Relations 2010 (Justice M.M. Punchii Commission).

### Select bibliography

H.M. Seervai, *Constitutional Law of India* (1991), Tripathi, Bombay.

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G.C.V. Subba Rao, *Legislative Powers in Indian Constitution Law*, Chs. 37, 38, 39 (1982)

Richard M. Pious, *The American Presidency*, 293-331, Ch. 9 (1979)

Daniel J. Elazar, *American Federalism*, Chs. 3 and 4 (1984)

K.P. Krishna Shetty, *The Law of Union-State Relations and the Indian Federalism* Ch.9 (1981)  
*Report of the Eighth Finance Commission.*

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*Constituent Assembly Debates* Vol. 9, 203, 240 and 302-349; Vol. 10, 325-342.

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D.T. Lakadwala, *Union-State Financial Relations* (1967)

M.P. Jain, *Indian constitutional Law* (1994), Wadhwa.

K. Subba Rao, *The Indian Federation* (1969)

K.C. Wheare, *Federal Governement* (1963)

Students should consult relevant volumes of the Annual Survey of Indian Law published by the Indian Law Institute (Constitutional Law II)

## Paper-3: Human Rights

### Objectives of the course

Human rights were conceived rather narrowly as mere freedom from arbitrary government in the past. It was realised later and much more so during last fifty years since the end of the Second World War that the threats to liberty, equality and justice did not emanate from the state alone.

Many nations of Asia and Africa came to nationhood during this period. These nations had to bring about their development and they needed capital. Foreign aid and foreign investments were invited but these could very well lead to their second subjugation. Poverty, ignorance, exploitation had to be fought at the global level. Development had to come without the sacrifice of human values. A greater awareness of human rights, not only as negative restrictions on the state but as positive obligations for creating an environment in which man could live with dignity was necessary.

The focus of a course on human rights must be on the national problems with an international or global perspective. The world community's concerns about human rights have been expressed through various conventions. On the national levels, they are contained in constitutional provisions such as directive principles of state policy, fundamental rights, fundamental duties and judicial, legislative as well as administrative strategies of reconstruction. Human rights acquire much more comprehensive and wider meaning. It requires us to take up cudgels against poverty discriminations

based on caste, colour or sex, make provisions for drinking water, population control, conservation and preservation of natural resources, ecological balance, protection of consumers against ruthless and profit seeking, traders or manufacturers, provisions against hazardous industries and so on and so forth. Human rights is an important parameter for a just society and future lawyers must be able to assess any programme of social transformation with reference to them.

The following syllabus prepared with this perspective will be spread over a period of one semester.

## **Syllabus**

### **1. Panoramic View of Human Rights**

- 1.1. Human Rights in Non-western Thought
- 1.2. Awareness of Human rights during the nationalist movement
- 1.3. Universal Declaration of Human Rights, Constituent Assembly and Part III, drafting process.
- 1.4. Subsequent developments in International Law and the Position in India (e.g. Convention of Social discrimination, torture, gender discrimination, environment and the two human rights covenants.)

### **2. Fundamental Rights Jurisprudence as Incorporating Directive Principles**

- 2.1. The dichotomy of Fundamental Rights (F.R.) and Directive Principles (D.P.)
- 2.2. The interaction between F.R. and D.P.
- 2.3. Resultant expansion of basic needs oriented human rights in India

### **3. Right not be subject to Torture, Inhuman or Cruel Treatment**

- 3.1. Conceptions of torture, third-degree methods
- 3.2. "Justifications" for it
- 3.3. Outlawry of torture at international and constitutional law level
- 3.4. Incidence of torture in India
- 3.5. Judicial attitudes
- 3.6. Law Reform - proposed and pending

### **4. Minority Rights**

- 4.1. Conception of minorities
- 4.2. Scope of protection
- 4.3. The position of minority "Woman" and their basic rights
- 4.4. Communal Riots as Involving violation of Rights.

### **5. Rights to development of Individuals and Nations**

- 5.1. The UN Declaration on Right to Development, 1987
- 5.2. The need for constitutional and legal changes in India from human rights standpoint.

### **6. People's Participation in Protection and Promotion of Human Rights**

- 6.1. Role of International NGOS
- 6.2.1. Amnesty International
- 6.2.2. Minority Rights Groups
- 6.2.3. International Bars Association, Law Asia
- 6.3. Contribution of these groups to protection and promotion of human rights in India.

## **7. Development Agencies and Human Rights**

- 7.1. Major international funding agencies and their operations in India
- 7.2. World Bank lending and resultant violation/promotion of human rights
- 7.3. Should development assistance be tied to observance of human rights (as embodied in various UN declarations)

## **8. Comparative Sources of Learning**

- 8.1. EEC Jurisprudence
- 8.2. The Green Movement in Germany
- 8.3. The International Peace Movement
- 8.4. Models of Protection of the rights of indigenous peoples: New Zealand (Maoris)  
Australia, Aborigines and Canada (Indians)

## **9. Freedoms**

- 9.1. Free Press - Its role in protecting human rights
- 9.2. Right of association
- 9.3. Right to due process of law Access and Distributive Justice
- 9.4. Access and Distribution Justice

## **10. Independence of the Judiciary**

- 10.1. Role of the Legal Profession
- 10.2. Judicial appointments - tenure of judges
- 10.3. Qualifications of judges
- 10.4. Separation of judiciary from executive

## **11. European Convention of Human Rights**

- 11.1. European Commission/Court of Human Rights
- 11.2. Amnesty International
- 11.3. PUCL, PUDR, Citizens for Democracy
- 11.4. Minorities Commission
- 11.5. Human Rights Commission
- 11.6. Remedies against Violation of Human Rights

## **Select bibliography**

- M.J. Akbar, Riots After Riots (1988)  
 U.Baxi (ed.), The Right to be Human (1986)  
 U.Baxi, The Crisis of the Indian Legal System (1982), Vikas Publishing House, New Delhi.

F.Kazmi, Human Rights (1987)  
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 Moskowitz, Human Rights and World Order (1958)  
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 Upendra Baxi, "Human Rights, Accountability and Development" Indian Journal of international law 279 (1978)

### **Paper-04: National Securities, Public Order and Rule of Law**

#### **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 greater 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.

#### **Syllabus**

##### **1. National Security, Public Orders and Rule of Law**

- 1.1. Emergency Detention in England - Civil Liberties
  - 1.1.1 Subjective satisfaction or objective assessment?
- 1.2. Pre-Independence law.

##### **2. Preventive Detention and Indian Constitution**

- 2.1. Article 22 of the Constitution
- 2.2. Preventive Detention and Safeguards
- 2.3. Declaration of Emergencies
- 2.4. 1962, 1965 and 1970 Emergencies
- 2.5. 1975 Emergency

##### **3 Exceptional Legislation**

- 3.1. COFEPOSA and other legislation to curb economic offenders
- 3.2. TADA: "the draconian law"-comments of NHRC
- 3.3. Special courts and tribunals

3.4. Due process and special legislation

**4. Civil Liberties and Emergency**

- 4.1. Article 19
- 4.2. Meaning of "Security of State"
- 4.3. Meaning of "Public Order"
- 4.4. Suspension of Article 19 rights on declaration of emergency
- 4.5. President's Right to suspend right to move any court
- 4.6. Article 21 - special importance - its non-suspendability
- 4.7. Suspendability -44th Amendment

**5. Access to Courts and Emergency**

- 5.1. Article 359: ups and downs of judicial review
- 5.2. Constitution (Forty-fourth), Amendment Act, 1978.
- 5.3. Constitution (Fifty-ninth) Amendment Act,. 1988.

**6. Martial Law**

- 6.1. Provisions in English Law
- 6.2. Provisions in the Constitution

**Select bibliography**

G.O. Koppell "The Emergency, The Courts and Indian Democracy" 8 J.I.L.I. 287 (1966)  
H.M. Seervai, *The Emergency, Future Safeguards and the habeas Corpus: A Criticism* (1978)  
International Commission of Jurists, *Status of Emergency and Human Rights* (1984)  
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**Paper-5: Mass Media Law**

**Objectives of the course**

Mass media such as Press, Radio and Television, Films, play a vital role in socialisation, culturalisation and modernisation of a society. The visual media are bound to have a much greater impact on human mind. But while these media have such a potential value as man educators, they are also susceptible to destructive and harmful uses for promoting criminal anti-social and selfish escapist tendencies. While their positive potential as mass educators has to be harnessed for developmental purposes, their negative, harmful potential has to be curbed in public interest. Law plays a dual role vis-a-vis such media. On the one hand, it protects the creative freedom involved in them, on the other, it has to regulate them so as to avoid their possible abuse. This paper will deal with such interaction between law and mass media.

The following syllabus prepared with this perspective will be spread over a period of one semester.

## Syllabus

### 1. Mass media - Types of - Press Films, Radio Television

- 1.1. Ownership patterns - Press - Private - Public
- 2.2. Ownership patterns - Films - Private
- 3.3. Ownership patterns - Radio & Television, Public
- 4.4. Difference between visual and non- Visual Media- impact on Peoples minds.

### 2. Press - Freedom of Speech and Expression - Article 19 (1) (a)

- 2.1. Includes Freedom of the Press.
- 2.2. Laws of defamation, obscenity, blasphemy and sedition.
- 2.3. The relating to employees wages and service conditions,
- 2.4. Price and Page Schedule Regulation

## Select Bibliography

C.M. McPherson, (1979).

R. Young, 'Dispensing with Moral Rights', 6 *Political Theory*, 63 (1978).

J. Feinberg, 'Voluntary Euthanasia and the Inalienable Right to Life', 7 *Phil. And Public Affairs*, 92 (1978).

J. Finnis, 'The Rights and the Wrongs of Abortion: A Reply to Judith Thomson', 2 *Phil. and Public Affairs*, 117 (1973).

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H.J. McCloskey, 'The Right to Life', 15 *Philosophical Quarterly* 115 (1965).

J.J. Thompson, 'A Defense of Abortion', *Phil and Public Affairs*, 47(1971).

A. Gewirth, 'Civil Liberties as Effective Powers', in *Human Rights: Essays on Justification and Applications* (1983).

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F.I. Michelman, 'Constitutional Welfare Rights and A Theory of Justice', in N. Amez (ed.) *Reading Rawls. Critical Studies of A Theory of Justice*, (1975).

J. Feinberg, 'The Rights of Animals and Unborn Generations' W.T. Blackstone (ed.) *Philosophy and Environmental Crisis*, (1974).

R. Prey, *Interests and Rights: The Case Against Animals*, (1980).

John B. Howard, "The Social Accountability of Public Enterprises" in *Law and Community Controls in New Development Strategies* (International Center for law in Development 1980).

Bruce Michael Boyd, "Film Censorship in India: A Reasonable Restriction on Freedom of Speech and Expression ".14 *J.I.L.I.* 501 (1 972).

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Soli Sorabjee, *Law of Press Censorship in India* (1976).

Justice E.S. Venkaramiah, *Freedom of Press: Some Recent Trends* (1984).

D D. Basu, *The Law of Press of India* (1980).

Students should consult relevant volumes of the Annual Survey of Indian Law published by the Indian Law Institute. (Constitutional Law 1 & 11, Administrative Law and Public Interest litigation).

## **Paper-6: Public Utilities Law**

### **Objectives of the course**

Public utilities are government monopolies, which are services rather than commercial enterprises. 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. In this paper a student will study (a) government policy in regard to such utilities in general and to each utility in particular, (b) the growth and evolution of the public utilities; (c) patterns of the laws of incorporation and (d) powers, functions and liabilities of the public utilities vis-a-vis their employees, consumers and others.

The following syllabus prepared with this perspective will be spread over a period of one semester  
**Syllabus**

### **1. Public Utilities**

- 1.1. Railways, Electricity, Gas, Road Transport, telephone, post and telegraph service, Police, Fire Brigade, Banking service, etc.
- 1.2. Growth and evolution of public utilities and their legislation

### **2. Public Utilities - Why Government Monopoly?**

- 2.1. Government and Parliamentary Control
- 2.2. Constitutional division of power to legislate.

### **3. Utilities Legislation - Patterns of –**

- 3.1. Administrative Authorities - Structure of the Administrative Authorities
- 3.2. Subordinate legislation

### **4. Public Utilities and Fair Rearing**

Quasi-Judicial Decision - Administrative Discretion.

### **5. Public Utilities and Consumer Protection**

- 5.1. Rights of consumers protected by the Consumer Protection Act
- 5.2. Rights Arising from law of Contract and law of Torts.

### **6. Public Utilities and their Employees.**

- 6.1. Application of Articles 16 and 311?
- 6.1. Application of Industrial law- right to strike.

### **7. Public Utilities and Fundamental Rights**

- 7.1. The right to equality: the airhostess case.
- 7.2. Are Public utilities "State" for the purpose of article 12 of the Constitution?
- 7.3. Extension of the concept of State

## **8. Liabilities and special privileges of public utilities**

- 8.1. In contract
- 8.2. In tort
- 8.3. In criminal law

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Students should consult relevant volumes of Annual Survey of Indian Law published by the Indian Law Institute (Constitutional Law 1 & 11, Administrative Law, Consumers Protection Law and Labour law).

## **BRANCH-II ADMINISTRATIVE LAW**

### **Paper-1: Administrative Process: Nature and Scope**

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

The administrative explosion of the 19<sup>th</sup> century in the common law world brought in new norms of relationship between the state and its citizens. In due course, the continental strategies of control over administration had their influence along with this the civil service and administrative agencies gained more and more importance when the state launched welfare programmes and became the guardian of the rights of individuals. The standards of administrative behaviour are moulded and supported through constitutional values in the lands of constitutional sovereignty. Necessarily, a student of law relating to administration should get a deep knowledge of the operation and changing phenomena of these standards from a comparative angle. This is so especially in the wake of technological revolution and its aftermath on the administration.

#### **Syllabus**

1. **Administrative Process**

- 1.1. Nature and Meaning
  - 1.2. The role of civil service
  - 1.3. The role of administrative agencies
- 2. Administrative Process: Regulation to De-regulation and Control to Decontrol – Globalisation and Liberalisation**
- 2.1 Constitutional standards
  - 2.2 Comparative aspects
- 3. Rule of Law**
- 3.1 Changing dimensions
  - 3.2 Regulation of administrative process
- 4. Delegated Legislation: Problems, Process and Control**
- 5. Delegated Legislation: Problems, Process and Control**
- 6. Power and duty**
- 6.1. Doctrine of police power
  - 6.2. Doctrine of eminent power
  - 6.3. Taxing power
  - 6.4. Responsibility and accountability
- 7. Administrative Discretion**
- 7.1. Structuring and limiting
  - 7.2. Impact of technological development

### **Select Bibliography**

Friedman, The State and the Rule of Law in a Mixed Economy  
 Dicey, Introduction to the Law of the Constitution  
 Davis, Discretionary Justice  
 Jain & Jain, Principles of Administrative Law (1986) Tripathi  
 De Smith, Judicial Review of Administrative Action (1995)  
 M.P.Jain, Cases and Materials on Administrative Law (1996), Vol.1, Wadha, Nagpur.

### **Paper-2: Administrative Process and Judicial Control**

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

Administrative law is mainly a judge-made law and has secured its present features through a myriad of judicial decisions. The historical evolution of the judicial agencies reviewing administrative procedures, jurisdictional aspects of administrative decision making subjected to review, the grounds on which decisions are challenged, the scope of review of delegated legislation and the limitations on the judicial review of administrative action are to be studied in detail in this course. The procedural fairness is the key to good administrative decision and the various remedies rendered in judicial process clear the way for achieving administrative justice. The ever increasing number of delegated legislation in the form of rules, regulations, circulars and general orders have the characteristics of law, which though framed by

administration, impose burden on the rights of citizens. Keeping this specie of administration beyond judicial review is neither in the interests of the general public nor for laying down standards of administrative behaviour.

## **Syllabus**

### **1. Concepts and Agencies**

- 1.1. Common law countries
- 1.2. French system

### **2. Judicial Review in India**

- 2.1. Historical development
- 2.2. Powers of the Supreme Court
- 2.3. Powers of the High Court
- 2.4. Role of subordinate judiciary

### **3. Jurisdiction**

- 3.1. Finality clauses
- 3.2. Conclusive evidence clauses
- 3.3. Exclusionary clause

### **4. Grounds of Review**

- 4.1. Doctrine of ultra vires
- 4.2. Unreviewable discretionary powers: from Liversidge to Padfield
- 4.3. Discretion and Justifiability
- 4.4. Violation of fundamental rights
- 4.5. Extraneous consideration and/or irrelevant grounds
- 4.6. Delegation
- 4.7. Acting under dictation
- 4.8. Malafides and bias
- 4.9. Lack of rationality and proportionality
- 4.10. Oppressing decision
- 4.11. Absence of proportionality

### **5. Procedural fairness**

- 5.1. Legitimate Expectation
- 5.2. Natural Justice and duty to act fairly
- 5.3. Bias and personal interest
- 5.4. Fair hearing

### **6. Remedies**

- 6.1. Writs
- 6.2. Injunction and declaration

### **7. Limits of Judicial Review**

- 7.1. Locus standi and public interest litigation
- 7.2. Laches
- 7.3. Res judicata
- 7.4. Alternative remedies

## **8. Judicial Review Delegated Legislation**

### **Select Bibliography**

S.P. Sathe, Administrative Law (1998), Butterworth, India.  
De Smith, Judicial Review of Administrative Action (1995), Sweet and Maxwell.  
I.P. Massey, Administrative Law (1995), Eastern, Lucknow.  
Bagawati Prasad Banerjee, Writ Remedies, (1999), Wadhwa, Nagpur.  
M.P.Jain, The Evolving Indian Administrative Law (1983), N.M. Tripathi, Bombay  
Jain & Jain Principles of Administrative Law, N.M.Tripathi.  
M.P. Jain, Cases and Materials on Administrative Law (1996), Vol.1, Wadha, Nagpur.

### **Paper-3: Public Authorities: Liability**

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

Judicial decisions in the common law world have formulated several duties and liabilities on the administrative hierarchy towards the citizens. Is the state in exercise of sovereign functions liable to compensate the affected persons? The state enters into contracts in more ways than one. Should there be standards of conduct laid down on the state when it does so? How can accountability be determined in all these areas? Open government is one of the significant attributes of good government in democracy. In what way these norms can be meticulously followed by the state in meting out administrative justice. There are problems a country like India does confront in her march towards good governance.

#### **Syllabus**

##### **1. Tortious Liability**

- 1.1. Sovereign immunity
- 1.2. Commercial and non-commercial function

##### **2. Contractual Liability**

- 2.1. Processual justice: Privilege – right dichotomy
- 2.2. Blacklisting of contractors
- 2.3. Terms in government contract as instruments of social justice

##### **3. Emerging Liability**

- 3.1. Personal accountability
- 3.2. Compensatory jurisprudence and right to life

3.3. Accountability under consumer law

**4. Privilege against Disclosure**

- 4.1. Right to information
- 4.2. Official secrecy
- 4.3. Executive privilege
- 4.4. Security of state and control on information
- 4.5. Judicial review

**5. Promissory Estoppel**

- 5.1. Legitimate expectation
- 5.2. Constitutional dimensions

**Select bibliography**

Jain & Jain, Principles of Administrative Law (1986), Tripathi

De Smith, Judicial Review of Administrative Action (1995)

B.Schwartz, An Introduction to American Administrative Law.

**Paper-4: Public Authorities and Power Holders: Controls on Maladministration**

**Objectives of the course**

The maladministration is a disturbing phenomenon witnessed in a developing democracy like India. People holding public offices and authority are accused of misuse of their office and misappropriation of public funds for private gain. Privatisation of public property for their private aggrandisement is an evil to be curbed early. Institutions like Lokpal and Lokayukt, agencies like commissions of enquiry and vigilance commission and legislative committees inquiring into particular problem or general questions are in the process of experimentation in the country with the object of getting out of vicious triangle. These are opinions to strengthen the CBI. The reports of Comptroller and Auditor General are also followed up. This course shall concentrate on all these areas and make an evaluation of the existing machinery in the light of the judicial dicta on certain cases.

**Syllabus**

**1. Ombudsman**

- 1.1. The concept
- 1.2. Comparative perspectives
- 1.3. Evolving Indian models – Lokpal, Lokayukt institutions

**2. Commission of Inquiry**

**3. Vigilance Commissions**

**4. Investigation Agencies: the CBI**

**5. Inquiries by Legislative Committees**

6. **Legislative Control**
7. **Financial Control – Comptroller and Auditor General**
8. **Judicial Inquiries**

### **Select Bibliography**

K.S. Shukla and S.S.Singh, Lokayukta: a Social Legal Study (1988), Indian Institute of Public Administration, New Delhi.

Jain & Jain, Principles of Administrative Law (1986) Tripathi

Donald C.Rowat, The Ombudsman (1966), George Allan and Unwin Ltd., Toronto

## **Paper-5: Local Self – Government Law**

### **Objectives of the course**

With the introduction of the Constitution seventy third and seventy fourth amendments, India is moving towards the ideal of direct democracy endowing the local bodies with powers of administration in matters of regional and local importance. This change has added new vistas of Indian democracy and it offers an opportunity to translate the Gandhian concept of Gram Swaraj into practice. Necessarily, a person specializing in administrative law has to be equipped with the knowledge on the working of early systems, the present constitutional scheme, the legislative powers of the State transferring responsibility to local bodies and on the increasing regulatory and financial powers of the local bodies. The nature of the democratic functioning of these elected bodies and the scope of administrative control as well of the judicial control over them are challenging areas for students of administrative law to evaluate and help formulation of new and pragmatic working methods.

### **Syllabus**

1. **Historical Perspectives**
  - 1.1. Early period
  - 1.2. Gram Swaraj: the Gandhian concept
2. **Constitutional Scheme**
  - 2.1. Directive Principles
  - 2.2. Structure and powers of local bodies
3. **Legislative Powers**
  - 3.1. Direct democracy and grass root planning
  - 3.2. Municipalities and corporations
  - 3.3. Gram Sabha

#### **4. Quasi-legislative Powers**

- 4.1. Rule making power of the State Government
- 4.2. Regulations and Bye-laws

#### **5. Financial Powers**

- 5.1. Levying taxes
- 5.2. Licensing power
- 5.3. Financial resources and powers

#### **6. Judicial and Quasi-judicial powers of the Local Bodies**

#### **7. Election to Local Bodies**

#### **8. Conduct of Meetings: Corporation, Municipal Council, Panchayat Committee and Gram Sabha**

#### **9. Institutional and Judicial Control**

#### **Select bibliography**

Friedman, The State and the Rule of Law in a Mixed Economy  
Neville L. Brown and J.F. Garner, French Administrative Law  
Dicey, Introduction to the Law of the Constitution,  
Ivor Jennings, Law and the Constitution  
Schwartz & Wade, Legal Control of Government  
Davis, Discretionary Justice  
Jain & Jain, Principles of Administrative Law (1986), Tripathi, Bombay  
De Smith, Judicial review of Administrative Action (1995)  
Indian Law Institute, Government Regulation of Private  
W.Thornhill (ed.), The Growth and Reform of English Local Self-government (1971). Weidenfeld and Nierlson, London  
Radhakumud Mookerji, Local Government in Ancient India (1985), Daya Publishing Delhi.  
M.Venketarangaiya & Pattabhiram, Local Government in India (1969) Allied, New Delhi.

### **Paper-6: Comparative Administrative Law**

#### **Objective of the course**

Specialists in Administrative Law have to be in the position to assess the developments in Indian administrative law from a comparative angle. That the administrative law jurisprudence in the country owed major its growth from the English and American development is a recognized fact. However, India is still to go for general legislation of the English and U.S. type laying down administrative norms. From a comparative angle, the course focuses on the doctrine of separation of powers, the scope of delegated legislation, the exercise of discretion, the doctrine of fairness struck by judicial process for administrative decision-making and the liabilities of the administration.

This paper shall comprise of about 42 units of one-hour duration to be spread out to a period of one semester.

## **Syllabus**

- 1. Evolution and Significance of Administrative Law in Various Systems of Governance -from Ancient to Modern**
  - 1.1. French system
  - 1.2. England and U.S.
  - 1.3. Other systems
  
- 2. Doctrine of Separation of Powers**

Comparative survey – common law and continental systems: English, US, French, German and Indian.
  
- 3. Doctrine of Separation of Powers**

Comparative approaches: widening contours: classification, controls over delegated legislation.
  
- 4. Administrative Discretion**
  - 4.1. Need for discretionary powers
  - 4.2. Nature, Scope and limits
  
- 5. Processual Fairness.**
  - 5.1. Evolution and significance of natural justice
  - 5.2. England: judicial process: doctrine of fairness and doctrine of legitimate expectation – legislation.
  - 5.3. US: due process and judicial decision – legislation
  - 5.4. India: through judicial process-doctrine of fairness: Articles 14, 19 and 21 – doctrine of legitimate expectation.
  - 5.5. Access to information.
  
- 6. Liability of Administration – England, US and Indian Practices.**
  - 6.1. Contractual liability
  - 6.2. Tortious liability
  - 6.3. Federal Tort Claims Act, 1946
  - 6.4. Crown Proceedings Act 1947
  - 6.5. Indian attempts at legislation

## **Select bibliography**

Peter H.Schuck, Foundations of Administrative Law (1994), Oxford, New York.  
Friedman, The State and the Rule of Law in a Mixed Economy  
Neville L.Brown and J.F.Garner, French Administrative Law  
Ivor Jennings, Law and the Constitution  
Schwartz & Wade, Legal Control of Government  
Davis, Discretionary Justice  
De Smith, Judicial Review of Administrative Action (1995)

Neil Hawke and Neill Papworth, Introduction to Administrative Law (1996), Lawman, New Delhi.

D.D.Basu, Comparative Administrative Law, (1998).

## **BRANCH :III- BUSINESS LAW**

### **Paper-1: Legal Regulation of Economic Enterprises**

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

After independence we have placed greater emphasis on the growth of our economy. The focus is on growth, both in public and private sectors, so as to cope up with the problems of population explosion. We have found that there is now almost a circle from laissez faire to welfare state and again back to laissez faire. Adoption of the concept of global economy in the presence of the socialistic perspectives in the Constitution presents a dilemma. The trends of liberalisation starting in the early nineties and continuing to this day bring a shift in focus of regulation in diverse fields of economic activities. This course is designed to acquaint the students of the eco-legal perspectives and implications of such developments. It will comprise of about 42 units of one-hour duration each spread over a period of one semester.

#### **Syllabus**

##### **1. The Rationale of Government Regulation**

- 1.1. Constitutional perspectives
- 1.2. The new economic policy - Industrial policy resolutions, declarations and statements
- 1.3. The place of public, small scale, co-operative, corporate, private and joint sectors - in the changing context
- 1.4. Regulation of economic activities
  - 1.4.1. Disclosure of information
  - 1.4.2. Fairness in competition
  - 1.4.3. Emphasis on consumerism

##### **2. Development and Regulation of Industries**

##### **3. Take-over of Management and Control of Industrial Units**

##### **4. Sick Undertakings: Nationalisation or Winding Up?**

##### **5. Licensing Policy and Legal Process - Growing Trends of Liberalisation**

##### **6. Deregulation of essential commodities: developmental sign or a social mishap?**

##### **7. Financial Services: Changing Techniques of Regulation**

##### **8. Critical Issues Regarding the Capital Issues**

- 8.1. Equity and debt finance
- 8.2. Global depositories

8.3. De-materialised securities

### **9. Problems of Control and Accountability: Regulation of Hazardous Activity**

9.1. Mass disaster and environmental degradation : legal liability and legal remedies

9.2. Public Liability Insurance : adequacy

9.3. Issues in zoning and location of industrial units

### **10. Special Aspects of Legal Regulation of Select Public Enterprises**

(Universities may select some such representative public enterprises for transport, mining and energy).

10.1. Telecom Regulatory Authority

10.2. Insurance Regulatory Authority

10.3. Broadcasting Regulatory Authority

### **11. Legal Regulation of Multi-Nationals**

11.1. Collaboration agreements for technology transfer

11.2. Development and regulation of foreign investments

11.2.1. Investment in India : FDIs and NRIs

11.2.2. Investment abroad

### **SELECT BIBLIOGRAPHY**

S.Asواني Kumar, The Law of Indian Trade Mark (2001), Commercial Law House, Delhi.

Dr. C.L Bansal, Corporate Governance Law, Practice & Procedures with Case Studies, EBC, 2006

Dr. Sanjeev Kumar, Corporate Offences Director's Liability, Prosecution, Punishment, Remedies & Procedures, Bharat Law House Pvt Ltd, 2005

Dr. J.C.Verma and dr Sanjeev Kumar, Corporate merger, Amalgamation and Take Overs, Bookshop of India

Industrial Policy Resolutions of 1948,1956, 1991

Industrial Licensing Policy 1970,1975

Industrial Policy Statements 1973,1977, 1980

Reports of Committees on Public Undertakings of Parliament.

Industries (Development and Regulation) Act, 1951

U. Baxi (ed.), Inconvenient Forum and Convenient Catastrophe The Bhopal Case, (1986) U. Baxi &

T. Paul (eds.), Mass Disasters and Multinational Liability (1986)

U. Baxi & A. Dhandba, Valiant Victims and Lethal Litigation: The Bhopal Case (1989)

Indian Law Institute, Law of international Trade Transactions, (1973)

## **Paper-2: Corporate Finance**

### **Objectives of the course**

Industrialisation has played, and has to play, a very vital role in the economic development of India. In the post independent era, industrial development is regarded, and hence employed, as principal means in the strategy for achieving the goal of economic and social justice envisioned in the Constitution. Corporations, both public and private, are viewed as a powerful instrument for development. In a developing society like India enormous varieties of consumer goods are manufactured or produced. Obviously, the situation raises the issues of procuring, utilising and

managing the finances. For this purpose a science of financial management techniques has been evolved. The faculties of commerce, business and management studies have since last decades started to impart instruction so as to turn out sufficiently well equipped and adequately trained financial personnel. However, the legal and juristic aspects of corporate finance have been more or less not effectively taken care of.

In view of the above perspectives the broad objectives of this course may be formulated as follows:

- To understand the economic and legal dimensions of corporate finance in the process of industrial development in establishing social order in the context of constitutional values
- To acquaint the students with the normative, philosophical and economic contours of various statutory rules relating to corporate finance
- To acquaint the students with the organisation, functions, lending, and recovery procedures, conditions of lending and accountability of international, national and state financing institutions and also of commercial banks; and
- To acquaint the students with the process of the flow and outflow of corporate finance.

### *Syllabus*

#### **1. Introduction**

- 1.1. Meaning, importance and scope of corporation finance
- 1.4. Capital needs - capitalization - working capital - securities-borrowings-deposits debentures
- 1.5. Objectives of corporation finance - profit maximisation and wealth maximisation
- 1.6. Constitutional perspectives - the entries 37, 38, 43, 44, 45, 46, 47, 52, 82, 85, and 86 of List 1 - Union List; entry 24 of List 11 - State List.

#### **2. Equity Finance**

- 2.1. Share capital
  - 2.1.1. Prospectus - information disclosure
  - 2.1.2. Issue and allotment
  - 2.1.3. Shares without monetary consideration
  - 2.1.4. Non-opting equity shares

#### **3. Debt Finance**

- 3.1. Debentures'
  - 3.1.2. Nature, issue and class
  - 3.1.3. Deposits and acceptance
  - 3.1.4. Creation of charges
  - 3.1.4.5. Fixed and floating charges

- 3.1.5. Mortgages
- 3.1.6. Convertible debentures
- 4. **Conservation of Corporate Finance**
  - 4.1. Regulation by disclosure
  - 4.2. Control on payment of dividends
  - 4.3. Managerial remuneration
  - 4.4. Payment of commissions and brokerage
  - 4.5. Inter-corporate loans and investments
  - 4.6. Pay-back of shares
  - 4.7. Other corporate spending
- 5. **Protection of creditors**
  - 5.1. Need for creditor protection
    - 5.1.1. Preference in payment
  - 5.2. Rights in making company decisions affecting creditor interests
  - 5.3. Creditor self-protection
    - 5.3.1. Incorporation of favourable terms in lending contracts
    - 5.3.2. Right to nominate directors
  - 5.4. Control over corporate spending
- 6. **Protection of Investors**
  - 6.1. Individual share holder right
  - 6.2. Corporate' membership right
  - 6.3. Derivative actions
  - 6.4. Qualified membership right
  - 6.5. Conversion, consolidation and re-organization of shares
  - 6.6. Transfer and Transmission of securities
  - 6.7. Dematerialization of securities
- 7. **Corporate Fund Raising:**
  - 7.1. Depositories - IDR (India Depository Receipts), ADR (American depository receipts), GDR (Global Depository receipts)
  - 7.2. Public financing institutions - IDBI, ICICI, IFC and SFC
  - 7.3. Mutual fund and other collective investment schemes
  - 7.4. Institutional investments - LIC, UTI and banks
  - 7.5. FDI and NRI investment - Foreign institutional: investment (IMF and World Bank
- 8. **Administrative Regulation on Corporate Finance**
  - 8.1. Inspection of accounts
  - 8.2. SEBI

### **Paper-3. Law of Industrial and Intellectual Property**

## **Objectives of the course**

The concept of intellectual property rights as developed in India cannot be divorced from the developments in the international arena as well as in the nation-to-nation relations. The impact of IPR regime on the economic front is emphasised in this paper. In particular, greater attention would be given here to the law relating to unfair and restrictive trade practices as affecting the regime of intellectual property rights. New areas of development, especially plant patenting and patenting of new forms of life (biotechnology) should receive special attention. Evidentiary aspects of infringement, and human right dimensions of the regime of intellectual property law will also be addressed. The following syllabus prepared with this perspective will be spread over a period of one semester.

## **Syllabus**

### **1. IPR and International Perspectives**

### **2. Trademarks and Consumer Protection (Study of UNCTAD report on the subject)**

### **3. The Legal Regime of Unfair Trade Practices and of Intellectual Industrial Property**

- 3.1. United Nations approaches (UNCTAD, UNCITRAL)
- 3.2. EEC approaches
- 3.3. Position in U.S.
- 3.4. The Indian situation.

### **4. Special Problems of the Status of Computer Software in Copyright and Patent Law: A Comparative Study.**

### **5. Biotechnology Patents:**

- 5.1. Nature and types of biotechnology patents
- 5.2. Patent over new forms of life : TRIPS obligations
- 5.3. Plant patenting
- 5.4. Sui generis protection for plant varieties
- 5.5. Multinational ownership
- 5.6. Regulation of environment and health hazards in biotechnology patents
- 5.7. Indian policy and position.

### **6. Patent Search, Examination and Records:**

- 6.1. International and global patent information retrieval systems (European Patent Treaty).
- 6.2. Patent Co-operation Treaty( PCT )
- 6.3. Differences in resources for patent examination between developed and developing societies
- 6.4. The Indian situation

### **7. Special Problems of Proof of Infringement:**

- 7.1. Status of intellectual property in transit - TRIPS obligation - Indian position.
- 7.2. The evidentiary problems in action of passing off.

- 7.3. The proof of non-anticipation, novelty of inventions protected by patent law
- 7.4. Evidentiary problems in piracy : TRIPS obligation - reversal of burden of proof in process patent
- 7.5. Need and Scope of Law Reforms.

## **8. Intellectual Property and Human Right**

- 8.1. Freedom of speech and expression as the basis of the regime of intellectual property right - copyright protection on internet - WCT (WIPO Copyright Treaty, 1996).
- 8.2. Legal status of hazardous research protected by the regime of intellectual property law.
- 8.3. Human right of the impoverished masses intellectual property protection of new products for healthcare and food security
- 8.4. Traditional knowledge - protection- biodiversity convention- right of indigenous people.

### **Select bibliography**

Special attention should be given to literature of the U.N. System, WIPO and the UNESCO.

Dr. Ellizabeth Verkey, Law of Patents, EBC, 2012 Prabuddha Ganguly, Intellectual Property Rights, Unleashing the Knowledge Economy, Tata McGraw Hill, 2008

Vijay Malik, Law relating to Drugs and Cosmetics, EBC, 2013 (to be added)

Terence P. Stewart (ed.), The GATT Uruguay Round: A Negotiating History (1986-1994) the End Game (Part - 1)(1999), Kluwer

Iver P. Cooper, Biotechnology and Law (1998), Clerk Boardman Callaghan, New York. David Bainbridge, Software Copyright Law (1999), Butterworths

Sookman, Computer Law (1998), Carswell

Carlos M. Correa(ed.), Intellectual Property and International Trade (1998), Kluwer

Patent Co-operation Treaty Hand Book (1998), Sweet and Maxwell

Christopher Wadlow, The Law Of Passing-Off (1998), Sweet and Maxwell

W.R.Cornish, Intellectual Property Law (1999), Sweet and Maxwell

## **Paper-4: Law of Export Import Regulation**

### **Objectives of the course**

After independence India has embarked upon all round efforts to modernise her economy through developmental ventures. Greater and greater emphasis is placed on increase of production in both industrial and agricultural sectors. Besides, there was the ever-pressing need for raising capital for investment in certain basic and key industries. All these required a considerably high rate of investment of capital. The process of modernisation necessitated the adoption of newer technologies for industry and agriculture. These technologies had to be borrowed from other developed countries. This, in turn, needed foreign exchange which could be earned by the increased exports of goods and raw materials from India. The need for accelerating the export trade of India's developing economy can hardly be over emphasised. Export earnings enable a developing country to finance its massive requirements of growth, to maintain its essential imports and thereby stimulate the process of its economic developments. In the words of Prof. V.K. R.V. Rao: "In fact, expansion of exports may well be described as an integral part of the development process, neglect of which can only be at the peril of development itself". Increasing exports have been necessitated to meet the growing needs of defence. India is a country rich in natural resources. One of the approaches to combat its economic backwardness could be in large-scale production and in maximization of its exports. Import and export of goods and raw materials is a complex, complicated and intricate activity. It involves elaborate economic, fiscal, budgetary and monetary policy considerations. Export and Import control

policy is also closely connected with country's balance of payment position. The detailed procedures for imports and exports are provided in the Hand Book. The Union Government used to declare its import and export policy for a three-year period. At present they declare the policy for five years. The controls on exports and imports are closely connected with the Foreign Trade Regulation Act 1992. This course is designed to acquaint the students about the parameters of legal controls on imports and exports. The following syllabus prepared with these objectives will comprise about 42 units of one-hour duration each spread over a period of one semester.

## **Syllabus**

### **1. Introduction**

- 1.1. State control over import and export of goods - from rigidity to liberalisation.
- 1.2. Impact of regulation on economy.

### **2. The Basic Needs of Export and Import Trade**

- 2.1. Goods
- 2.2. Services
- 2.3. Transportation

### **3. International Regime**

- 3.1. WTO agreement
- 3.2. WTO and tariff restrictions
- 3.3. WTO and non-tariff restrictions
- 3.4. Investment and transfer of technology
- 3.5. Quota restriction and anti-dumping
- 3.6. Permissible regulations
- 3.7. Quarantine regulation
- 3.8. Dumping of discarded technology and goods in international market
- 3.9. Reduction of subsidies and counter measures.

### **4. General Law on Control of Imports and Exports**

- 4.1. General scheme
- 4.2. Legislative control
  - 4.2.1. Power of control : Central government and RBI
  - 4.2.2. Foreign Trade Development and Regulation Act 1992
  - 4.2.3. Restrictions under customs law
    - 4.2.3.1. Prohibition and penalties
- 4.3. Export-Import formulation : guiding features
  - 4.3.1. Control under FEMA
  - 4.3.2. Foreign exchange and currency
    - 4.3.2.1. Import of goods
    - 4.3.2.2. Export promotion councils
    - 4.3.2.3. Export oriented units and export processing zones

### **5. Control of Exports**

- 5.1. Quality control

- 5.2. Regulation on goods
- 5.3. Conservation of foreign exchange
  - 5.3.1. Foreign exchange management
  - 5.3.2. Currency transfer
  - 5.3.3. Investment in foreign countries

## **6. Exim Policy : Changing Dimensions**

- 6.1. Investment policy : NRIs, FIIs (foreign institutional investors), FDIs
- 6.2. Joint venture
- 6.3. Promotion of foreign trade
- 6.4. Agricultural products
- 6.5. Textile and cloths
- 6.6. Jewellery
- 6.7. Service sector

## **7. Law Relating to Customs**

- 7.1. Prohibition on importation and exportation of goods
- 7.2. Control of smuggling activities in export-import trade
- 7.3. Levy of, and exemption from, customs duties
- 7.4. Clearance of imported goods and export goods
- 7.5. Conveyance and warehousing of goods

## **8. Regulation on Investment**

- 8.1. Borrowing and lending of money and foreign currency
- 8.2. Securities abroad - issue of
- 8.3. Immovable property - purchase abroad
- 8.4. Establishment of business outside
- 8.5. Issue of derivatives and foreign securities – GDR (global depositories receipts), ADR (American depository receipts) and Uro
- 8.6. Investment in Indian banks
- 8.7. Repatriation and surrender of foreign securities

## **9. Technology transfer**

- 9.1. Restrictive terms in technology transfer agreements
- 9.2. Automatic approval schemes

## **Select bibliography**

Government of India, Handbook of Import Export Procedures, (Refer to the latest edition)  
Government of India Import and Export Policy (1997 -2002)  
The Students should consult the relevant volumes of the Annual Survey of Indian Law, p  
published by the Indian law Institute, New Delhi.  
Foreign Trade Development and Regulation Act 1992 and Rules  
Foreign Exchange Management Act 1999  
Marine Products Export Development Authority Act 1972

Customs Manual (Latest edition)

Final Treaty of GATT, 1994.

How to Export?- Nabhi Board of Exports , New Delhi Nabhi Publications

## **Paper-5: Banking Law**

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

A vitally important economic institution the banking system is deeply influenced by socio-political and economic changes. The emerging changes in India, particularly after the initiation of the planning process as an instrument of rapid economic development had moulded and affected the banking structure, policies, patterns and practices. A significant development in the banking system is diversification in banks financing. The commercial banks entered 'into the field of wide ranging financial assistance to industry, both large and small scale, requiring the need for social control of the banking system eventually leading to the nationalisation of banks.

The conventional banking system, found to be deficient for planned developmental purposes, paved the way for developmental banking. The fag end of the last millennium witnesses influx of foreign banking companies into India and a shift in the banking policy as part of the global phenomenon of liberalisation. The legal system is adopting itself into the new mores.

This course is designed to acquaint the students with the conceptual and operational parameters of banking law, the judicial interpretation and the new and emerging dimensions of the banking system.

The course will comprise of about 42 units of one-hour duration each spread over a period of one semester.

### ***Syllabus***

1. Introduction
  - 1.1 Nature and development of banking
  - 1.2. History of banking in India and elsewhere -indigenous banking-evolution of banking in India - different kinds of banks and their functions.
  - 1.3. Multi-functional banks - growth and legal issues.
2. Law Relating to Banking Companies in India
  - 2.1. Company, government and its agencies.
    - 2.1.1. On management
    - 2.1.2. On accounts and audit
    - 2.1.3. Lending
    - 2.1.4. Credit policy
    - 2.1.5. Reconstruction and reorganisation
    - 2.1.6. Suspension and winding up
  - 2.2. Contract between banker and customer: their rights and duties
3. **Social Control over Banking**

- 3.1. Nationalization
- 3.2. Evaluation: private ownership, nationalisation and disinvestment
- 3.3. Protection of depositors
- 3.4. Priority lending
- 3.5. Promotion of under privileged classes

#### **4. Promotion of under privileged classes**

Promotion of under privileged classes

- 4.1 The Deposit Insurance Corporation Act 1961: objects and reasons
- 4.1.2 Establishment of Capital of DIC
- 4.1.3 Registration of banking companies insured banks, liability of DIC to depositors
- 4.1.4 Relations between insured banks, DIC and Reserve Bank of India

#### **5. The Central Bank**

- 5.1. Evolution of Central Bank
- 5.2. Characteristics and functions
- 5.3. Economic and social objectives
- 5.4. The Central Bank and the State - as bankers' bank
- 5.5. The Reserve Bank of India as the Central Bank . \_
- 5.5.1. Organisational structure
- 5.6. Functions of the RBI
- 5.6.1. Regulation of monetary mechanism of the economy
- 5.6.1.1. Credit control
- 5.6.1.2. Exchange control
- 5.6.1.3. Monopoly of currency issue
- 5.6.1.4. Bank rate policy formulation
- 5.7. Control of RBI over non-banking companies
- 5.7.1. Financial companies
- 5.7.2. Non-financial companies

#### **6. Relationship of Banker and Customer**

- 6.1. Legal character
- 6.2. Contract between banker and customer
- 6.3. Banker's lien
- 6.4. Protection of bankers
- 6.5. Customers
- 6.5.1. Nature and type of accounts
- 6.5.2. Special classes of customers - lunatics, minor, partnership, corporations, local authorities
- 6.6. Banking duty to customers
- 6.7. Consumer protection: banking as service

#### **7. Negotiable Instruments**

- 7.1. Meaning and kinds
- 7.2. Transfer and negotiations
- 7.3. Holder and holder in due course
- 7.4. Presentment and payment
- 7.5. Liabilities of parties

## 8. Lending by Banks

- 8.1. Good lending principles
  - 8.1.1. Lending to poor masses
- 8.2. Securities for advances
  - 8.2.1. Kinds and their merits and demerits
- 8.3. Repayment of loans: rate of interest, protection against pen"
- 8.4. Default and recovery
  - 8.4.1. Debt recovery tribunal

## 9. Recent Trends of Banking System in India

- 9.1. New technology
- 9.2. Information technology
- 9.3. Automation and legal aspects
- 9.4. Automatic teller machine and use of internet
- 9.5. Smart card
- 9.6. Use of expert system
- 9.7. Credit cards

## 10. Reforms in Indian Banking Law

- 10.1. Recommendations of committees: a review

### *Select bibliography*

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Mitra, *The Law Relating to Bankers' Letters of Credit and Allied Laws*, (1998) University Book Agency, Allahabad.

R.K Talwar, *-Report of Working Group on Customer Service in Banks*

Janakiranlan *Crynmittee Report on Securities Operation of Banks and Financial Institution* (1993)

*N3rasirnhEiil: Cornmittee report on the Financial System* (1991)- *Second F181}ort* ("! 999)

## **Paper-6: Insurance Law**

### **Objectives of the course**

As early as in 1601 one finds an excellent exposition of the insurance idea expressed in these words of an Act of British Parliament "the loss lighteth rather easily, upon many than heavily upon few". The insured person transfers from his own shoulders to the insurers, who, in return for agreeing to assume a potential risk of loss receive a payment known as premium. The insurers rely on the probability that only some of the losses, they insure against will in fact occur within any given period. They calculate, therefore, that they will be left with a profit. The insurer, on the other hand, is better able to risk his capital in trade since he knows that certain events which he cannot control, such as fire, shipwreck, will not cause him to lose his investment. The insurance idea is an old-institution of transactional trade. The age old form of insurance was the marine insurance. There is nothing like disaster to set men's minds to work. Consequently, in due course of time fire and life insurance, made their appearance. Within the last hundred years the insurance principle is being extended wider. Today one finds insurance cover for accidents, motor vehicles, glass, live stock, crop, burglary and various other disasters. Insurance is a device not to avert risks, calamities and disasters; but to mitigate their rigours and financial losses. The function of insurance is to spread such loss arising from risks of life over a large number of persons. The operational framework of insurance idea is provided by the general principles of contract. The insurance policy, being a contract, is subject to all the judicial interpretative techniques. Besides, the insurance idea has a compensatory justice component. This brings it in the arena of the law of tort as well. It is even suggested that a fully grown and developed law of insurance may, if not totally displace, decrease the significance of the law of tort. This course is designed to acquaint the students with the conceptual and operational parameters of insurance law in the context of the development of the general principles of law and judicial interpretation to inform the students about the use of law for the establishment of "just" order in insurance and to develop the appreciative and evaluative faculties of the students. The following syllabus prepared with the above perspective will be spread over a period of one semester.

### **Syllabus**

#### **1. Introduction**

- 1.1. Nature of insurance contract, various kinds of insurance, proposal, policy, parties, consideration, need for utmost good faith, insurable interest, indemnity
- 1.2. Insurance policy, law of contract and law of torts-future of insurance : need, importance and place of insurance
- 1.3. Constitutional perspectives- the Entries 24,25,29,30,47 of List 1 Union List; 23, 24, of List III

#### **2. General Principles of Law of Insurance**

- 2.1. Definition, nature and history
- 2.2. The risk - commencement, attachment and duration

- 2.3. Assignment and alteration
- 2.4. Settlement of claim and subrogation
- 2.5. Effect of war upon policies

### **3. Indian Insurance Law: General**

- 3.1. History and development
- 3.2. The Insurance Act 1938 and the Insurance Regulatory Authority Act 2000
- 3.3. Mutual insurance companies and cooperative life insurance societies
- 3.4. Double Insurance and re-insurance

### **4. Life Insurance**

- 4.1. Nature and scope
- 4.2. Event insured against life insurance contract
- 4.3. Circumstances affecting the risk
- 4.4. Amounts recoverable under life policy
- 4.5. Persons entitled to payment
- 4.6. Settlement of claim and payment of money

### **5. Marine Insurance**

- 5.1. Nature and Scope
- 5.2. Classification of marine policies
  - 5.2.1. The Marine Insurance Act, 1963
  - 5.2.2. Marine insurance
  - 5.2.3. Insurable interest, insurable value
  - 5.2.4. Marine insurance policy - condition. - express warranties construction of terms of policy
  - 5.2.5. Voyage-deviation
  - 5.2.6. Perils of the sea
  - 5.2.7. Assignment of policy
  - 5.2.8. Partial laws of ship and of freight, salvage, general average, particular charges
  - 5.2.9. Return of premium

### **6. Insurance against Accidents**

- 6.1. The Fatal Accidents Act, 1855
  - 6.1.1. Objects and reasons
  - 6.1.2. Assessment of compensation
  - 6.1.3. Contributory negligence,
  - 6.1.4. Apportionment of compensation and liability
- 6.2. The Personal Injuries (Compensation insurance) Act 1963
  - 6.2.1. Compensation payable under the Act
  - 6.2.2. Compensation insurance scheme under the Act-Compulsory insurance

### **7. Property Insurance**

- 7.1. Fire insurance
- 7.2. The Emergency Risks (Factories) Insurance
- 7.3. The Emergency Risks (Goods) Insurance

- 7.4. Policies covering risk of explosion
- 7.5. Policies covering accidental loss, damage to property
- 7.6. Policies covering risk of storm and tempest
- 7.7. Glass-plate policies
- 7.8. Burglary and theft policies
- 7.9. Live stock policies
- 7.10. Goods in transit insurance
- 7.11. Agricultural insurance

## **8. Insurance against Third Party Risks**

- 8.1 The Motor Vehicles Act, 1988
  - 8.1.1 Nature and scope
  - 8.1.2 Effect of insolvency or death on claims of insolvency and death of parties, certificate of insurance
  - 8.1.3 Claims tribunal: constitution, functions, application for compensation, procedure, powers and award
- 8.2 Liability Insurance
  - 8.2.1 Nature and kinds of such insurance
  - 8.2.2 Public liability insurance
  - 8.2.3 Professional negligence insurance

## **9. Miscellaneous Insurance Schemes: New Dimensions**

- 9.1 Group life insurance
- 9.2 Medclaim, sickness insurance

### **Select bibliography**

- John Hanson and Christopals Henly, All Risks Property Insurance (1999), LLP Asia, Hongkong.
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## **BRANCH- IV: LABOUR, CAPITAL AND LAW**

## **Paper-1: Collective Bargaining**

### **Objectives of the Course**

In a rapidly industrializing country like India, balancing the conflicting interests in the industrial sector is necessary for the sustainable growth of economy. It is conspicuous that the social, economic and political forces influence the process of collective bargaining in more ways than one. Conversely, the process makes a great impact upon many factors of our socio-economic system. Necessarily, norms and standards are to be evolved in order to bring our industrial peace. The limits, the scope and the conceptual dimensions of collective bargaining have to be learned in a detailed manner and with a comparative emphasis wherever possible.

The following syllabus prepared with these perspectives will, to spread over a period of one semester.  
**Syllabus**

### **1. Freedom of Organization**

- 1.1. International norms: right to association of industrial and unorganised labour
- 1.2 Right to association in India: the constitutional and legal aspects

### **2. Collective Bargaining Conceptual and Processual Issues**

- 2.1. Conception of collective bargaining: a comparative appraisal
- 2.2. Methodological aspects

### **3. Bargaining Process**

- 3.1. Empirical Indian studies
- 3.2. Types of bargaining: plant level, industry level and national level

### **4. Legal Control of Collective Bargaining Endeavours**

- 4.1. Strike (pen-down, tool down, go slow, work to rule, stay in, sit in, picketing)
- 4.2. Gherao
- 4.3. Lock out

### **5. Factors Affecting on Collective Bargaining**

- 5.1. Multi-unionism
- 5.2. Other factors
- 5.3. Conditions for successful functioning: comparative analysis

### **6. Economic Implications of Collective Bargaining**

- 6.1. Wage policy
- 6.2. Work discipline
- 6.3. National income and profit

### **7. Collective Bargaining and Political Processes**

- 7.1. Problem of outsiders in the union
- 7.2. Affiliation of unions to political parties
- 7.3. Policies towards workers, participation in management - role of state.

### **8. Trade Unionism in India**

- 8.1. Historical retrospect
- 8.2. Role of Trade Unions in India in economic development
- 8.3. Recommendations of Second National Law Commission of Labour

### **Select Bibliography**

- Gillian S. Morris and Timothy J. Archer, *Collective Labour Law* (2000), Oxford
- Nick Humphrey, *Trade Union Law* (1997), Blackstone, London
- John Bowers and Simon Hentyball, *Text book on Labour Law* (1998), Blackstone, London
- Stephen Dery and Richard Mitchell, *Employment Relations Individualisation and Union Exclusion* (1999), Blackston, London.
- Roger Blanpain, Chris Engels (Eds.), *Comparative Labour Law and Industrial Relations in Industrialised Market Economies* (1999) Kluver
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- 'The History of Trade Unions'-Sydney Beatrice Webb Longman, 1926, London
- Report of the Second Labour Commission of India, 2002

## **Paper-2: Wages**

### **Objectives of the course**

In this course constitutional ideals for decent wages and the judicial interpretations of these ideals are significant areas of study. More often than not the workers' demand for more wages leads to acute controversy. How have the statutory and decisional laws kept up the balance in the interest of industrial peace? Necessarily, the different facets of wages, the rationale of wage differentials, the impact of wage increase on the socio-economic set up and the national wage policy perspectives constitute important components of the study. All these problems are to be assessed in the light of the international norms laid down by the ILO.

The following syllabus prepared with this perspective will be spread over a period of one semester.

### **Syllabus**

1. Constitutional Perspectives on Wages

- 1.1. Denial of minimum wage as forced labour
- 1.2. Constitutionalisation of legal rights: elevation of legal rights to fundamental rights
- 1.3. The constitutional ideals
  - 1.3.1. Right to work
  - 1.3.2. Right to living wage
  - 1.3.3. Right to equal pay for equal work
  - 1.3.4. Workers participation in management: impact on wage determination

## **2. Theories and Facets of Wages**

- 2.1. Theories of wages
- 2.2. Wages, bonus and dearness allowance
  - 2.2.1. Basic wage
  - 2.2.2. Bonus as deferred wage or share of profits - eligibility
- 2.3. Allowances and concessions
  - 2.3.1. House rent allowance
  - 2.3.2. City compensatory allowance
  - 2.3.3. Educational allowance
  - 2.3.4. Conveyance allowance
  - 2.3.5. Cash incentives: percentage on turn-over
  - 2.3.6. Medical allowance
  - 2.3.7. Leave travel concessions
  - 2.3.8. Free and subsidized food and products
  - 2.3.9. Leave encashment
  - 2.3.10. Overtime allowances
  - 2.3.11. Low wages and high perks as a camouflaging stratagem of defeating ceiling on wages

## **3. Wage Differentials: Rational Policy or Unjust Practice**

- 3.1. Equality, honoured or violated ?
- 3.2. Diminishing the differential: disincentive to initiative and productivity or elimination of irrational disparity in remuneration?
- 3.3. Inter-industry, intra-industry and regional factors
- 3.4. Private sector – public sector difference in wages – government servants
- 3.5. Capacity of industry and wage fixation

## **4. Wages, Price and Tax**

- 4.1. Increase of wages – impact on price
- 4.2. Increase in price – impact on wages
- 4.3. Tax – impact on price and wages
  - 4.3.1. Taxation on goods and increase of prices
  - 4.3.2. Taxation on wage income – a cut on real wages
- 4.4. Wages and the consumer

## **5. National Wage Policy: Problem and Perspectives**

- 5.1. National wage policy
- 5.2. Need for integrated approach: income, price and wage
- 5.3. Problems of mixed economy
  - 5.3.1. Capital intensive sector

- 5.3.2. Labour intensive sector
- 5.4. Wages in Mult-national corporations: impact of globalization
- 6. International Standardisation
- 6.1. Role of ILO: conventions and recommendations relating to wages

### **Select Bibliography**

- O.P. Malhotra, Law of industrial Disputes (1999)
- R.R. Singh, Labour Economics Chs. 6, 7, 8 and 9 (1971)
- G.L- Kothari, Wages, Dearness Allowances and Bonus (1968)
- Y.B. Singh, Industrial Labour in India Part I, (1960)
- V.V. Giri, Labour Problem in Indian Industry Ch. 6 (1972)
- Report of the National Commission on Labour 1969 (Relevant Portions)
- International Labour Office, Wages (1968)
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- Suresh C. Srivastava, "Payment or Dearness Allowance to Industrial Workers in India" 15 J.I.L.I. 444 (1973)
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- R.D. Agarwal, Dynamics of Labour Relations in India (1972)
- Sahab Dayal. "Wage, Income and Industrial Relations in Modern India: An Evaluation of selected Empirical Implications". 15 Indian Journal of Industrial Relations 295 (1977)
- Madhuri G. Seth, "Bonus in Equity Perspective", 15 Indian Journal of Industrial Relations 119 (1979)
- Deepak Lal, Theories of Industrial Wage Structures: A Review" 15 Indian Journal of Industrial Relations 167 (1979)
- C. Mani Sastry, "Wage Structure and Regional Labour Market", 21 Indian Journal of Industrial Relations 344 (1985)
- Suresh C. Srivastava, "Payment of Dearness Allowance to Industrial Workers in India: The Judicial Approach", 15 J.I.L.I 444 (1973).
- R.L. Chawla, "Wage Policy and Industrial Relations. A Brazilian Case Study", 17 Indian Journal of Industrial Relations 27 (1981)

### **Paper-3: Industrial Adjudication**

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

The appropriate governments hold the reins of industrial adjudication. The scope and extent of discretion in referring a dispute as well as in implementing a decision present complex questions and are areas of interesting study. What are the international norms relating to industrial adjudication? Are they followed in India? Is the statutory silence on the criteria for adjudication conducive to bringing industrial peace? How did the process of judicial review help evolving significant formulations on certain core areas of industrial relations despite the statutory prescription of finality of industrial adjudication? These problems are to be studied from a critical angle and with a comparative thrust on development in other common law countries.

The following syllabus prepared with this perspective will be spread over a period of one semester.

#### **Syllabus**

##### **1. Constitutional Perspectives and Foundations**

- 1.1. Constitutional authorization for institutional framework (legislative entries, Article 323. B)
- 1.2. Constitutional goals protecting capital and labour enshrined in the fundamental rights and duties and the directive principles

## **2. Access to Adjudicatory Justice**

- 2.1. Threshold control by government: reference
  - 2.1.1. Extent of governmental discretion: time, expediency and matters for adjudication
  - 2.1.2. Limitations on discretion
  - 2.1.3. Political overtones and pressure tactics
  - 2.1.4. Judicial restraint or liberalism, the ideal juristic approach
  - 2.1.5. Direct access to adjudicatory authority by employer and employee: problems and perspectives
- 2.2. International norms
- 2.3. Comparative overview of access to adjudicatory process in the U.K. and Australia

## **3. Adjudicatory Process**

- 3.1. Industrial adjudication as a modality of harmonising interests of capital and labour
- 3.2. Impact on employer's prerogatives and employee's rights
- 3.3. Silence of the statute on criteria for adjudication
- 3.4. Equity and justice as guiding principle
- 3.5. Industrial conflicts and the vistas of decisional process: a comparative probe
- 3.6. Post-natal control by government over adjudication

## **4. Judicial Review of the Adjudicatory Process**

- 4.1. Finality of decision making in adjudicatory process: a myth
- 4.2. Jurisprudence of industrial adjudication: formulations through constitutional remedies of writs and appeal
  - 4.2.1. Jurisdiction of the adjudicatory authority in respect of dismissal of workmen
  - 4.2.2. Juridical formulation of the concept of industry
  - 4.2.3. Retrenchment the widening dimensions through decisional law.

## **Select Bibliography**

- Malhotra, The Law of Industrial Disputes, Vol. 1, (1988).  
ILI, Labour Law and Labour Relations, Parts 11, IV, VI, VII, IX, and XI.  
Rideout, Principles of labour Law (1983), Ch. 4, 5 & 6.  
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T.N. Singh, "Futuristic Industrial Jurisprudence a Poser", (1986) 3 S.C.C. Journal 15.  
Chaturvedi.R.G., Law and Procedure of Departmental Enquiries and Disciplinary Actions (1997)

## **Paper-4: Law relating to Civil Servants**

### **Objectives of the course**

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 an important component of the study. The problems that civil servants are facing in service are to be highlighted and critically assessed. Examination of special category services such as judicial services, the Supreme Court High Court personnel and All India Services should also form part of the course

The following syllabus prepared with this perspective will be spread over the period of one semester.

## **Syllabus**

### **1. Civil Servants: Constitutional Dimensions**

- 1.1. Civil servants and the fundamental rights - Historical and comparative perspectives
- 1.2. Equality and protective discrimination: principles and practices
- 1.3. Service Regulations - the constitutional bases - formulation of service rules – Doctrine of Pleasure.
- 1.4. Limitations on doctrine of pleasure
  - 1.4.1. Action only be an authority not subordinate to the appointing authority
  - 1.4.2. Opportunity of being heard and its exceptions

### **2. Recruitment and Promotion**

- 2.1. Central and state agencies for recruitment
- 2.2. Methods, qualification

### **3. Conditions of Service**

- 3.1. Pay, dearness allowance and bonus: machinery for fixation and revision, Pay Commission
- 3.2. Kinds of leave and conditions of eligibility
- 3.3. Social security: provident fund, superannuation and retiral benefits, Medicare, maternity benefits, employment of children of those dying in harness, compulsory insurance
- 3.4. Civil and criminal immunities for action in good faith
- 3.5. Comparative evaluation with private sector
- 3.6. Comparative evaluation between the state government employees and the central government employees.
- 3.7. Consultation with Public Service Commission

### **4. Civil Service: Amalgam of Principles, Compromises and Conflicts**

- 4.1. Neutrality - commitment dilemma, permanency, expertise and institutional decision making
- 4.2. Relaxation of age and qualification in recruitment, spoils system, seniority-cum merit recruitment and promotion.
- 4.3. Frequent transfers, education, of children, housing and accommodation
- 4.4. Civil service and politics, politicisation of government servants organisation and inter-union rivalry

### **5. Special Categories of Services**

- 5.1. Judicial services: subordinate judiciary - judicial officers and servants: appointment and conditions of service
- 5.2. Officers and servants of the Supreme Court and the High Courts: recruitment, promotion, conditions of service and disciplinary action
- 5.3. All India services. objects, regulation of recruitment and conditions of service, disciplinary proceedings

## **6. Settlement of Disputes over Service Matters**

- 6.1. Departmental remedies: representation, review, revision and appeal : role of service organisations
- 6.2. Remedy before the Administrative Tribunal: jurisdiction, scope and procedure - merits and demerits - exclusion of jurisdiction of courts
- 6.3. Judicial review of service matters -jurisdiction, of the Supreme Court and High Courts
- 6.4. Comparative position in England, United States and France

### **Select Bibliography**

Students are to study the state laws and rules relating to service matters, make empirical investigations and write a paper on a significant problem.

- ILI (by Justice M. Rama Jois), Services Under the State (1987)  
N. Narayanan Nair, The Civil Servant under the Law and the Constitution (1973)  
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G. C. V. Subba Rao, "The O.N.G.C. Case and New Horizons in Public Services Law", 1975 S.C.J. 29

## **Paper-5: Social Security Law**

### **Objectives of the course**

Social security is a necessary phenomenon of a welfare state. The ideal of social security contained in the constitution, the concept embodying the ideals in the various statutes and the plethora of administrative measures of the state are indicative of the recognition of social security as an important objective to be achieved in our democratic process. This course shall examine the various dimensions of labour security measures and explore the possibility whether or not labour security be part of the comprehensive and integrated social security.

The following syllabus prepared with this perspective will be spread over a period of one semester.

### **Syllabus**

#### **1. Social Security**

- 1.1. Meaning
- 1.2. Distinction with labour welfare
- 1.3. Modality: social prescription, social assistance and social insurance
- 1.4. Labour social security as part of the general social security in the welfare state

#### **2. Origin and Development**

- 2.1. Western countries - charitable institutions - professional guilds – philanthropic organisations - workmen's compensation law in England
- 2.2. Eastern societies - India: joint family system, statutory schemes
- 2.3. International norms on social security for labour : the ILO measures

### **3. Constitutional Perspectives**

3.1. Fundamental Rights : realization of the rights through meaningful social security measures: right to life, the wider dimensions

3.2. Right to adequate means of livelihood, free legal aid, public assistance in cases of unemployment, old age, sickness and disablement, maternity relief.

### **4. From Compensation to Insurance**

4.1. Judicial interpretation of the expression "arising out of and in the course of employment"

4.2. Employees' state insurance benefits: an improvement over workmen's compensation

### **5. Social Security: Law and Practices, the Comparative Perspectives**

5.1. The United Kingdom

5.2. The United States

### **6. Towards an Ideal Social Security Scheme: the Futuristic**

6.1. Comprehensive and integrated social security: an utopian concept or a pragmatic approach?

6.1.1. Funding

6.1.2. Benefits and beneficiaries

6.2. Role of trade unions

6.2.1. Social security clauses in collective agreements

6.2.2. Trade union schemes with its own fund

### **Select Bibliography**

R.N.Choudhry, Commentary on the Workmen's Compensation Act 1923 (2000), Orient

S.C. Srivastava, Social Security and Labour Laws (1985).

R.W. Rideout Principles of Labour Law (1988), Chs. 12,13.

H.K. Saharay, Industrial and labour Laws of India (1987) Chs. 7 and 8.

Munkman, Employers' Liability (1985), Chs. 1, 2, 3, 22 and 23.

Harry Calvert, Social Security Laws (1978)

Reports of the National Commission on Labour 1969 (relevant portions)

Neeru Sehgal, "Employment of Women and Reproductive Hazards in Workplace", 29 J.I.L.I 201 (1987)

Prakash Sinha, "Quality of Working Life and Quality of Life", (1982) Indian Journal of Industrial Relations, p. 373.

Mallik Jyotsna Nath, "Workmen's compensation Act and some Problems of Procedure", 3 J.I.L.I. 131 (1961)

V.R. Bhattacharya, Some Aspects of Social Security Measures in India (1970).

## **Paper-6: Agricultural Labour**

### **Objectives of the course**

Agricultural labourers are the weaker sections of the labour force. They are neither organized nor are they enlightened and aware of their rights. This is true of agricultural labour in different regions. Their problems are different from those of the enlightened sections of labour. The traditional hurdles and ties standing in the way towards organisation of agricultural labour, the extent of application of the concept of collective bargaining in the field and the nature of welfare measures and dispute

settlement systems available are to be examined in this paper. Naturally the laws and the practices where the state initiative has gone ahead are useful study enabling the students to suggest law reforms.

## **Syllabus**

### **1. Agricultural Labour Relations**

- 1.1. Agricultural labourer - the concept
- 1.2. Early stages - the traditional ties between the landlord and the workers
  - 1.2.1. Non-exploitative fair relation with the feudal hegemony - share in products as wages, wages in kind, benefits in addition to wages, participation in festive occasion grievance redressal at landlord's residence
- 1.3. Exploitation of labour by the landlord
  - 1.3.1. Longer hours of work and lower wages: statutory regulation
  - 1.3.2. Bonded labour
  - 1.3.3. Indebtedness
- 1.4. Tribal labour in forest settlements
- 1.5. Migrant agricultural labour

### **2. Trade Unionism and Collective Bargaining among Agricultural Labour**

- 2.1. Unorganised nature
- 2.2. Seasonal character
- 2.3. Political movements
- 2.4. State, regional and macro-regional disparities in collective bargaining, organization and remuneration

### **3. Industrial "Hour Norms" in the Agricultural Labour Area**

- 3.1. Problems: multi-employer - employment situation
- 3.2. Workmen's compensation
- 3.3. Minimum wages

### **4. Labour Welfare**

- 4.1. Need for state initiative and support
- 4.2. Assessment of existing measures: statutory and non-statutory
- 4.3. Agrarian reform as agricultural labour protection measure - land to the tiller doctrine
- 4.4. Environmental impact of distribution of forest land among agricultural labourers
- 4.5. Futuristic perspectives

### **5. Dispute Settlement Mechanism**

- 5.1. Practices: settlements
- 5.2. Statutory measures: conciliation, adjudication
- 5.3. Comparative study of state practices and laws

### **Select Bibliography**

- V.V. Giri, Labour Problems in Indian Industry (1972)  
R.R. Singh, Labour Economics (1971)  
ILO, Conventions and Recommendations.  
Reports of National Commissions on Labour 1969 (relevant portions)  
State legislation and other welfare schemes relating to agricultural labour.  
Abdul Aziz, "Unionizing Agricultural Labourers in India . A Strategy", 13 Indian Journal of industrial Relations 307 (1977)

A.B. Maily, "Forced Labour in India", 15 Indian Journal of Industrial Relations 77 (1979)  
L.C. Sharma, "Forestry Sector Generate More Employment", 15 Indian Journal of Industrial Relations 577 (1979)  
Kalpana Bardhan, "Rural employment Wages and Labour Market in India: A Survey of. Research 12 Economic and Political Weekly 1 June 25, 1977, 11 July 2, 1977 and 11 July 9, (1977)  
Government of India, Agricultural Labour Enquiry (1954).  
Government of India, Report on the Second Agricultural Labour Enquiry (1958).  
Government of India, Report on III Agricultural Labour Enquiry  
Bardhan & Rudra "Types of Labour Attachment in Agriculture", 15 Economic and Political Weekly August 30,1980  
National Institute of Rural Development, Occasional Monograph 1-Agricultural Labour Unions (1978).  
Report of the National Commission on Rural Labour (1991) New Delhi, Govt. of India, Ministry of Labour; See especially Volume 11, Part 11 for the Study Group Report.

## **BRANCH-V: INTERNATIONAL LAW AND ORGANIZATION**

### **Paper-1: International Organisations; Law, Practice and Future**

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

The years following the Second World War have witnessed a phenomenal growth of international organizations. The United Nations has become increasingly complex in its functioning, and the ranges of its activities has widened beyond manageable proportions. It has therefore become imperative to understand the modes of operation of the numerous organs and agencies of the U.N. system, the decision-making availability of funds and non-cooperation of the certain members.

In order to give students an in-depth understanding, it would be useful to conduct intensive studies of some agencies such as the UNDP and the FAO. There have also come into existence well known non-governmental organizations whose expertise is made use of by various UN Agencies in the capacity of consultants. The role played by such NGOs would also be assessed in the light of the objectives of the organizations.

The course will explore the areas of co-operation in international relations which are likely to bring about cohesion and integration, and assess the role of international organization in fostering change. It will also provide an opportunity for understanding the major issues of law and policy which are presently being faced by international organizations.

The following syllabus prepared with this perspective will be spread over a period of one semester.

**1. Importance and Evolution of International organisations, International legal personality.**

**2. United Nations as a constitutional and political system**

- 2.1. United Nations & its principal organs
  - 2.1.1. Security Council
  - 2.1.2. General Assembly
  - 2.1.3. Trusteeship Council
  - 2.1.4. ECOSOC
  - 2.1.5. Secretarial
  - 2.1.6. ICJ
  - 2.1.7.

**3. Specialised Agencies & Other IGOs –their constitution, functions & significance**

- 3.0.1. ILO
- 3.0.2. WHO
- 3.0.3. FAO
- 3.0.4. IMO
- 3.0.5. IMF
- 3.0.6. World Bank
- 3.0.7. WTO
- 3.0.8. WIPO
- 3.0.9. UNCTAD
- 3.1. ICC

**4. The Political Process & Regional Organisation**

- 4.1. Importance of regional organizations
- 4.2. European Union/European Council
- 4.3. APEC
  - 4.3.1. ASEAN
- 4.4. SAARC
- 4.5. Blocks & Alliances and NAM
  - 4.5.1. Big Powers (USA v. USSR)
  - 4.5.2. NAM – Reasons for its origin, its Relevance in contemporary political situation

**5. Non – Governmental Organisations**

- 5.1. Characteristics of NGOs
- 5.2. Role of NGOs in political and legal processes
- 5.3. Amnesty International
- 5.4. Green Peace, IUCN
- 5.5. ISO

**6. Peaceful change through UN**

- 6.1. Purposes & principles of UN
- 6.2. Dispute settlement machinery of UN
- 6.3. Peacekeeping forces
- 6.4. ECOSOC for peaceful change
- 6.5. UN operational programmes in economic field – UNIDO, UNCTAD

## **Select bibliography**

- D.W.Bowett, Law of International Institutions, (1982)  
Ingrid Detter, Law Making by the International Organisation, (1965)  
Stephen s.Goodspeed, Nature and Function of International Organisation (1962)  
E.P.Walters, History of the League of Nations (1965)  
D.W. Bowett, United Nations Force: A Legal Study (1969)  
Leland M.Goodrich, Charter of the United Nations (1969)  
Leland M. Goodrich, United Nations in a Changing World (1974)  
Rosalyn Higgins, Development of International law through Political Organs of the United Nations (1963)  
Hans Kelsen, Law of the United Nations (1954)  
Rahmathullah Khan, Implied Powers of the United Nations (1970)  
Edward Machhinney, United Nations Law Making (1984)  
M.S.Rajan, United Nations and Domestic Jurisdiction (1961)

## **Paper-2: Law of Peace; Diplomacy & Disarmament**

### **Objectives of the course**

The importance of diplomacy in international relations cannot be underestimated. Even before and after emergence of the modern state system and the generally agreed rules of international law, diplomacy has been the most outstanding means for influencing decisions relating to maintenance of international law:

The course will dwell on structural inequalities and geopolitical realities which shape national policies. The role of diplomacy from ancient to modern times will be assessed and salient features of the "new" diplomacy highlighted. Momentous developments in technology giving rise to arms race and military have in a small measure been responsible for utilizing new strategies by powerful states to control foreign of nations.

In this connection it will be necessary to understand the conduct of diplomacy in the various forums of the United Nations. Inasmuch as delegations of all the members remain more or less present throughout the year at the United Nations Headquarters, it becomes relatively easy to handle some difficult situations.

Disarmament has been a major issue in international relations for creating conditions of peace. The mad race for conventional and nuclear arms among the super powers has been going on unabated. Even the newly emergent poor nations have found it essential to divert their resources for the acquisition of sophisticated arms and upkeep of military hardware.

Development nations with nuclear capabilities are spending billions of dollars for creating balance of terror. These nations are the most important source for the supply of arms to developing nations. The implications of transfer of technology are grave and need a thorough understanding of the issues involved. The ownership pattern for mass production of armaments need a close scrutiny and the methods used by giant manufacturers of sophisticated armaments to push sales have recently come under severe attack. These have a direct bearing on national policies for production and sale of armaments.

Nations individually and collectively have been involved in division methods for disarmament and

non-proliferation of nuclear weapons. The U.N. has been fully absorbed for the last several decades in initiating dialogues on disarmament. In the course of years the impediments, which stand in the way of arriving at an international understanding, have been laid bear.

The course will explore the alternative strategies for creating conditions of peace. This would involve a critical examination of dispute resolution and crisis management techniques, equitable allocation of world's resources and economic development of less development countries.

The following syllabus prepared with this perspective will be spread over a period of one semester.

## **Syllabus**

### **1. Nature, Scope & Basis of International Law**

- 1.1. Nature & Basis of international law
- 1.2. Source of law – with special references to GA Resolutions
- 1.3. Relationship of International Law & Municipal Law
- 1.3.1. Indian practice – its constitutional provisions & judicial trend

### **2. State**

- 2.1. State, Nation & Nation-State
- 2.2. Statehood, Acquisition & Loss of territory
- 2.3. Recognition
- 2.4. State succession
- 2.5. Sovereign Immunity

### **3. State Responsibility**

- 3.1. Concept of state responsibility
- 3.1. Fault liability – No fault liability
- 3.2. Treatment of aliens & expropriation of property

### **4. Pacific Settlement of Disputes**

- 4.1. Negotiation, good offices, mediation, conciliation, Arbitration and Judicial settlement

### **5. Individuals, NGOs & MNCs**

- 5.1. Individual as a subject of international law
- 5.2. Nationality, Extradition, Asylum
- 5.3. Role of NGOs & MNCs in shaping international law

### **6. Human Rights**

- 6.1. U.N. Charter
- 6.2. UDHR
- 6.3. Covenants on Civil, Political - Economic, Social & Cultural Rights
- 6.4. Right to self determination
- 6.5. Globalisation & Human rights

### **7. Diplomacy**

- 7.1. Traditional Notions of diplomacy and significance of diplomacy to International law of peace
- 7.2. Transformation from old to new diplomacy
- 7.2.1. Cold –War and its impact on diplomacy
- 7.2.2. Contemporary international stratification, Neo-colonialism, dependence and

domination

- 7.2.3. Diplomacy in international conferences
- 7.3. Development ideology and related diplomacy
- 7.4. Diplomatic personal – Their significance, diplomatic privileges and immunities – violence against diplomats.

## 8. **Threats to international peace, peace strategies & Disarmament**

- 8.1. Hijacking
- 8.2. Terrorism
- 8.3. Science & Technology for peace & violence – Jurisdictional problems
  - 8.3.1. Organised crimes
  - 8.3.2. Nuclear technology
- 8.4. Disarmament as peace strategy
  - 8.4.1. History & outcome of disarmament efforts, UN Disarmament Decade
  - 8.4.2. NPT, PTBT, CTBT
  - 8.4.3. International Regulations of Biological & Chemicals weapons, weapons of mass destruction.

### **Select bibliography**

- Burns H. Weston, *Toward Nuclear Disarmament and Global Security: a Search for Alternatives* (1980)
- J. Schell, *The Fate of the Earth* (1982)
- J.N. Singh, *Use of Force Under International Law* (1984)
- Julius Stone, *Legal Controls of International Law* (1954)
- M. Walzer, *Just and Unjust Wars* (1979)
- R. Kothari, *Transformation and survival: In Search of Human World Order* (1988)
- R. Falk, et al., *International Law: A Contemporary Perspective* pp.473-519 (1985)
- R. Falk, *The End of World Order* pp.155-276 (1983).
- Report of the Secretary General: *Chemical and Bacteriological (Biological weapons and the effects of their Possible Use.* (UN Doc.A/7575 Rev.1 S/9292 Rev. I (1969)
- Prof. B.S.Murthy, *International Law of Diplomacy; the Diplomatic Instruments and world order*, New Haven Press & Dordrecht; Martinus Nijhoff Publishers, 1989.
- A.Ball, *Modern Intentional Negotiations* (1969)
- LClark, *Reform and Resistance in International Order* (1980)
- LClark, "The Satisfied and' the Dissatisfied States Negotiate International Law: A Case Study," 18 *World Politics* 20-41 (1965)
- H.Nicolson, *Diplomacy* (1969)
- J.Stone, *Law and Nations* (1974)
- L.Hanken, *How Nations Behave* (1968)
- RL.Friedheim, *Parliamentary Diplomacy - A Survey* (1976)
- RP.Anand, *International Courts and Contemporary Conflict* (1979)

### **Paper-3: International and Contemporary Issues**

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

This course focuses on the problems of international law in the making. The major normative instruments to be explored are: no New international economic order, the Declaration on the Right to

Development and Continuing Struggle for North-South Equity, which continue for crystallize new human rights. The following syllabus prepared with this perspective will be spread over a period of one semester Syllabus

### **1. Changing Dimension of International Law**

- 1.1. Expanding Scope of International Law and its changing dimensions and nature.
- 1.2. Influence of Third World Countries on the growth and nature of International Law.
- 1.3. From absolute sovereignty to limited sovereignty and world governance.
- 1.4. Role of the United Nations Organization in shaping International Law.

### **2. The New International Economic Order. (NIEO)**

- 2.1. Background
- 2.2. United Nations Charter and Economic Issues, UNCATD and UNIDO
- 2.3. Essential component of the NIEO
- 2.4. State acceptance and practice of NIEO principles.
- 2.5. Critique of NIEO

### **3. The Right to Development**

- 3.1. The 1979 G.A. Resolution
- 3.2. Progress towards enunciation of the Declaration of Right for Development
- 3.3. Basic Concepts of right to development
- 3.4. State acceptance and practice.
- 3.5. Critique.

### **4. Towards Sustainable Development**

- 4.1. The Context of U.N. Commission on Environment and Development
- 4.2. Our Common Future: the Report of the Commission.
- 4.3. Proposed legal principles for environmental protection and sustainable development.
- 4.4. State acceptance and practice
- 4.5. Critique.

### **5. International Trade Law**

- 5.1. GATT 1948. International Trade organization and Havana Charter.
- 5.2. GATT 1994/World Trade Organization, Specific Agreements
- 5.3. TRIPS, TRIMS, AOA, GATS
- 5.4. Impact of WTO on Indian Agriculture and Pharmaceutical Sector.

### **6. International Criminal Law**

- 6.1. International Criminal Law
- 6.2. War crimes and problem of prosecution of war criminals
- 6.3. Nuremburg Charter and Tribunal
- 6.4. Ad hoc Tribunals for Prosecution of war criminals.
- 6.5. International Criminal Court – Jurisdiction, Elements of Crime, Evidence and procedure.

### **7. Terrorism and Response of International Law**

#### **Select bibliography**

- H.W. Singer & J.A. Ansari, Rich and Poor Countries (1982)  
P. Alston, "Development and the Rule of Law; Prevention Versus Cure as a Human Rights Strategy" in Human Right and Rule of law 83 (1981)  
R. Falk, The End of the World Order (1983)

S. Gwrg, How the other Half Dies: The Real Persons for World Hunger (1976)  
 U. Bad, "The New International Economic Order, Basic Needs and Rights: Notes Towards Development of the Right to Development": in Role of Law and Judiciary in Transformation of Society: India G.D.R. Experiments 178-205 (1984) D.A. Desai ed.) and see the literature there incited. This paper is also published in the J. of the Indian Society of international Law.  
 UN Report of the Secretary General: "The International Dimensions of the Right to Development as a Human Right with other Human Right Based on International Cooperation, Including the Right to Peace, Taking into Account the Requirement of the New International Economic Order and the Fundamental Human Needs".EICN-41374.  
 U.N., Our Common Future: The World Commission on Environment and Development (1987)

#### **Paper-4: Conflict of Laws**

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

Private International Law/Conflict of Law has assumed unpredicted significance today due to globalisation and intensive interaction between parties belonging to different countries. This subject is most valuable to in deciding jurisdiction, applicable law and fate of foreign judgements and it is not proper to neglect it in the legal curriculum at LL.M. level. It is strange system tensht as one of the paper in LL.M international law branch because of its practical utility.

1. Conflict of law – Preliminary topics – Classification and Waiver of foreign law
2. Domicile – application – jurisdiction
3. Marriage and Matrimonial causes and Succession
4. Law of Children – (Legitimation, Legitimacy, Adoption and Custody of children)
5. Law of Obligation –Contracts and Torts
6. Law of Property – Immovable and Moveable Property
7. Foreign Judgments
8. Law of Procedure

#### **Paper-5: International Humanitarian Law**

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

International Law has traditionally been a law which regulates relations among states. Individuals have been objects and not subjects of International Law. A logical extension of these principles led to the theory that international law could not confer rights nor impose duties on individuals.

What it could do was to appeal to conscience of the nations that unnecessary suffering of human being should be avoided. In view of territorial and personal character of sovereignty of a state.

Treatment of its own nationals and stateless persons, subject to limited exceptions remained under the exclusive jurisdiction of a state. Although this unsatisfactory state of law was hardly adequate to prevent ill-treatment of individuals, particularly during war, it became the starting point for a new branch of international law towards the end of the last century.

The total character of modern war and threat of annihilation due to use of nuclear weapons have been responsible for a new concern for survival of humanity. To meet this challenge the United Nations

and other voluntary international agencies have been actively involved in prescribing standards of treatment based upon dictates of humanity and overseeing their implementation in difficult situations. The underlying purpose is to ensure a human treatment of all individuals, a minimum standard of treatment which may not be departed from even under the necessities of war or grave provocation. The following syllabus prepared with this perspective will be spread over a period of one semester.

## **Syllabus**

### **1. International Movement for Humanization of Warfare**

- 1.1. Contributions of classical writers;
- 1.2. history of the Red Cross;
- 1.3. Geneva conventions of 1864 for Amelioration of the Condition of wounded Soldiers in Land Army,
- 1.4. . Petersburg Declaration, 1868.
- 1.5. The Hague Conventions of 1899 and 1907,
- 1.6. Geneva Conventions of 1929 and 1949 on Treatment of Prisoners of War, Wounded and Sick persons and Civilian Persons.

### **2. International Efforts to Outlaw Slavery, Slave Trade and Practices similar to Slavery, Forced Labour and Trafficking in Human Beings**

- 2.1. United Nations and Humanitarian Law
- 2.2 The Role of ECOSOC and ILO
- 2.3. Crusade against discrimination in respect of employment and occupation;
- 2.4. Racial Discrimination.

### **3. International Refugees**

- 3.1. The UN Relief and Rehabilitation Administration and other International Refugee Organizations;
- 3.2. Conventions relating to Status of Refugees and Stateless persons;
- 3.3. Genocide Convention.

### **4. Implementation of the Right to Self-determination.**

- 4.1. Declaration on the grant of independence to colonial countries and people,
- 4.2. Humanitarian Treatment of peoples living under colonial rule and trusteeships

### **5. Eliminating Discrimination against Women through International Co-operation.**

## **Select bibliography**

- C.Hosoya, N.Ando, Y.Onuma, R.Minear, The Tokyo War Crimes Trial (1986). .  
G.Tunkin, Theory of International Law (1974)  
G.Schwarzenberger, The Law of Armed Conflicts (VoLII)  
J.Stone, Legal Controls of International Conflicts (1959)  
R.Falk, "The Shimoda Case" 69 Am. J. Int. Law (1965)  
T.Taylor, Nuremberg and Vietnam: An American Tragedy (1971)

## **Paper-6: Law of the Sea & Environmental Law**

### **1. Historical introduction to Law of the Sea**

- 1.1. Contribution of Seldon, Grotius, Bynkershoek and others to the development of traditional law of the sea
- 1.2. 1958 Geneva conventions
- 1.3. Freedom of High Seas

### **2. Changing Concepts of Maritime Frontiers & Legal Regulations u/ UNCLOS, 1982**

- 2.1. Development leading to III UNCLOS & its final outcome
  - 2.1.1. Territorial sea
  - 2.1.2. Contiguous Zone
  - 2.1.3. Continental Shelf
  - 2.1.4. EEZ
  - 2.1.5. Position of LL & GDS and Archeipelagic states
  - 2.1.6. Common Heritage of mankind
  - 2.1.7. International Sea Bed Authority
  - 2.1.8. Dispute settlement mechanism U/III UNCLOS
- 2.2. Marine Scientific Research
- 2.3. Indian Maritime Zones Act & Coastal Guards Act
- 2.4. Future perspectives of Law of sea

### **3. Marine Pollution & Conservation of Marine Environment**

- 3.3. Marine Pollution
  - 3.3.1. Overview of IMO conventions
  - 3.3.2. Marine pollution regulation U/1982 LOS convention
  - 3.3.3. Pollution by Hazardous substances; Basel convention
- 3.2. Conservation of Marine Fisheries

### **4. Traditional Principles of International Law relevant to Environmental Protection**

- 4.1. State Responsibility, sic utero tuo ut ad alienum, International cooperation, State Sovereignty and Non-interference into domestic affairs

### **5. Major Conferences on International Environmental Law & Related Institutional Mechanisms**

- 5.1. Stockholm Conference, 1972
- 5.2. Rio Conference, 1992
- 5.3. UNEP, GEF & CSD
- 5.4. North v. South Perspectives

### **6. Bio diversity convention, 1992**

- 6.1. Legal provisions of Biodiversity Convention
- 6.2. WTO & Biodiversity Convention
- 6.3. Biodiversity Act of India

## **7. Climate change**

- 7.1. Global Warming – causes and effects
- 7.2. Climate Change Convention, 1992
  - 7.2.1. Kyoto Protocol & later developments
- 7.3. Ozone depletion – Causes & Effects
  - 7.3.1. Montreal Protocol

## **8. Trade & Environment**

- 8.1. Impact of free trade on environment
- 8.2. Disputes on trade & environment

## **Select bibliography**

- Orrego Vicuna, *The Changing International Law of the High seas Fisheries* (1999), Cambridge University Press, Cambridge.
- Ian Brownlie, *Principles of Public International Law* (1998), Clarendon Press, Oxford.
- P. Chandrasekhara Rao, *The New Law of Maritime Zones* (1983) Miling Publications, New Delhi
- Samir Mankabady, *The International Shipping Rules* (1986), Croom Helm, London
- Nagendra Singh, *International Maritime Law Conventions, Vol. I Navigation* (1983) Stevens & Maxwell, London.
- Myron H. Nordquist and John Norton Moore (eds.), *Ocean Policy - New Institutions, Challenges and Opportunities* (1999), Kluwer
- R.P. Anand, *Law of the Sea, Caracas and beyond* (1978)
- D.W. Bowett, *Law of the Sea*
- D.W. Bowett, *Legal Regime of Islands in International Law*
- John Colombos, *International Law of The Sea* (1962)
- J.H. Hargrove, *Who Protects the Ocean: Environment and the Development of the Law of the Sea*
- Devendra Kaushik, *Indian Ocean Towards a Peace Zone* (1983)
- Myres S. McDougal and W. Burke, *The Public Order of the Oceans* (1962)
- D.P. P'Connel, *International Law of the Sea, Vols. 1 & 11* (1982)
- Lynton Keith Caldwell, *International Environmental Policy Emergence and Dimensions*.
- Ludavica a telcoff Alber; & Litton (ed) 1974.
- Birnie W. Patricia; Boyle & Environment, *International Law and the Environment* 1992
- Lang Winfried (ed) *Sustainable Development and International Law*, 1995.
- Our common future, the world commission on Environment and Development*, Oxford University Press, 1987.
- The Global possible; Resource, Development and the New Century* 1991.
- Spring & Aallen, *The International Law of Pollution: Protecting the Global Environment in a world of sovereign states*, 1983/

## **BRANCH –VI: CRIMINAL LA W**

### **Paper-1: Indian Penal Code and Important Prevention Detention Laws**

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

Keeping in view the changing contours of crimes the syllabus has been framed with a view to equip the candidates with contemporary trends the classification of crimes and criminals as a thorough back drop of not only a substantive criminal law of the country but also the other legislations which try to deprive an individual of his liberty would enable the candidates to have a better perspective. All this has been included in the syllabus.

## **Syllabus**

- 1. Concept of Crime**
- 2. Theories of Punishment**
- 3. Influence of various schools in framing the Indian penal code 1860 – Historical background**
- 4. Applicability**
  - 4.1. Actuaries
  - 4.2. Inchoate crimes
  - 4.3. Abatement
  - 4.4. attempt
  - 4.5. Conspiracy
  - 4.6. factors negative criminal responsibility
- 5. General exceptions**
- 6. Joint and constructive crime**
- 7. Mens rea in statutory offences against the State and concerning armed forces**
- 8. Offences against public tranquility and against public authorities and justice**
- 9. Offences against person**
  - 9.1. Murder
  - 9.2. Culpable homicide
  - 9.3. Attempt to murder
  - 9.4. attempt of suicide
  - 9.5. grievous hurt
  - 9.6. Wrongful confinement
  - 9.7. Criminal Force
  - 9.8. Kidnapping
  - 9.9. Rape etc.,
- 10. Offence against Property**
  - 10.1. Mischief,
  - 10.2. Trespass
  - 10.3. Misappropriation,
  - 10.4. Breach of trust

- 10.5. Cheating
- 10.6. Dacoity
- 10.7. Falsification of accounts
- 10.8. Theft
- 10.9. Robbery and Dacoity
  
- 11. Offences against religion and marriage
  
- 12. Defamation'
  
- 13. Intimidation
  
- 14. Insult
  
- 15. Preventive Detention Laws**
  - 15.1. Preventive Detention Act
  - 15.2. MISA'
  - 15.3. NSA
  - 15.4. COFEPOSA
  - 15.5. TADA
  - 15.6. POTA

### **Select Bibliography**

Kenny's Outlines of Criminal Law  
Hall's Principles of Criminal Law  
H.C. Gour's Indian Penal Code  
Atchuttan Pillai's Indian Penal Code  
Bhatia's Preventive Detention Laws in India

## **Paper-2: Comparative Criminal Procedure**

### **Objectives of the course**

Criminal Procedure is being taught as a compulsory paper at the level of LL.B. today. However, a jurisprudential thrust has to be given to this subject at the post-graduate level as this is a subject which has constitutional undertones and jurisprudential importance. A study of comparative criminal procedure helps students develop an ecumenical approach and broadens their vision. It inspires them renew and revise their laws to be in tune with developed systems. The paper is taught with reference to India England, France and China

### **Syllabus**

#### **1. Organisation of Courts and Prosecuting Agencies**

- 1.1. Hierarchy of criminal courts and their jurisdiction
  - 1.1.1. Nyaya Panchayats in India
    - 1.1.1.1. Panchayats in tribal areas
- 1.2. Organisation of prosecuting agencies for prosecuting criminals

- 1.2.1. Prosecutors and the police
- 1.3. Withdrawal of prosecution.

## **2. Pre-trial Procedures**

- 2.1. Arrest and questioning of the accused
- 2.2. The rights of the accused
- 2.3. The evidentiary value of statements / articles seized / collected by the police
- 2.4. Right to counsel
- 2.5. Roles of the prosecutor and the judicial officer in investigation.

## **3. Trial Procedures**

- 3.1. The accusatory system of trial and the inquisitorial system
- 3.2. Role of the judge, the prosecutor and defence attorney in the trial
- 3.3. Admissibility and inadmissibility of evidence
  - 3.3.1. Expert evidence
- 3.4. Appeal of the court in awarding appropriate punishment
- 3.5. Plea bargaining

## **4. Correction and Aftercare services**

- 4.1. Institutional correction of the offenders
- 4.2. General comparison - After - care services in India and France
- 4.3. The role of the court in correctional programmes in India.

## **5. Preventive Measures in India**

- 5.1. Provisions in the Criminal Procedure Code
- 5.2. Special enactments

## **6. Public Interest Litigation**

- 6.1. Directions for criminal prosecution.

### **Select bibliography**

Celia Hamptom, Criminal Procedure  
Wilkins and Cross, Outline of the Law of Evidence  
Archbold, Pleading, Evidence and Practice in Criminal Cases  
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American Series of Foreign Penal Codes Criminal Procedure Code of People's Republic of China.  
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Sanders & Young, Criminal Justice (1994)  
Christina Van Den Wyngart, Criminal Procedure Systems in European Community Joel Samaha, Criminal Procedure (1997), West  
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The French Code of Criminal Procedure,  
14th and 41 st Reports of Indian Law Commission.

The Paper will be taught with reference, wherever necessary, to the procedures in India, England, US  
Fr.Ince. Russia and China

### **Paper-3: Penology and Privileged Class Deviance**

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

This course offers a specialist understanding of criminal policies including theories of punishment, their supposed philosophical and sociological justifications and the problematic of discretion in the sentencing experience of the 'developing' societies, a focus normally absent in law curricula so far.

The expert 'work of the U.N. Committee on Crime Prevention and Treatment of Offenders will be availed of in this course. Especially, at each stage, the three 'D's will be explored as offering a range of alternatives: decriminalisation, dependization, deinstitutionalization. Broadly, the course will concern itself with:

This course focuses on the "Criminality of the "Privileged classes". The definition of "privileged classes" in a society like India should not pose major problem at all; the expression nearly includes wielders of all forms of state and social (including religious) power. Accordingly, the course focusses on the relation between privilege power and deviant behaviour. The traditional approaches which highlight "white-collar offences", "socio-economic offences" or "crimes of the powerful" deal mainly with the deviance of the economically resourceful. The dimension of deviance associated with bureaucracy, the new rich (nouveau riche), religious leaders and organizations, professional classes and the higher bourgeoisie are not fully captured here.

In designing teaching materials for this course, current developments in deviance, as reflected in newspapers/journals, law reports, and legislative proceedings should be highlighted.

It should be stressed that the objectives of the course include:

- Dispelling of the commonly held belief that deviance crime is usually associated with the impoverished or improvident;
- Construction of modeLso understanding the reality of middle and upper; middle class deviance criminality in India;
- Critical analyses of legal system responses and
- Issues and dilemmas in penal and sentencing policies.

The following syllabus prepared with the above objectives will be spread over a period of one semester.

#### **PART-A: PENOLOGY**

Theories of Punishment  
(b) Approaches to Sentencing

- (c) Alternatives to Imprisonment
  - (d) The State of Institutional Incarceration in India: Jails and other custodial institutions
  - (e) The problematic of Capital Punishment
  - (f) Penology in relation to,privileged class deviance
  - (g) Penology in relation to marginalized deviance or criminality
  - (h) The distinctive Indian (historical and contemporary) approaches to penology
- The following syllabus prepared with this perspective will be spread over a period of one semester.

## **Syllabus**

### **1. Introductory**

- 1.1. Definition of Penology

### **2. Theories of Punishment**

- 2.1. Retribution
- 2.2. Utilitarian prevention: Deterrence
- 2.3. Utilitarian: Intimidation
- 2.4. Behavioural prevention: Incapacitation
- 2.5. Behavioural prevention: Rehabilitation - Expiation
- 2.6. Classical Hindu and Islamic approaches to punishment.

### **3. The Problem of Capital Punishment**

- 3.1. Constitutionality of Capital Punishment
- 3.2. Judicial Attitudes towards Capital Punishment in India - An inquiry through the statute law and case law.
- 3.3. Law Reform Proposals

### **4.Approaches to Sentencing**

- 4.1. Alternatives to Imprisonment
  - 4.1.1. Probation
  - 4.1.2. Corrective Labour
  - 4.1.3. Fines
  - 4.1.4. Collective fines
  - 4.1.5. Reparation by the offender/by the court
- 5.1. Principal types of sentences in the Penal Code and special laws
- 5.2. Sentencing in white collar crime
- 5.3. Pre-sentence hearing
- 5.4. Sentencing for habitual offender
- 5.5. Summary punishment
- 5.6. Plea-bargaining

### **6. Imprisonment**

- 6.1. The state of India's jails today

- 6.2. The disciplinary regime of Indian prisons
- 6.3. Classification of prisoners
- 6.4. Rights of prisoner and duties of custodial staff.
  
- 6.5. Deviance by custodial staff
- 6.6. Open prisons
- 6.7. Judicial surveillance - basis - development reforms

**PART-B:**

**1. Introduction**

- 1.1. Conceptions of white collar crimes
- 1.2. Indian approaches to socio-economic offences
- 1.3. Notions of privileged class deviance as providing a wider categorization of understanding Indian development
- 1.4. Typical forms of such deviance
  - 1.4.1. Official deviance (deviance by legislators, judges, bureaucrats)
  - 1.4.2. Professional deviance: journalists, teachers, doctors, lawyers, engineers, architects and publishers
  - 1.4.3. Trade union deviance (including teachers, lawyers/urban property owners)
  - 1.4.4. Landlord deviance (class/caste based deviance)
  - 1.4.5. Police deviance
  - 1.4.6. Deviance on electoral process (rigging, booth capturing, impersonation, corrupt practices)
  - 1.4.7. Gender-based aggression by socially, economically and politically powerful

**NOTE:** Depending on specialist interest by the teacher and the taught any three areas of deviance of privileged class may be explored. What follows is only illustrative of one model of doing the course.

**2. Official Deviance**

- 2.1. Conception of official deviance - permissible limit of discretionary powers.
- 2.2. The Chambal valley dacoit Vinoba Mission and Jai Prakash Narain Mission - in 1959 and 1971
- 2.3. The Chagla Commission Report on LIC-Mundhra Affair
- 2.4. The Das Commission Report on Pratap Singh Kairon
- 2.5. The Grover Commission Report on Dev Raj Urs
- 2.6. The Maruti Commission Report
- 2.7. The Ibakkar-Natarajan Commission Report on Fairfax.

**3. Police Deviance**

- 3.1. Structures of legal restraint on police powers in India
- 3.2. Unconstitutionality of "third-degree" methods and use of fatal force by police
- 3.3. "Encounter" killings
- 3.4. Police atrocities
- 3.5. The plea of superior orders
- 3.6. Rape and related forms of gender-based aggression by police and para-military forces

3.7. Reform suggestions especially by the National Police Commissions

#### **4. Professional Deviance**

- 4.1. Unethical practices at the Indian bar
- 4.2. The Lentin Commission Report
- 4.3. The Press Council on unprofessional and unethical journalism
- 4.4. Medical malpractice

#### **5. Response of Indian Legal Order to the Deviance of Privileged Classes**

- 5.1. Vigilance Commission
- 5.2. Public Accounts Committee
- 5.3. Ombudsman
- 5.4. Commissions of Enquiry
- 5.5. Prevention of Corruption Act, 1947
- 5.6. The Antulay Case

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Upendra Baxi, *Liberty and Corruption: The Antulay Case and Beyond* (1989)  
Surendranath Dwevedi and G.S. Bbargava, *Political Corruption in India* (1967)  
A.R. Desai (ed.) *Violation of democratic Rights in India* (1986)  
A.G. Noorani, *Minister's Misconduct* (1974)  
B.B. Pande, "The Nature and Dimensions of Privileged Class Deviance" in *The Other Side of Development 136* (1987; K.S. Shukla ed.).  
Indira Rotherrn und, "Patterns of Trade Union Leadership in Dhanbad Coai fields" *23 J.I.L.I 522'*(1981 )

#### **Paper-4: Drug Addiction, Criminal Justice and Human Rights**

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

Almost all the major dilemmas of criminal policy surface rather acutely in combating drug addiction and trafficking through the legal order. The issue of interaction between drug abuse and criminality is quite complex, At least three important questions have been recently identified as crucial for comparative research, First, to what extent drug dependence contributes to criminal behaviour?

Second, in what ways do criminal behaviour patterns determine drug abuse? Third, are there any common factors which contribute to the determination of both drug abuse and criminal behaviour?

Apart from these causal issues, there is the broad questions of the social costs-benefits of criminalization of addictive behaviour. Should drug-taking remain in the category of "crime without victims?" Or should it be viewed as an ever-growing threat to human resource development and be subjected to state control, over individual choices as to survival and life-styles?

The problems here are not merely ideological or theoretical. User of drugs for personal, non-therapeutic purposes may well be linked with international trafficking in psychotropic substance. It has even been suggested that encouragement of drug-dependency may have, in addition to motivation of high profits, politically subversive aspects.

Assuming that both addiction and trafficking have to be regulated, what penal policies should be appropriate? What human rights costs in the administration of criminal justice should be considered acceptable? The international response to these questions is indicated by the Single Convention on Narcotic Drugs, 1954, adopted in New York, 30 March 1954 and as amended by 1972 Protocol in Geneva, 25 March, 1972 and the Convention on Psychotropic substances, adopted in Vienna, 21 February 1971. India has recently adopted the basic principles of these conventions in the Narcotic Drugs and Psychotropic Substances Act, 1986 Broadly, penal policy dilemmas here relate to: (a) management of sanctions relating to production, distribution and illicit commerce in Narcotic Substances and, (b) ways of prevention of abuse of drugs, including speedy diagnosis, treatment, correction, aftercare, rehabilitation, and realization of persons affected, Important problems of method in studying the impact of regulation need evaluated at every stage.

The following syllabus prepared with the above perspective will be spread over a period of one semester.

## **Syllabus**

### **1. Introductory**

- 1.1. Basic conceptions
  - 1.1.1. Drugs' narcotics" "psychotropic substances"
  - 1.1.2. "Dependence," "addiction"
  - 1.1.3. "Crimes without victims"
  - 1.1.4. "Trafficking" in "drugs"
  - 1.1.5. "Primary drug abuse"

### **2. How Does One Study the Incidence of Drug Addiction and Abuse?**

- 2.1. Self-reporting
- 2.2. Victim-studies
- 2.3. Problems of comparative studies

### **3. Anagraphic and Social Characteristics of Drug Users**

- 3.1. Gender
- 3.2. Age
- 3.3. Religiousness

- 3.4. Single individuals/cohabitation
- 3.5. Socio-economic level of family
- 3.6. Residence patterns (urban/rural/urban)
- 3.7. Educational levels
- 3.8. Occupation
- 3.9. Age at first use
- 3.10. Types of drug use
- 3.11. Reasons given as cause of first use
- 3.12. Method of intake
- 3.13. Pattern of the – Use
- 3.14. Average Quantity and Cost
- 3.15. Consequences on addict's health (physical/psychic)

NOTE: Since no detailed empirical studies exist in India, the class should be in this topic sensitized by comparative studies. The principal objective of this discussion is to orient the class to a whole variety of factors which interact in the making of a drug addict.

#### **4. The International Legal Regime**

- 4.1. Analysis of background, text and operation of the Single Convention on Narcotic Drugs, 1961, 1972
- 4.2. Analysis of the Convention on Psychotropic Substances, 1972
- 4.3. International collaboration in combating drug addiction
- 4.4. The SARC, and South-South Cooperation
- 4.5. Profile of international market for psychotropic substances

#### **5. The Indian Regulatory System**

- 5.1. Approaches to narcotic trafficking during colonial India
- 5.2. Nationalist thought towards regulation of drug trafficking and usage
- 5.3. The Penal provisions (under the IPC and the Customs Act)
- 5.4. India's role in the evolution of two international conventions
- 5.5. Judicial approaches to sentencing in drug trafficking and abuse
- 5.6. The Narcotic Drugs and Psychotropic Substances Act, 1985
- 5.7. Patterns of resource investment in India: policing adjudication, treatment, aftercare and rehabilitation

#### **6. Human Rights Aspects**

- 6.1. Deployment of marginalized people as carrier of narcotics
- 6.2. The problem of juvenile drug use and legal approaches
- 6.3. Possibilities of misuse and abuse of investigative prosecutory powers
- 6.4. Bail
- 6.5. The Problem of differential application of the Ugal Regimes, especially in relation to the resource less

#### **7. The Role of Community in Combating Drug Addiction**

- 7.1. Profile of Community initiatives in inhibition of dependence and addiction (e.g. de

- addiction and aftercare)
- 7.2. The role of educational systems
- 7.3. The role of medical profession
- 7.4. The role of mass media
- 7.5. Initiatives for compliance with regulatory systems
- 7.6. Law reform initiatives

### **Select bibliography**

- H.S. Becker, *Outsiders: The Studies in Sociology of Deviance* (1966)
- J.A. Incard, C.D. Chambers, (eds.), *Drugs and the Criminal Justice System* (1974)
- R. Goeken, *Drug Abuse and Personality in Young Offenders* (1971)
- G. Edwards Busch, (ed.) *Drug Problems in Britain: A Review of Ten Years* (1981)
- P. Kondanram and Y.N. Murthy, "Drug Abuse and Crime: A Preliminary Study" *7 Indian Journal of Criminology*, 65-68 (1979)
- P.R. Rajgopat *Violence and Response: A Critique of the Indian Criminal System* (1988)
- United Nations, *Economic and Social Reports of the Commission on Narcotic Drugs, United Nations Social Defence, Research Institute (UNSDRI) Combating Drug Abuse and Related Crimes* (Rome, July 1984, Publication No. 21).
- Lok Sabha and Rajya Sabha Debates on 1986 **Bill** on Psychotropic Substances. Useful Journals in this area are:
- The Law and Society Review (USA)
- Journal of Drug Issues (Tallahassee Florida)
- International Journal of Addictions (New York)
- British Journal of Criminology
- Journal of Criminal Law, Criminology and Police Science (Baltimore, Md.)
- Journal of Criminal Law and Criminology (Chicago, Ill)
- International Journal of Offender Therapy and Comparative Criminology (London)
- Bulletin on Narcotics (United Nations)

## **Paper-5: Juvenile Delinquency**

### **Objectives of the course**

Juvenile delinquency is considered an important branch of criminology. The impact of juvenile delinquency upon the formation of Indian criminology tradition does not seem to be noticeable. No understanding of crimes and treatment of offenders can be complete without a sure grasp of causes, carrots, and cures of juvenile delinquency.

Increasingly, it is being also realized that young offenders require a wholly different centre of criminal justice system and should not be treated in the same way as the adult offenders.

#### **Juvenile**

Justice System, although a part of the criminal justice system has now its own autonomous characteristics.

In addition, the state and the law have to deal with juveniles in certain situations, as *Parens Patriae*. The category of 'neglected children' defines the burdens of care which state and society have to assume for neglected children. Most categories of neglected children are also themselves the victims of crime: The institutional care of children poses its own distinctive dilemmas. These, too, should be discussed, especially, at the level of resource investment compared with the extent of need.

The following syllabus prepared with this perspective will extend to a period of one semester.

## **Syllabus**

### **1. The Basic Concepts**

- 1.1. The conception of 'child' in Indian Constitution and Penal Code.
- 1.2. Delinquent juvenile
- 1.3. "Neglected" juvenile
- 1.4. The overall situation of children/young persons in India, also with reference to crime statistics (of crimes by and against children)

### **2. Determining Factors of Juvenile Delinquency**

- a. Different association
- b. Anomie
- c. Economic pressure
- d. Peer group influence
- e. Gang sub-culture
- f. Class differentials

### **3. Legislative Approaches**

- 3.1. Legislative approaches during the late colonial era.
- 3.2. Children's Act
- 3.3. Legislative position in various States
- 3.4. The Juvenile Justice Act
  - 3.4.1. Constitutional aspects.
  - 3.4.2. Distinction between "Neglected" and "delinquent" juveniles.
  - 3.4.3. Competent authorities
  - 3.4.4. Processual safeguards for juveniles
  - 3.4.5. Powers given to government
  - 3.4.6. Community participation as envisaged under the Act

### **4. Indian Context of Juvenile Delinquency**

- 4.1. The child population percentage to total sex-ratio, urban/rural/rural-urban
- 4.2. Neglected - below poverty line, physically and mentally disabled, orphans, destitutes, vagrants.
- 4.3. Labourers
  - 4.3.1. In organised industries like zari, carpet, bidi, glass
  - 4.3.2. In unorganised sector like domestic servant, shops and establishments, rag-pickers family trade.
- 4.4. Delinquent - number, sex-ratio, ratio to adult crime, types of offences committed, recidivism, rate of increase background
- 4.5. Drug addicts
- 4.6. Victims
  - 4.6.1. Of violence - sexual abuse, battered, killed by parents
  - 4.6.2. Of criminal activities like bootlegging, drug pollution as a response of protective

approach

5. **Judicial Contribution**

- 5.1. Social action litigation concerning juvenile justice
- 5.2. Salient judicial decisions
- 5.3. Role of legal profession in juvenile justice system.

6. **Implementation**

- 6.1. Institutions, bodies, personnel
- 6.2. Recruiting and funding agencies
- 6.3. Recruitment qualifications and salaries or fund
- 6.4. Other responsibilities of each agency/person
- 6.5. Coordination among related agencies
- 6.6. Accountability-annual reports and accessibility of public to juvenile justice institution.

7. **Preventive Strategies**

- 7.1. State Welfare programmes health, nutrition, ICWS, grants-in-aid
- 7.2. State Welfare programmes health, nutrition, ICWS, grants-in-aid
- 7.3. Compulsory education Role of community, family, voluntary, bodies, individuals.

**Select bibliography**

*National institute of Social Defence, Model Rules under the Juvenile Justice Act, 1986, (1986)*  
*K.S. Shukla, Adolescent Offender (1985)*  
*United Nations, Beijing Rules on Treatment of Young Offenders (1985)*  
*Myron Weiner, The Child and State in India (1990)*

The United Nations Declaration on the Rights of Children  
UNICEF periodic materials

**Paper-6: Collective Violence and Criminal Justice System**

**Objectives of the course**

This is a crucial area of Indian development with which traditional, western, criminology is not overly preoccupied. Collective political violence (CPV) is the order of the day, whether it is agrarian (feudal) violence, or it is atrocities against untouchables, communal riots, electoral violence, police violence (encounters), political violence by militant and extremist groups, gender-based violence or violence involved in mercenary terrorism and its containment. It is not very helpful in such contexts, to mouth the generalities such as "criminalization" or "lumpenization" of Indian politics. Closer scientific investigation of these phenomena is crucial, which should help us understand both the aetiology and the prognosis of CPV. Instead of political analysis the course should focus on a broader social understanding of the political economy of law in India. Each specific form of violence will be examined with a view to identifying the course of its evolution, the state-law response policies of management

of sanctions, compensation and rehabilitation of victims of violence, social and political costs. The growth of police and paramilitary forces will also, in this context, be an object of study. Primary materials here will be governmental and citizen investigative reports. The emphasis of the course will be on fashioning overall democratic understanding and responses to meet this problem. The following syllabus prepared with this perspective will be spread over a period of one semester.

## **Syllabus**

### **1. Introductory**

- 1.1. Notions of "force", "coercion", "violence"
- 1.2. Distinctions: "symbolic" violence, "institutionalized" violence, "structural violence"
- 1.3. Legal order as a coercive normative order
- 1.4. Force-monopoly of modern law
- 1.5. "Constitutional" and "criminal" speech: Speech as incitement to violence
- 1.6. "Collective political violence" and legal order
- 1.7. Notion of legal and extra-legal "repression"

### **2. Approaches to Violence in India**

- 2.1. Religiously sanctioned structural violence: Caste and gender based
- 2.2. Ahimsa in Hindu, Jain, Buddhist, Christian, and Islamic traditions in India
- 2.3. Gandhiji's approach to non-violence
- 2.4. Discourse on political violence and terrorism during colonial struggle
- 2.5. Attitudes towards legal order as possessed of legitimate monopoly over violence during the colonial period

### **3. Agrarian Violence and Repression**

- 3.1. The nature and scope of agrarian violence in the 18-19 centuries India
- 3.2. Colonial legal order as a causative factor of collective political (agrarian) violence
- 3.3. The Telangana struggle and the legal order
- 3.4. The Report of the Indian Human Rights Commission on Arwal Massacre

### **4. Violence against the Scheduled Castes**

- 4.1. Notion of Atrocities
- 4.2. Incidence of Atrocities
- 4.3. Uses of Criminal Law to combat Atrocities or contain aftermath of Atrocities
- 4.4. Violence Against Women

### **5. Communal Violence**

- 5.1. Incidence and courses of "communal" violence
- 5.2. Findings of various commissions of enquiry
- 5.3. The role of police and para-military systems in dealing with communal violence
- 5.4. Operation of criminal justice system during, and in relation to, communal violence

### **6. Collective Political Violence and State Action**

- 6.1. Electoral violence and Reforms
- 6.2. Violence by Militant and Extremist Groups
- 6.3. Violence by Police and Paramilitary Forces
- 6.4. State Measures – Statutory and Non-statutory
- 6.5. Role of Civil society

**NOTE:** Choice of further areas will have to be made by the teacher and the taught

### **Select bibliography**

- U. Baxi, "Dissent, Development and Violence" in R. Meagher (ed.) Law and Social Change: Indo-American Reflections 92 (1988)
- U. Baxi (ed.), Law and Poverty: Critical Essays, (1988)
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## **BRANCH –VII: ENVIRONMENT AND LEGAL ORDER**

### **Paper-1: Environment and Development: Law and Policy**

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

The concept of environment lay embedded in ancient ethos. Throughout the centuries there were invisible processes working for the maintenance and improvement of environment. Towards the close of the last millennium one finds widening dimensions of environmental protection strategies. There gained ground the environmental consciousness. How do these developments stand reflected in formulation of policies and in following constitutional values in India? This is the thrust of the paper.

#### **Syllabus**

##### **1. The Idea of Environment**

- 1.1. Ancient and medieval writings
- 1.2. Traditions

- 1.3. Natural and biological sciences:perspectives
- 1.4. Modern concept: Conflicting dimesion

## **2. Development**

- 2.1. Theories of development
- 2.2. Right to development
- 2.3. Sustainable development – national and international perspectives
- 2.4. Developing economies

## **3. Policy and Law**

- 3.1. From Stockholm to Rio and after
- 3.2. Post – Independence India
- 3.3. Role of government
  - 3.3.1. Five Year Plans
  - 3.3.2. Forest Policy
  - 3.3.3. Conservation strategy
  - 3.3.4. Water policy

## **4. Population, Environment and Development**

- 4.1. Population explosion and environmental impact
- 4.2. Population anddevelopment
- 4.3. Population and sustainable development

## **5. Constitutional Perspectives**

- 5.1. Fundamental Rights
  - 5.1.1. Right to environment
  - 5.1.2. Enforcement of the right
  - 5.1.3. Directive principles and fundamental duties
  - 5.1.4. Legislative Power
- 5.2. Environment: Emerging concepts and challenges
  - 5.2.1. Polluter pay principle: absolute liability of hazardous industry
  - 5.2.2. Precautionary principle
  - 5.2.3. Public trust doctrine

## **Select Bibliography**

C.M. Abraham, Environemntal Jurisprudence in India (1999), Kluwer  
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## **Paper-2: Environmental Legislation**

### **Objectives of the course**

Concepts of environmental protection lay scattered in isolated provisions of general legislation in india before world consciousness was aroused by the Stockholm conference in 1972. In the post Stockholm period there were many legislative activities in such areas like control of pollution and forest conservation. This legislative activism culminated in the increment of Environmental (Protection) Act 1986 with plethora of delegated legislation and delegation of powers. The central government has become the guardian of environmental protection and formulated rules and regulations on coastal zones, noise pollution and preparedness on environmental disasters. There are attempts in making laws for implementation of norms laid down in international conferences.

### **Syllabus**

#### **1. General Laws on Environmental Concern**

- 1.1. Code of Criminal Procedure: Public nuisance
- 1.2. Provisions in the Indian Penal code
- 1.3. Local bodies law: an overview

#### **2. Environment (Protection) Act, 1986**

- 2.1. 'Necessary and proper clause': concentration of power on the Central Government
- 2.2. Delegated legislation: power to make rules, regulation and to issue directions
- 2.3. Delegation of powers
- 3. Coastal Zone Management**
  - 3.1. Sea erosion
  - 3.2. CRZ Notification
    - 3.2.1. Prohibitions and exemptions
    - 3.2.2. Permissible activities
  - 3.3. Classification of zones
  - 3.4. Regulation of sea resorts
    - 3.4.1. Eco-tourism
  - 3.5. Coastal zone management plants
  - 3.6. Aquaculture
- 4. Laws on Hazardous Substance**
- 5. Preparedness on Environmental Disasters**
- 6. Emerging Legal Control**
  - 6.1. Eco-mark
  - 6.2. Environmental audit
  - 6.3. Environment Impact Assessment
  - 6.4. Public participation in environmental decision making
  - 6.5. Environment information
- 7. Environmental dispute resolution and Judicial activism.**

### **Select bibliography**

- Leelakrishnan, P et.al.(eds.), Law and Environment (1990), Eastern, Lucknow
- Leelakrishnan, P, The Environmental Law in India (1999), Butterworths, India.
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- Indian Journal of Public Administration, Special Number on Environment and Administration, July-September 1988, Vol.XXXV, No.3.
- Findley, R.W. and Farber, D.A. Environmental Law
- David Hughes, Environmental Law (1999) Butterworths, London
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### **Paper3: Prevention and Control Of Pollution**

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

Pollution hazards bring the worst harm to the environment. Legal measures are attempted to prevent or control various kinds of pollution and their aftermath. Can land pollution hazards be presented or controlled effectively by criminal sanctions especially in a developing country like India? What other legal strategies can be adopted at this level? To what extent can corporate civil liability be extended for remedying pollution maladies particularly mass disasters. One has to be a critic of the existing laws and to look forward to desirable mechanism of control over pollution hazards. This paper aims at shedding light on these areas.

## **Syllabus**

### **1. Pollution**

- 1.1. Meaning
- 1.2. Kinds of pollution and their impact

### **2. Pollution of Water**

- 2.1. Definition
- 2.2. Ground Water Pollution
- 2.3. Sources
- 2.4. Critique of existing law & common law remedies
- 2.5. Machinery
- 2.6. Powers
- 2.7. Function
- 2.8. Offences and penalties

### **3. Pollution of Air**

- 3.1. Pollutants and effects
- 3.2. Modalities of control
- 3.3. Conflicts of jurisdiction of different control Agencies
- 3.4. Critique of the existing legal frame work

### **4. Noise Pollution**

- 4.1. Sources and effects
- 4.2. Different legal controls
- 4.3. Need for specific law

### **5. Disposal of Waste**

- 5.1. Kinds of wastes: hazardous waste, bio medical waste and municipal solid waste
- 5.2. Disposal agencies: local bodies and other agencies – 73 & 74<sup>th</sup> Amendment
- 5.3. Disposal and recycling of wastes

### **6. Sanctions against pollution**

- 6.1. Efficacy of criminal and civil sanctions
- 6.2. Corporate liability, civil and criminal
- 6.3. Should penalties be prohibitive?
- 6.4. Civil liability, compensatory and penal PLI Act NET
- 6.5. Administrative compensation system
- 6.6. Incentives of Pollution Control, Market strategies, Pollution permits

### **Select bibliography**

Kailash Thakur, Environmental Protection Law and in India (1997), Deep & Deep publications, New Delhi

Enid.M.Barson and iiga Nielson (eds.), Agriculture and Sustainable Use in Europe (1998), Kluwer

John F.Mc.Eldownery and Sharron M.Edlownery, Environmental Law and regulation (2000), Blackstone Press.

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David Hughes Environmental Law (1999) Butterworths, London

Daniel R.Mandsekar, Environmental and Land Controls Registration (1976), Bobbs-Merril, New York

Indian Law Institute, Mass Disasters and Multinational Liability: The Bhopal Case (1986)

Inconvenient forum and convenients catastrophe: The Bhopal case (1986)

Armin Rozencranz et.al.(eds.) Environmental Policy and Law in India (2000), Butterworths India.

### **Paper-4: Environment and International Legal Order**

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

Through the centuries of their growth, societies had done their best to keep their neighbourhood clean and healthy. Industrialization brought in its wake unprecedented and unpredicted environmental hazards and upset the old ethos and equilibrium. The environmental consciousness is an offshoot of this saga of industrial growth. It is said that the world environmental consciousness had made a radical change in the character of international law from a moral code of ethics among nations to an almost positive law imposing on the states to observe environmental norms. Striking a significant note at the close of the last millennium, areas of international concern on environment are legion. Modes of reconciling the conflicts are also varied. The concept of sustainable development is a significant too both t at the international level and at the domestic system for reconciliation environmental values and developmental needs.

This paper prepared with the above neutered perspectives comprises about 43 units of one-hour duration to be spread over semester.

## **Syllabus**

- 1. International Concern for Environment Protection**
  - 1.1. World environment movement
  - 1.2. Natural and cultural heritage
  - 1.3. Role of international and regional organizations
  
- 2. International Law and Policy of Environment**
  - 2.1. State sovereignty versus environmental obligations.
  - 2.2. International Conference on Environment
  - 2.3. Customary International Environmental Law
  - 2.4. Treaties relating to protection of environment
  
- 3. Marine Environment**
  - 3.1. Marine resources: conservation and exploitation
  - 3.2. Scientific research and exploration
  - 3.3. Antarctic environment
  - 3.4. International Seabed Authority
  - 3.5. Pollution from ships
  - 3.6. Dumping of oil and other wastes into the sea
  
- 4. Trans-boundary Pollution Hazards**
  - 4.1. Oil pollution
  - 4.2. Nuclear fall outs and accidents
  - 4.3. Acid rain
  - 4.4. Chemical pollution
  - 4.5. Green house effect
  - 4.6. Depletion of ozone layer
  - 4.7. Space pollution
  
- 5. State responsibility for environmental pollution.**
  
- 6. Control of Multinational Corporations and Containment of Environmental Hazards**
  - 6.1. Problems of liability and control mechanisms
  - 6.2. Disaster management at international level
  - 6.3. Monopoly of biotechnology by MNCs
  
- 7. Disposal and Dumping of Hazardous Wastes: Transnational Problem and Control**

## **Select Bibliography**

Priya Kanjan Trivedi, *International Environmental Laws* (1996), A.P.H. Publishing Corporation, New Delhi

Sir Elworthy and Jane Holder, *Environmental Protection: Text and Materials* (1997), Butterworths

Nathali L.T.J. Horbach, *Contemporary Developments in Nuclear Energy Law* (1999), Kluwer.

Henric Ringborn (ed.), *Competing Norms in the Law of Marine Environmental Protection* (1997), Kluwer.

Claus Bossehmman and Benjamin J. Richardson, *Environmental Justice and Market Mechanism* (1999)

Jean-Pierre Beurier, *New Technologies and Law of Marine Environment* (2000), Kluwer.

Richard L. Reversz et al. (eds.) *Environmental Law, the Economy and Sustainable Development* (2000), Cambridge.

Dovor Vidas, *Protecting the Polar Marine Environment* (2000) Cambridge.

Aynsley Kellor, *International Toxic Risk Management* (1999), Cambridge.

Zhiguo Gao, *Environmental Regulation of Oil and Gas* (1998), Kluwer.

Indian Law Institute, *Legal Control of Environmental Pollution* (1980)

Varshney, C.K. (ed.), *Water Pollution and Management* (1983), Wiley Eastern, New Delhi

World Commission on Environment and development, *Our Common Future* (1987), Oxford

British Institute of International and Comparative Law, *Selected Documents on International Environmental Law* (1975), London

Standing Committee on Environmental Law American Bar Association, *Common Boundary/Common Problems: The Environmental Consequences of Energy Production* (1982)

J.M. Spector, "Elephants, Donkeys and other Creatures? Presidential Election Cycles and International Law of the Global Commons" 15 *AM.U. INT'L L. Rev.* 5, pp 976-1038 (1999)

## **Paper-5: Resource Management and the Law**

### **Objectives of the course**

Sustainable use of resources, natural and man-made is the desideratum in an environmentally conscious period of human development. Wise use of water, land, forest and other common property resources, such as wetlands, lakes, roads and parks become an important task in this respect. Protection of various energy resources is equally significant element in countering wastage, indiscriminate use and unwise choices.

### **Syllabus**

1. **Water**
  - 1.1. Salinity
  - 1.2. Bund and spill ways
  - 1.3. Aquaculture and fishing: regulation

- 1.4. Irrigation Laws
- 1.5. Ground water management – Law & policy
- 1.6. Interstate water management and disputes

## **2. Land**

- 2.1. Controls on land development
- 2.2. Eco-friendly land planning: conservation, utilization and conversion.
- 2.3. Mining and quarrying

## **3. Concepts of Common Property and State Property**

- 3.1. Forest
- 3.2. Wildlife
- 3.3. Common facilities and the right to use: roads, parks, pathways, lakes, rivers
- 3.4. Natural heritage – Tribal habitat
- 3.5. Historical monuments
- 3.6. Wet lands: Wise use concept

## **4. Energy**

- 4.1. Sources
- 4.2. Energy related environmental problems: tapping, transmission and utilization, indiscriminate use
- 4.3. Utilization of conventional energy: hydro-electric, thermal and nuclear
- 4.4. Non-conventional energy: Solar, wind, tidal and biogas

## **5. Development**

- 5.1. Major River valley projects & Development dilemmas
- 5.2. Rights of Indigenous people
- 5.3. Popular movements
- 5.4. Watershed development, Rain water harvesting social forestry.

## **Select Bibliography**

Armin Rozencranz, et.al.(eds.), Environmental Policy and Law in India (1988), Butterworths, India

Kailash Thakur, Environmental Protection: Law and Policy in India (1997), Deep & Deep publications, New Delhi

Asok A.Desai, Environmental Jurisprudence, Vikas Publishing House Private Ltd., Delhi, 1998

WCED, Our Forest, Our Future (1999), Kluwer.

Diwedi, India's Environmental Policies, Programmes and Stewardship (1999), Mc.Millan.

Enid M.Barron, et.al.(eds.), Royal Commission on Environmental Pollution, London, U.K. (1998), Kluwer.

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Jack Grosse protection and management of our Natural Resources, Wild Life and Habitat (1977) Oceana.  
Enid.M.Barson and Ilga Nielson (eds.) Agriculture and Sustainable Use in Europe (1998), Kluwer.  
Trever Hella Well, Blackston's Guide to Contaminated Land (2000), Blackstone Press.  
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Leelakrishnan, P, The Environmental Law in India (1999), Butterworths – India  
Frodorick R.Anderson, et.al. Environmental Improvement through Economic Incentives (1977)  
David Hughes, Environmental Law, (1999) Butterworths, London  
S.K.Jain and A.R.K.Sastry, Threatened Plants of India: A State of the Art Report (1980)

## **Paper-6: Biological Diversity and Legal Order**

### **Objectives of the course**

Biological diversity includes all life forms on the earth and signifies a life supporting order, essential for the normal functioning of eco-systems and the Biosphere as a whole. Dependence of human life on biological diversity is thus no doubt essential. Destruction of bio-diversity, especially of the developing countries is a disturbing phenomenon and presents a matter of ethical and legal significance in relation to experimentation an animals and plants. Apart from being considered as gifts of nature, animals and plants becomes a target of commercial exploitation. Sustainable development envisages contrary position and lays emphasis on the duty to protect the diverse flora and fauna not only for present generation but also for the succeeding generations to come. With the above perspectives the course focuses on the legal mechanisms of preserving bio-diversity in a sustainable manner.

### **Syllabus**

#### **1. Bio-diversity**

- 1.1. Meaning
- 1.2. Need for protection of bio-diversity
- 1.3. Dependence of human life on the existence in flora and fauna
- 1.4. Significance of wild life
- 1.5. Medicinal Plants
- 1.6. Plant and Micro-organism

#### **2. Bio-diversity and Legal Regulation**

- 2.1. Utilization of flora and fauna for bio-medical purposes
- 2.2. Experimentation on animals: Legal and ethical issues
- 2.3. Genetic mutation of seeds and micro-organisms
- 2.4. Genetic engineering

- 2.5. Legal mechanisms of control
- 2.6. Recognition of regional and local agencies
  
- 3. Development Projects and Destruction of Bio-diversity: Concept of Sustainable Development**
  
- 4. Problems in Legal Regulation of Medicinal Plants**
  - 4.1. Cosmetic plants
  - 4.2. Animal products
  - 4.3. Utilization of flora and fauna for bio-medical purposes by Multinational Corporations and Problems of Control
  - 4.3. Regulation of Trade in Wild-Life Products
  
- 5. Legal framework for Development and Protection of Sanctuaries**
  - 5.1. Parks
  - 5.2. Zoos
  - 5.3. Biosphere resources
  - 5.4. Protection of genetic resources for agriculture
  
- 6. Law relating to Protection of forests and wildlife in India**

**Select bibliography**

- Arjun Prasad Nagore, *Biological Diversity and International Environmental Law* (1996) A.P.H. Publishing Corporation, New Delhi.
- Project Large, *Plant Variety Protection and Plant Biotechnology – Options for India* (1999), Allied.
- Wild Genetic Resources, Earthscan Press Briefing Document No.33, Earthscan, London (1982).
- K.L.Mehta and R.L.Arora, *Plant Genetic Resources of India; Their Diversity and Conservation* (1982), National Bureau of Plant Genetic Resources, New Delhi.
- P.N. Bhat et.al., *Animal Genetic Resources in India* (1981)
- P.N.Bhat, “Conservation of Animal Genetic Resources in India, “*Animal Genetic Resources, Conservation and Management* FAO, Rome, (1981).

## **BRANCH – VIII: HUMAN RIGHTS LAW**

### **Paper1: Concept and Development of Human Rights**

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

Protection of Human Rights (HR) became an important issue after the second world war and after the acceptance of Universal Declaration of Human Rights. The Growth of HR Law and jurisprudence thereafter was spontaneous and continuous. The changes in the global scenario bring new concept of HR protection against violation. In one sense, HR can be said as the rights, which the nature has endowed with human beings. However, they are not mere privileges given to the subjects by the ruler but are liberties permitted to the 'citizens' in a democracy. Manifestly a law that violates human rights is no law at all. Probably this perspective may give an impression that human rights are not different from natural rights envisaged by the natural law school.

Although Indian polity waited for more than one score and five years for adoption of Fundamental Duties in the Constitution, it is beyond doubt that every human being has responsibilities and obligation not only towards the other fellow beings, but also towards the society at large. Only when a society is aware of this right-duty relationship can there be any meaning to human rights.

This course is intended to highlight the concept of human rights, their evolution and their importance in our society now particularly in the era of privatization, globalisation and liberalization.

#### **Syllabus**

1. **Human Rights: Concept.**
  - 1.1. Human rights in Indian Tradition: Ancient, Medieval and Modern
  - 1.2. Human rights in Western Tradition
  - 1.3. Development of Natural rights
  - 1.4. Human rights in international law and national law
  - 1.5. Human Security
2. **Classification of Human Rights – First, Second and Third Generations: Historical Development**
3. **Human Rights: Politics and Society**
  - 3.1. Colonisation, Imperialism and Human rights
  - 3.2. Power, Practices, Accountability and Transparency
  - 3.3. Liberalization, Privatization and Globalization
  - 3.4. Human Duties: Responsibilities and Obligations
4. **Human Rights and Judicial Process**

- 4.1. Judicial Activism
- 4.2. Access to Justice

### **Select bibliography**

Angela Hegarty, Siobhan Leonard, Human Rights an Agenda for the 21<sup>st</sup> century (1999)  
Lalit Parmer, Human Rights, (1998)  
Rama Jois, Human Rights: Bharatiya value, (1998)  
David P.Forsythe, Human Rights in International Relations  
Lon L.Fuller, The Morality of Law  
John Finnis, Natural Law and Natural Rights, (1980)  
Julius Stone, Human Law and Human Justice, (2000), Universal, New Delhi  
M.G.Chitkara, Human Rights: Commitment and Betrayal, (1996)  
V.D. Mulshreshtra, Landmarks in the Indian Legal and Constitutional History, (1995)  
Robert Lewngat, The Classical Law of India (1998), Oxford.

## **Paper-2: Human Rights and International Order**

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

Human rights have universal application. They gathered importance when the United Nations adopted the 4 Universal Declaration of Human Rights in 1948. The role of international organisations in promoting awareness of human rights is very significant. The international conventions, though not binding, have persuasive force since the violations will be decried by the international community. International Non-Governmental Organisations watch and monitor human rights violations in every country. However, in the absence of national legislation, the enforcement of the rights will be difficult.

With the above perspectives in view this course will comprise of 42 units of one hour duration to be spread out during one semester.

### ***Syllabus***

#### **1. Development of the Concept of Human Rights Under International Law**

- 1.1 .Role of International Organisation and Human Rights  
United Nations & Its organs for Human Rights
- 1.2. Universal Declaration of Human Rights (1948)
- 1.3. Covenant on Political and Civil Rights (1966)
- 1.4. Covenant on Economic, Social and Cultural Rights (1966)
- 1.5. I L 0 and other Conventions and Protocols dealing with human rights

#### **2. Role of Regional Organizations**

- 2.1.European Convention on Human Rights
- 2.1.1.European Commission on Human Rights
- 2.2. American Convention on Human Rights

- 2.3. African Charter on Human Rights
- 2.4. other regional Conventions.

### **3. Protection Agencies and Mechanisms**

- 3.1. International Commission of Human Rights
- 3.2. Amnesty International
- 3.3. Non-Governmental Organizations (NGOs)
- 3.4. U.N. Division of Human Rights
- 3.5. International labour Organization
- 3.6. UNESCO
- 3.7. UNICEF
- 3.8. Voluntary organizations
- 3.9. National and State Human Rights Commissions

#### **International Enforcement of Human Rights**

- 4.1. Role of ICJ and-regional Institutions
- 4.2. European Court on Human Rights
- 4.3. American Court on Human Rights

#### **Select bibliography**

- Benedetto Conforti and Francesco Francioni, *Enforcing International Human Rights in Domestic Courts*, (1997).
- Francisco Forrest Martin, *International Human Rights Law and Practice*, (1997).
- Luck Clements, *European Human Rights Taking a Case under the Convention*, (1994).
- Evelyn A. Ankumah, *The African Commission on Human Rights and People's Rights*, (1996).
- R.K.Sinha, *Human Rights of the World*, (1997).
- Philip Alston, *The United Nations and Human Rights A Critical Appraisal*, (1992).
- R.S.Sharma and R.K.Sinha, *Perspectives in Human Rights Development*, (1997).
- The Human Rights Watch Global Report on Women's Human Rights*, (2000), Oxford.
- B.P.Singh Seghal, *Human Rights in India*, (1996).
- Chandan Bala, *International Court of Justice: Its Functioning and Settlement of International Disputes*, (1997).

### **Paper-3: Protection and Enforcement of Human Rights in India**

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

A reading of fundamental rights and duties in the Constitution of India reveals that they constitute the human rights charter in India. The judiciary, the major protective and enforcement machinery, is very active in protecting human rights. Judicial activism in this field has added new dimensions to human rights jurisprudence. There are a number of cases where courts apply the provisions of the

international conventions to fill the gaps in legislation. The apex court has also ventured to apply international convention even where there was no legislation in the area. Thus the judiciary has been directly implementing international conventions at the national level. This course aims at familiarising students with the judicial activism in protecting human rights and enables them to evaluate the adequacy of the methods of enforcement.

The course comprises of about 42 units of one-hour duration spread over a period of one semester.

### ***Syllabus***

#### **1. History and Development of Human Rights in Indian Constitution**

- 1.1. Constitutional Philosophy - Preamble
- 1.2. Fundamental Rights
- 1.3. Directive Principles of State Policy
- 1.4. Fundamental Duties

#### **2. Judicial Activism and Development of Human Rights Jurisprudence**

#### **3. Enforcement of Human Rights**

- 3.1. Formal enforcement mechanisms
  - 3.1.1. Role of Supreme Court
  - 3.1.2. Role of High Courts
  - 3.1.3. Role of Civil and Criminal Courts
  - 3.1.4. Statutory Tribunals
  - 3.1.5. Special Courts

#### **4. Role of India in implementing international norms and standards**

### ***Select bibliography***

- D.D.Basu, *Human Rights in Indian Constitutional Law*, (1994).  
Vijay Chitnis,(etal.). *Human Rights and the Law: National and Global Perspectives*, (1997).  
B.P.Singh Seghal, Law, *Judiciary and Justice in India*, (1993.).  
James Vadakkumchery, *Human Rights and the Politics in India*, (1996).  
D.R.Saxena, *Tribals and the Law*, (1997).  
Poornima Advani, *Indian Judiciary: A Tribute*, (1997).  
Justice Venkataramiah, *Human Rights in the Changing World*, (1998)  
Paramjit S.Jaiswal and Neshtha Jaiswal, *Human Rights and the Law*, (1996).

## **Paper-4: Human Rights of Disadvantaged Groups: Problems and Issues in the Protection and Enforcement**

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

Human rights are the rights of all human beings. Violation of these rights is human rights violations. Due to frequent violations to particular groups in disadvantageous positions, new categories of human rights have emerged. These groups are of people such as women, children, prisoners and dalits. Violation of human rights of these groups is of great concern of every nation today. The officials of the state like the police force commit such violations. This is only an illustration. There are several other categories of violations.

**This course with the above mentioned perspective comprises of about 42 units of one hour duration to be spread out during one semester.**

### **Syllabus**

- 1. Concept of Disadvantaged Groups**
- 2. Emerging Human Rights Jurisprudence and the Role of the Judiciary**
  - 2.1. Rights of Women
  - 2.2. Rights of the Child
  - 2.3. Rights of Prisoners
  - 2.4. Rights of Dalits
  - 2.5. The Tribal and other indigenous people
  - 2.6. The Mentally ill
  - 2.7. The Stateless persons
  - 2.8. The Unorganised labour
  - 2.9. 'AIDS victims
  - 2.10. Rights of Minorities
- 3. Enforcement of Human Rights**
  - 3.1. Protection Laws of the Disadvantaged Groups: Problems and Issues
- 4. Future Perspectives of the Human Rights of the Disadvantaged**

### **Select bibliography**

- G.S Bhargava and R.M.Pal, *Human Rights of Dalit Societal Violation*, (1999).  
Geraldine Van Bueren, *The International Law on the Rights of the Child*, (1998).  
Prabhat Chandra Tripathi, *Crime Against Working Women*, (1998).  
Paras Diwan and Piyush Diwan, *Women and Legal Protection*  
Philip Alston (eta!.), *Children, Rights and the Law*.  
Kelly D. Askin, Dorean M. Koenig, *Women and International Human Rights Law*, (1999).  
N.K.Chadrabarti, *Juvenile Justice in the Administration of Criminal Justice*, (1999).  
Rebecca Wallace, *International Human Rights, Text and Materials*, (1997).  
Janaki Nair, *Women and Law in Colonial India*, (1996).

Simon Creighton, Vicky King, *Prisons and the Law*, (1996).

## **Paper-5: International Humanitarian Law and Refugee Law**

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

The two world wars had had enough of lessons to teach. But the present scenario shows that the nations have not learnt any lesson: wars continue to be there. The International Humanitarian Law aims at humanising war though war itself is inhuman. Human rights do have value only in peace time. War is the negation of all human rights. Though the United Nations Charter does not permit war, it has shown the wisdom to regulate the war if one occurs.

War is one of the factors which creates the problem of refugees. There have been some endeavours on the part of the international community to protect the interests of refugees. But due to political interference, the formulation of the definition of the term 'refugee' in the 'Convention relating to the status of refugees' has been such that it helps the developed countries to shirk the responsibility towards the refugees leaving the burden to the developing countries.

This course intends to equip the students with the awareness of the various problems of refugees: and to inspire them to critically evaluate the international conventions and national legislation.

This paper comprises of about 42 units of one hour duration spread over a period of one semester

### ***Syllabus***

#### **I. Introduction**

- 1.1. Concept, Nature, Origin and Objectives of International Humanitarian law (IHL)
- 1.2. International Law and IHL
- 1.3. Related concepts; Armed conflicts (National, International and Non-international);
- 1.4. Neutrality. .

#### **2. Laws of use and non-use of coercive force**

- 2.1. Peaceful means or settlement of disputes
- 2.2. Laws of war treaties (brief treatment)
- 2.3. General Rules of Land, Air and Sea warfare
- 2.4. Limits on the choice of means and methods of warfare

#### **3. Protection of Vulnerable Groups of Armed Conflicts**

- 3.1. Brief review of general obligations of human treatment
- 3.2. Treatment and protection of Sick, Wounded and shipwrecked individuals.
- 3.3. Protection of Women, Children, Refugees and other Vulnerable groups.
- 3.4. Laws dealing with Prisoners of war.

#### **4. Non-International Conflicts and IHL**

- 4.1. Concept, Nature and Kinds of Non-International Conflicts
- 4.2. Human Rights and IHL
- 4.3. Rules for Protection of Conflict victims.

## **5. Control Mechanisms**

- 5.1. Means of prevention
  - 5.1.1. Respect *for* the law by the states
  - 5.1.2. General Dissemination of the conventions and protocol
  - 5.1.3. Instruction to concerned authorities.
  - 5.1.4. Appropriate training to concerned personnel
  - 5.1.5.. Legal Cell and Advisers

### **5.3. Means of Control**

- 5.2.1. Obligations on the part of parties involved in conflict
- 5.2.2. Protecting powers
- 5.2.3. Substitutes for protecting powers
- 5.2.4. Sanctions
- 5.2.5. Other Means, including role of NGOs.

## **6. Refugee Law**

- 6.1. Law of protection and assistance.
- 6.2. Concept, Rights and Duties and Legal status of refugees.
- 6.3. Causes and Consequences of Refugee flow
- 6.4. National and International Response.

### **Select bibliography**

- B.S.Chimni, *International Refugee Law*, (2000).  
Jean Yves Calier, *Who is a Refugee A Comparative Case Law Study*, (1997)  
Kelly Dawn Askin, *War Crimes Against Women*, (1997).  
M.K.Balachandran, Rose Varghese, *Introduction to International Humanitarian Law*, (1997).  
Guy S. Goodwin-Gill, *The Refl![]ee in International Law*, (1996). t"  
Veral Gowlland- Debbas, *The Problem of Refugees in the Light of Contemporary Internationa Law Issues*, (1996).  
*Anti-personnel Landmines Friend or Foe?*, International Committee of Red Cross, ("1996).  
*Resettlement Handbook*, The United Nations High Commissioner for Refugees.  
James C. Hathaway, Hohn A. Dent, *Refugee Rights: Report on a Comparative Survey*, (1995)

## **Paper-6: Science, Technology and Human Rights**

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

We live in an era of scientific development. The alarming rate of development in biotechnology calls for drastic change in the law. Many concepts and terms have to be re-defined. The development in information technology poses serious problems and challenges The rapid changes made by science and technology will have to be reflected in law to make it meaningful and realistic in the modern era. This course is intended to make students conscious of various legal problems arising due to

developments in such areas as biotechnology and information technology and to identify the changes needed in the law.

## **Syllabus**

- 1. Interrelationship of Science, Technology and Human Rights**
- 2. Implication of Development of Science and Technology on Human Rights**
  - 2.1. Right to environment in the development of science and technology
  - 2.2. Right to development in the advancement of science and technology
  - 2.3. Right to human health and impact of developments in medical sciences
- 3. Medicine and the Law**
  - 3.1. Organ transplantation
  - 3.2. Experimentation on human beings
  - 3.3. Euthanasia (mercy killing)
  - 3.4. Gene therapy
- 4. Issue of Human Rights Ethics in Scientific and Technological Development**
  - 4.1. Sex Determination test
  - 4.2. Induced Abortion
  - 4.3. Reproductive technology
  - 4.4. Cloning
  - 4.5. Invitro fertilization
  - 4.6. Artificial Insemination
  - 4.7. Surrogate Motherhood
- 5. Development in Information Technology and Human Rights**
- 6. Impact of Scientific and Technological Progress on Human Rights: Normative Response of the International Community**
  - 6.1. Right to Life
  - 6.2. Right to Privacy
  - 6.3. Right to Physical Integrity
  - 6.4. Right to information
  - 6.5. Right to Benefit from Scientific and Technological Progress
  - 6.6. Right to Participate

## **Select bibliography**

- Diane Rowland, Elezabeth Macdonald, *Information Technology Law*, (1997).  
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