

**Dr. Babasaheb Ambedkar  
Marathwada University,  
Aurangabad.**

***SYLLABUS : LL.B.***

**[1] THREE YEAR DEGREE  
COURSE**

**AND**

**[2] FIVE YEAR DEGREE  
COURSE**

**(Effective from June 2004  
onwards progressively)**

**Price - Rs. 100/-**

**SUBJECT WISE WORK LOAD OF LAW COURSE.****LL.B. (THREE YEAR COURSE)**

The Scheme for the LL.B. Three Year Course shall be as follows :

R-60 (C) :

Each paper shall be of 3 hours duration and shall carry 100 marks.  
There shall be Lecture classes for 6 hours per week per subject.

The tutorial classes may be utilized for Theory Lectures.

The medium of instructions shall be in English.

There shall be Court Visits etc. for the Practical Papers.

There shall be 2 semesters for every year of LL.B. Three Year Course and the University examination shall be conducted in every semester.

The candidates for Ist Law Examination shall be examined in the following Subjects.

**FIRST LAW :****FIRST SEMESTER :**

Effective from : June 2004

Paper I)	Labour Law	100 marks
Paper II)	Contract-I and Specific Relief Act	100 marks
Paper III)	Law of Torts and Consumer Protection Law	100 marks
Paper IV)	Family Law-I	100 marks

**SECOND SEMESTER :**

Paper V)	Indian Penal code	100 marks
Paper VI)	Indian Constitutional Law and Protection Of Civil Rights Act	100 marks
Paper VII)	Legal Language and Legal Writings Including General English	100 marks
Paper VIII)	Optional (Any one) The teaching of which is available In the College.	
	Legal History	100 marks
Paper IX)	Practical : Professional Ethics, Accountancy for Lawyer and Bar Bench Relations	100 marks

**SECOND YEAR (GENERAL) EXAMINATION**  
**EFFECTIVE FROM JUNE 2005**

R.58 Candidates for the Second Law Examination LL.B. (General) shall be examined in the following subjects.

**THIRD SEMESTER**

- |    |  |           |
|----|--|-----------|
| 1. | Jurisprudence  | 100 marks |
| 2. | Contract-II (Indian Contract Act, Indian Partnership Act, Sale of Goods Act and Other specific Contracts.) | 100 marks |
| 3. | Family Law-II.   | 100 marks |
| 4. | Property Law including Transfer of Property Act and Easement Act.  | 100 marks |
| 5. | Administrative Law.  | 100 marks |

**FOURTH SEMESTER**

- |     |   |           |
|-----|---|-----------|
| 6.  | Company Law.  | 100 marks |
| 7.  | Human Rights and International Law.   | 100 marks |
| 8.  | Arbitration, Conciliation and Alternative Dispute Resolution Systems.                     | 100 marks |
| 9.  | OPTIONAL (any one of the following)<br>The teaching of which is available in the college. | 100 marks |
| a)  | Conflict of Laws.   |           |
| b)  | Banking Law including Negotiable Instrument Act.  |           |
| c)  | Investment and Security Laws.   |           |
| d)  | Trusts, Equity and Fiduciary relationships.   |           |
| e)  | Criminology & Penology.   |           |
| 10. | Practical.  |           |

Paper-X Public Interest Lawyering, Legal Aid and Para Legal Services.

i) Lok Adalat, ii) Legal Aid Camp, iii) Legal Literacy, iv) Paralegal Training, v) Editing of Law Journals, vi) Law Office Management, vii) Negotiations and Counseling viii) Use of Computer in legal work.

Report regarding visit, observation and other practical work completed by the candidate shall be submitted on the topics identified in the above subjects in practical book (work book.) There shall be 80 marks for practical book (work book). And 20 marks for Viva-voce.

**LL.B. FINAL (THIRD YEARS 3 YEARS COURSE)**  
**SCHEME FOR IIIIRD YEAR LAW EXAMINATION**  
**EFFECTIVE FROM JUNE 2006**

R.60 B) Candidate for final IIIrd year Law (LL.B.) examination shall be examined in the following subjects :

**FIFTH SEMESTER**

- |  |           |
|--|-----------|
| 1) Criminal Procedure Code<br>Juvenile Justice Act and probation of offenders Act. | Marks-100 |
| 2) Civil Procedure Code and Limitation Act   | Marks-100 |
| 3) Law of Evidence   | Marks-100 |
| 4) Environmental Law   | Marks-100 |
| 5) Interpretation of Statute   | Marks-100 |

**SIXTH SEMESTER**

- |  |           |
|--|-----------|
| 6) Land Laws including Ceiling and any other Local Laws.         | Marks-100 |
| 7)OPTIONAL (Any one of the following)                            | Marks-100 |
| a) Air and Space Law   |           |
| b) Law of Medicine   |           |
| c) Women and Law and relating child Law, Poverty and Development |           |
| d) Intellectual Property Law                                     |           |
| e) Mari-time Law   |           |

Practical-Paper VIII Moot Court, Pre trial preparations and participation in trial proceeding.

Practical Paper IX : Drafting of Pleading and Conveyancing.

R.60 C) Scheme for the Final Law (LL.B.) Examination shall be as follows :

(Each paper shall be of 3 hours duration and shall carry 100 marks, for papers I to VII there shall be lectures classes for at least 3 hours and 1 hours of Tutorial work per week. For papers VII to IX appropriate practical training is imparted.)

**SUBJECT WISE WORK LOAD OF LAW COURSE.**

**LL.B. (Five Year Course)**

The Scheme for the LL.B. Five Year Course shall be as follows :  
R-60.(C) :

Each paper shall be of 3 hours duration and shall carry 100 marks.  
There shall be Lecture classes for 6 hours per week per subject.

The tutorial classes may be utilized for Theory Lectures.  
The medium of instructions shall be in English.  
There shall be Court Visits etc. for the Practical Papers.

There shall be 2 semesters for every year of LL.B. Five Year Course and the University examination shall be conducted in every semester.

The candidates for III N.L.C. Examination shall be examined in the following Subjects.

**FIRST SEMESTER :**

Effective from : June 2004

Paper I	: Labour Law	100 marks
Paper III	: Law of Contract – I	100 marks
	a) General Principle of Contract	
	b) Specific Relief Act 1963	
Paper III	: Torts and Consumer Protection Laws	100 marks
Paper IV	: Family Law – I	100 marks

**SECOND SEMESTER**

Paper V	: Law of Crimes i.e. Indian Penal Code, 1860	100 marks
Paper VI	: Constitutional Law	100 marks
Paper VII	: Legal Language, Legal Writing including General English	100 marks

Note : Legal Language, Legal Writing including General English. The Students who have passed this paper in Pre Law II year need not appear again.

Paper VIII : Optional 100 marks  
Legal History

Practical /Paper IX: Professional ethics, Accountancy  
for lawyers and  
Bar-Bench Relations.

**NEW LAW IV YEAR OF 5 YEAR  
DEGREE COURSE – EFFECTIVE FROM JUNE 2005**

**THIRD SEMESTER**

Paper-I	Jurisprudence	Marks-100
Paper-II	Contract-II	Marks-100
Paper-III	Family Law-II	Marks-100
Paper-IV	Property Law including Transfer of Property Act and Easement Act.	Marks-100
Paper-V	Administrative Law	

**FOURTH SEMESTER**

Paper-VI	Company Law	Marks 100
Paper-VII	Human Rights and International Law (Human Rights) Protection of Human Rights	Marks-100
Paper-VIII	Arbitration, Conciliation and Alternative Dispute Resolution Systems Arbitration & Conciliation Act Alternate Dispute Resolution Systems	Marks-60
Paper-IX	Optional (Any one) Criminology & Penology	Marks-100
Practical paper – Public Interest Lawyering, Legal aid and para legal services		

**NEW LAW FIFTH YEAR OF 5 YEARS COURSE  
(Effective from June 2006)**

**FIFTH SEMESTER**

Paper-I	Criminal Procedure Code. Juvenile Justice Act, 2000 and Probation of offenders Act	Marks 100
Paper-II	Civil Procedure Code and Limitation Act	Marks 100
Paper-III	Law of Evidence	Marks 100
Paper-IV	Environmental Law including Laws for the protection of the wild life and other living creature including animal welfare.	Marks 100
Paper-V	Interpretation of statutes	Marks 100

**SIXTH SEMESTER**

Paper-VI	Land Laws, including ceiling and other Local Laws.	Marks 100
Paper-VII	Optional (Any one) Intellectual Property Laws	Marks 100
Paper-VIII	Legal Language, Legal Writing including General English	Marks 100
Note :	The students who have passed earlier in the subject of legal language and legal writing including General English need not appear again to this paper VIII.	
Paper-IX (Practical)	Moot Court, Pre-trial preparations and participation in trial proceedings	
Paper-X	Drafting, Pleading and Conveyancing (Practical)	

**LL.B. 1st YEAR****CHAPTER-I  
INTRODUCTION**

Everything that is printed becomes out of date. The saying is true to a great extent in the case of both enacted and judge made laws in India. No wonder many programmes of legal education become outmoded by the time they are introduced after long gestation period. This makes constant revision and updating essential.

The Curriculum Development Centre (CDC) in law submitted their report in the eighties suggesting a thorough reform of the LL.B and LL.M courses. The CDC programmes were ambitious, substantial in content and rich with a vision for the future. They looked at the maladies of legal education then existing in the land and made a valiant attempt to renovate the system with notable recommendations for improvement.

Not only LL.M. and LL.B. courses but also courses on specialized areas where knowledge of law was essential captured their attention and concern. The proposal for introduction of LL.B. (Hons.) with innovative structure of more academic inputs, modern methods of teaching and learning and with distinct provision for better teacher and student involvement stands above all the other recommendations. This was done with a view to having a transitional strategy to move towards higher standards considering the realities of the state of legal education in the country.

***LL.B Programme: the interaction between UGC and BCI***

In the mid nineties the Bar Council of India (BCI) moved in and made striking reforms in the LL.B. programme with more academic inputs and practical courses. They had identified the papers essential for making a professional lawyer and made them part of the curriculum in law schools and law colleges that impart professional education. Without undergoing these required courses no one can become an advocate. This was conveyed to all law schools in BCI letter LE (Cir.No.4/1997) dated 21st October 1997. However, they have laid down only the number and title of papers to be offered. The details were left to be evolved by Universities. The BCI said:

"The identification of the content and number of each paper in the prescribed courses is left to the discretion of the University Academic Bodies. The CDC-Report (1988) commissioned by the UGC may be followed by Universities while preparing the syllabi for the various courses."

The Advocates Act 1961 empowers the BCI "to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils" [S.7(h)]. The University Grants Commission Act 1956 imposes a mandate on the UGC to take all such steps as they think fit "for the promotion and co-ordination of university education and for the determination and maintenance of standards of teaching, examination and research in universities"(S.12). In the field of legal education, there was, thus, a dilemma of dual responsibility of the BCI and UGC. The CDC in the eighties were aware of this difficulty and suggested certain ways and means to solve the problems arising from the dual responsibility and called for more interaction, in the form of information sharing and consultation, between UGC and BCI. It is significant that BCI had an open mind when they set out in 1995 for a reform. They consulted the universities and the UGC law panel while formulating the reforms for LL.B. courses. Although this cannot be described as closer interaction, the gaps in common endeavours between BCI and UGC for reforms in legal education were being filled. It is significant that besides asking to follow CDC report in the preparation of syllabi, BCI resolved to accept some of the courses recommended by the CDC. Environmental law, human rights law and consumer protection laws were made compulsory subjects. Law and poverty, comparative law, insurance law, law and medicine, women and the law and intellectual property were made optional papers. Administrative law and labour law were promoted to the status of compulsory courses.

**LL.B. FIRST YEAR (3 YEARS COURSE )  
NEW LAW - III YEAR OF FIVE YEARS COURSE  
AND  
PRE-LAW I & II YEAR**

Law

***BCI C 19 LABOUR LAW***

***Objectives of the course***

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

Is labour merely a commodity? Is it only a factor in production? There may be different approaches towards this question. One fact is certain. Today's labour is engaged in a battle for position of honour and status equal with management. The law and practice relating to labour is the story of this battle. In this context, the study of labour law is not to be confined to mastering of the rules and regulations relating to the employment of the work force. Its wings spread wider. It has its aim on the societal impulses on, and state reactions to, the complex socio-economic, human and political problems arising out of the constant conflicts between different classes.

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

The following syllabus prepared with this perspective will comprise about 84 units of one hour duration.

***Syllabus***

- |  |                |
|--|----------------|
| <b>1. Historical perspectives on Labour</b>  | <b>units 6</b> |
| 1.1. Labour through the ages - slave labour - guild system - division on caste basis - labour during feudal days.  |                |
| 1.2. Colonial labour law and policy  |                |
| 1.3. Labour capital conflicts: exploitation of labour, profit motive, poor bargaining power, poor working conditions, unorganised labour, bonded labour, surplus labour, division of labour and super-specialisation - lack of alternative employment. |                |
| 1.4. Theories of labour and surplus value  |                |

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- 1.5. From laissez faire to welfarism and to globalisation: transition from exploitation to protection and from contract to status : changing perspectives on labour.
2. Trade unionism Units 10
- 2.1. Labour movement as a counter measure to exploitation - history of trade union movement in India.
- 2.2. Right to trade union as part of human right to freedom of association - international norms and the Indian Constitution.
- 2.3. Legal control and protection of trade union: registration, amalgamation, rights, immunities, liabilities and dissolution.
- 2.4. Problems: multiplicity of unions, over politicisation - intraunion and inter-union rivalry, outside leadership, closed shop and union-shop, recognition of unions.
3. Collective bargaining units 9
- 3.1. The concept
- 3.2. International norms - conditions precedent - merits and demerits.
- 3.3. Bargaining process
- 3.3.1. Negotiation
- 3.3.2. Techniques of pressurization : strike and lockout, go-slow, work to rule, gherao, bundh
- 3.4. Structure of bargaining : plant, industry and national levels
- 3.5. Duration and enforcement of bipartite agreement
- 3.6. Reforms in law
4. State Regulation of Industrial Relations units 15
- 4.1. Theoretical foundations: social justice, labour welfare, public interest, productivity, industrial peace and development and price control.
- 4.2. Methods of regulation:
- 4.2.1. Recognition of mutual arrangements

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- 4.2.2. Assistance to bipartite settlement: conciliation, voluntary arbitration, formulation of standing orders.
- 4.2.3. State prescription of machinery: reference for adjudication (the political overtones), the adjudicatory mechanisms (How do they differ from courts?), award and its binding nature, judicial review of awards.
- 4.2.4. State prescription of standards in lay off, strike, lockout, retrenchment, closure and transfer of undertakings
- 4.3. The conceptual conundrum : industry, industrial dispute, workmen.
- 4.4. Unfair labour practices.
5. Discipline in industry units 8
- 5.1. Doctrine of hire and fire - history of management's prerogative.
- 5.2. Fairness in disciplinary process:
- 5.1.1. Punishment for misconduct - meaning of misconduct
- 5.1.2. The right to know : the charge sheet
- 5.1.3. The right to defend : domestic enquiry, notice, evidence, cross-examination, representation, unbiased inquiry officer and reasoned decision.
- 5.1.4. Prenatal (permission) and postnatal (approval) control during pendency of proceedings (S.33 of the I.D. Act.)
- 5.3. Role of management and labour
6. Remuneration for Labour units 12
- 6.1. Theories of wages : marginal productivity, subsistence, wages fund, supply
- 6.2. Concepts of wages (minimum wages, fair wages, living wages, need-based minimum wages)
- 6.3. Components of wages : dearness allowance, principle of fixation.
- 6.4. Disparity in wages in different sectors - need for rationalisation and national approach
- 6.5. Wage determining process - modes and modalities.

- 6.5.1. Unilateral fixation by employer
- 6.5.2. Bilateral fixation
- 6.5.3. Conciliation, arbitration and adjudication
- 6.5.4. Wage Board and Pay Commission
- 6.5.5. Principles of wage fixation
- 6.6. Concept of bonus - computation of bonus
- 6.7. Protection of wages : non-payment, delayed payment, unauthorised deductions - remedial measures.
7. Health and Safety units 10
- 7.1. Obligations for health and safety of workmen - legislative controls : factory, mines and plantations.
- 7.2. Employer's liability:
- 7.2.1. Workmen's compensation
- 7.2.2. Employee's State Insurance
- 7.2.3. Liability for hazardous and inherently dangerous industries - environmental protection
8. Labour Welfare units 9
- 8.1. Welfare provided by the employers and through bipartite agreements and by statutory prescription.
- 8.2. Provident fund and family pension.
- 8.3. Gratuity
- 8.4. Insurance
- 8.5. Inter-state migrant workmen - regulation of employment and conditions of service.
- 8.6. Employment of young persons : prohibition of employment of children, regulation of employment of young persons.
- 8.7. Woman and labour force
- 8.7.1. Equal remuneration law, maternity benefits, protective provisions for women under factories, plantations and mines laws

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units 12

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### 3. Aids to Interpretation

- 3.1. Internal aids
  - 3.1.1. Title
  - 3.1.2. Preamble
  - 3.1.3. Headings and marginal notes.
  - 3.1.4. Sections and sub-sections
  - 3.1.5. Punctuation marks.
  - 3.1.6. Illustrations, exceptions, provisos and saving clauses
  - 3.1.7. Schedules
  - 3.1.8. Non-obstante clause.
- 3.2. External aids
  - 3.2.1. Dictionaries
  - 3.2.2. Translations
  - 3.2.3. Travaux Preparatoires
  - 3.2.4. Statutes in pari materia
  - 3.2.5. Contemporanea Exposito
  - 3.2.6. Debates, inquiry commission reports and Law Commission reports

units 5

### 4. Rules of Statutory Interpretation

- 4.1 Primary Rules
  - 4.1.1. Literal rule
  - 4.1.2. Golden rule
  - 4.1.3. Mischief rule (rule in the Heydon's case)
  - 4.1.4. Rule of harmonious construction
- 4.2: Secondary Rules
  - 4.2.1. Noscitur a sociis

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4.2.2. Eiusdem generis

4.2.3. Reddendo singula singulis

## 5. Presumptions in statutory interpretation

units 7

5.1. Statutes are valid

5.2. Statutes are territorial in operation

5.3. Presumption as to jurisdiction

5.4. Presumption against what is inconvenient or absurd

5.5. Presumption against intending injustice

5.6. Presumption against impairing obligations or permitting advantage from one's own wrong

5.7. Prospective operation of statutes

## 6. Maxims of Statutory Interpretation

units 13

6.1. Delegatus non potest delegare

6.2. Expressio unius exclusio alterius

6.3. Generalia specialibus non derogant

6.4. In pari delicto potior est conditio possidentis

6.5. Utres valet potior quam pareat

6.6. Expressum facit cessare tacitum

6.7. In bonam partem

## 7. Interpretation with reference to the subject matter and purpose

units 10

7.1. Restrictive and beneficial construction

7.1.1. Taxing statutes

7.1.2. Penal statutes

7.1.3. Welfare legislation

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- 7.2. Interpretation of substantive and adjunclival statutes
- 7.3. Interpretation of directory and mandatory provisions
- 7.4. Interpretation of enabling statutes
- 7.5. Interpretation of codifying and consolidating statutes
- 7.6. Interpretation of statutes conferring rights
- 7.7. Interpretation of statutes conferring powers.

## 8. Principles of Constitutional Interpretation

units 10

- 8.1. Harmonious construction
- 8.2. Doctrine of pith and substance
- 8.3. Colourable legislation
- 8.4. Ancillary powers
- 8.5. "Occupied field"
- 8.6. Residuary power
- 8.7. Doctrine of repugnancy

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G.P.Singh, *Principles of Statutory Interpretation*, (7th Edition) 1999, Wadhwa, Nagpur.

P. St. Langan (Ed.), *Maxwell on The Interpretation of Statutes* (1976) N.M.Tripathi, Bombay

K.Shanmukham, N.S.Bindras's *Interpretation of Statutes*, (1997) The Law Book Co. Allahabad.

V.Sarathi, *Interpretation of Statutes*, (1984) Eastern, Lucknow

M.P.Jain, *Constitutional Law of India*, (1994) Wadhwa & Co.

M.P.Singh, (Ed.) V.N.Sukla's *Constitution of India*, (1994) Eastern, Lucknow.

U.Baxi, Introduction to Justice K.K.Mathew's, *Democracy Equality and Freedom* (1978) Eastern, Lucknow

**Books Recommended:**

1. Industrial Law : by G.M.Kothari
2. Labour & Industrial Laws: Dr.V.G.Goswami
3. Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act: R.S.Deogaonkar.

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**BCI C 02 CONTRACT - I (GENERAL PRINCIPLES OF CONTRACT AND SPECIFIC RELIEF)**

*Objectives of the course*

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

The conferment and protection by the law of this contract making power of persons gives them a considerable leeway to strike best bargain for the contract making persons. In a way they are permitted to regulate and define their relations in a best possible manner they chose. However, the contours of contractual relations in a feudal, colonial and capitalist society of pre-independence india cannot necessarily be the same in an independent and developing Indian society. Whatever may be the nature of a given society, the contractual relations, as are obtained in that society, are governed by certain principles which are more or less of a general and basic nature. In India these general principles are statutised in the form of the Indian Contract Act 1972.

This course is designed to acquaint a student with the conceptual and operational parameters of these various general principles of contractual relations.

Specific enforcement of contract is an important aspect of the the law of contracts. Analysis of the kinds of contracts that can be specifically enforced and the methods of enforcement forms a significant segment of this study.

The following syllabus prepared with this perspective will comprise of about 84 Units of one-hour duration.

*Syllabus*

1. General Principles of Law of contract units 40
  - 1.1. History and nature of contractual obligations
  - 1.2. Agreement and contract: definitions, elements and kinds.

- law
- 1.3. Proposal and acceptance- their various forms, essential elements, communication and revocation- proposal and invitations for proposal- floating offers- tenders- dumping of goods.
- 1.4. Consideration - its need, meaning, kinds, essential elements - nudum pactum - privity of contract and of consideration- its exceptions- adequacy of consideration- present, past and adequate consideration- unlawful consideration and its effects- views of Law Commission of India on consideration- evaluation of the doctrine of consideration.
- 1.5. Capacity to contract- meaning- incapacity arising out of status and mental defect- minor's agreements- definition of 'minor'- accessories supplied to a minor- agreements beneficial and detrimental to a minor - affirmation- restitution in cases of minor's agreements- fraud by a minor- agreements made on behalf of a minor- minor's agreements and estoppel- evaluation of the law relating to minor's agreements- other illustrations of incapacity to contract.
- 1.6. Free consent- Its need and definition- factors vitiating free consent.
- 1.6.1. Coercion- definition- essential elements- duress and coercion- various illustrations of coercion- doctrine of economic duress- effect of coercion
- 1.6.2. Undue influence- definition- essential elements- between which parties can it exist? Who is to prove it? Illustrations of undue influence- independent advice- pardahanashin women- unconscionable bargains - effect of undue influence.
- 1.6.3. Misrepresentation - definition - misrepresentation of law and of fact- their effects and illustration.
- 1.6.4. Fraud - definition - essential elements - suggestion falsi-suppressio veri - when does silence amount to fraud? Active- concealment of truth - importance of intention.
- 1.6.5. Mistake - definition - kinds- fundamental error - mistake of law and of fact - their effects - when does a mistake vitiate free consent and when does it not vitiate free consent?
- 1.7. Legality of objects :
- 1.7.1. Void agreements - lawful and unlawful considerations, and objects - void, voidable, illegal and unlawful agreements and their effects.
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- 1.7.2. Unlawful considerations and objects:
  - 1.7.2.1. Forbidden by law
  - 1.7.2.2. Defeating the provision of any law
  - 1.7.2.3. Fraudulent
  - 1.7.2.4. Injurious to person or property
  - 1.7.2.5. Immoral
  - 1.7.2.6. Against public policy
- 1.7.3. Void Agreements:
  - 1.7.3.1. Agreements without consideration
  - 1.7.3.2. Agreements in restraint of marriage
  - 1.7.3.3. Agreements in restraint of trade- its exceptions- sale of goodwill, section 11 restrictions, under the partnership Act, trade combinations, exclusive dealing agreements, restraints on employees under agreements of service.
  - 1.7.3.4. Agreements in restraint of legal proceedings- its exceptions.
  - 1.7.3.5. Uncertain agreements
  - 1.7.3.6. Wagering agreement - its exception.
- 1.8. Discharge of a contract and its various modes.
  - 1.8.1. By performance- conditions of valid tender of performance- How? By whom? Where? When? In what manner? Performance of reciprocal promises- time as essence of contract.
  - 1.8.2. By breach - anticipatory breach and present breach.
  - 1.8.3. Impossibility of performance- specific grounds of frustration- application to leases- theories of frustration- effect of frustration- frustration and restitution.
  - 1.8.4. By period of limitation
  - 1.8.5. By agreement- rescission and alteration - their effect- remission and waiver of performance - extension of time- accord and satisfaction.
- 1.9. Quasi-contracts or certain relations resembling those created by contract
- 1.10. Remedies in contractual relations:

- 1.10.1. Damages-kinds-remoteness of damages- ascertainment of damages
- 1.10.2. Injunction- when granted and when refused- Why?
- 1.10.3. Refund and restitution
- 1.10.4. Specific performance- When? Why?
2. **Government as a Contracting Party** units 10
- Constitutional provisions - government power to contract- procedural requirements- kinds of government contracts- their usual clauses- performance of such contracts- settlements of disputes and remedies.
3. **Standard Form Contracts** units 10
- Nature, advantages - unilateral character, principles of protection against the possibility of exploitation- judicial approach to such contracts- exemption clauses - clash between two standard form contracts- Law Commission of India's views
4. **Multi-national Agreement** units 6
5. **Strategies and constraints to enforce contractual obligations** units 8
- 5.1. Judicial methods- redressal forum, remedies
- 5.2. Other methods like arbitration, Lok Adalat, Nyaya Panchayat and other such non formal methods
- 5.3. Systemic constraints in settling contractual disputes
- 5.3.1. Court fees, service of summonses, injunctions, delay.
6. **Specific relief** Units 10
- 6.1. Specific performance of contract
- 6.1.1. Contract that can be specifically enforced
- 6.1.2. Persons against whom specific enforcement can be ordered
- 6.2. Rescission and cancellation
- 6.3. Injunction
- 6.3.1. Temporary

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- 6.3.2. Perpetual
- 6.4. Declaratory orders
- 6.5. Discretion and powers of court

**Select bibliography**

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P.S. Atiya, *Introduction to the Law of Contract* 1992 reprint (Clarendon Law Series)

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G.C. Cheshire, and H.S. Fifoot and M.P. Furmston, *Law of Contract* (1992) ELBS with Butterworths

M. Krishnan Nair, *Law of Contracts*, (1998)

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R.K. Abichandani, (ed.), *Pollock and Mulla on the Indian Contract and the Specific Relief Act* (1999), Tripathi.

Banerjee. S.C, *Law of Specific Relief* (1998), Universal

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Anand and Aiyer, *Law of Specific Relief* (1999), Universal

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**BCI C 04 TORT AND CONSUMER PROTECTION LAWS****Objectives of the course**

With rapid industrialization, tort action came to be used against manufacturers and industrial units for products injurious to human beings. Presently, the emphasis is on extending the principles not only to acts, which are harmful, but also to failure to comply with standards that are continuously changing due to advancement in science and technology. Product liability is now assuming a new dimension in developed economics.

In the modern era of consumer concern of goods and services, the law of torts has an added significance with this forage into the emerging law of consumer protection. It operates in disputes relating to the quality of goods supplied and services rendered and in those areas relating to damage suffered by consumers. The law relating to consumer protection, lying scattered in myriad provisions of various legislation and judicial decisions in India, so connected with the human rights for a healthy life and environment, has now a core subject to be taught as an indispensable part of a socially relevant curriculum.

The BCI proposed a combination of laws of torts and consumer protection as a single paper. The following syllabus is prepared with this perspective.

The following syllabus prepared with this perspective will comprise of about 84 units of one-hour duration.

**Syllabus**

1. Evolution of Law of Torts units 1
    - 1.1. England - forms of action - specific remedies from case to case
    - 1.2. India - principles of justice equity and good conscience - uncodified character- advantages and disadvantages
  
  2. Definition, Nature, Scope and Objects units 2
    - 2.1. A wrongful act- violation of duty imposed by law, duty which is owed to people generally (in rem) - damnum sine injuria and injuria sine damnum.
-

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- 1.11. Tort distinguished from crime and breach of contract
- 1.12. The concept of unliquidated damages,
- 1.13. Changing scope of law of torts : expanding character of duties owed to people generally due to complexities of modern society
- 1.14. Objects- prescribing standards of human conduct, redressal of wrongs by payment of compensation, proscribing unlawful conduct by injunction.

**3. Principles of Liability in Torts****units 2**

- 3.1. Fault:
  - 3.1.1. Wrongful intent
  - 3.1.2. Negligence
- 3.2. Liability without fault
- 3.3. Violation of ethical codes
- 3.4. Statutory liability:
- 3.5. Place of motive in torts

**4. Justification in Tort****units 2**

- 4.1. Volenti non fit injuria
- 4.2. Necessity, private and public
- 4.3. Plaintiff's default
- 4.4. Act of God
- 4.5. Inevitable accident
- 4.6. Private defense
- 4.7. Statutory authority
- 4.8. Judicial and quasi-judicial acts
- 4.9. Parental and quasi-parental authority

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5. Extinguishment of liability in certain situations units 2
- 5.1. Actio personalis moritur cum persona - exceptions
  - 5.2. Waiver and acquiescence
  - 5.3. Release
  - 5.4. Accord and satisfaction
  - 5.5. Limitation
6. Standing units 2
- 6.1. Who may sue - aggrieved individual - class action - social action group
  - 6.2. Statutes granting standing to certain persons or groups
  - 6.3. Who may not be sued ?
7. Doctrine of sovereign immunity and its relevance in India units 2
8. Vicarious Liability units 3
- 8.1. Basis, scope and justification
    - 8.1.1. Express authorization
      - 8.1.1.1. Ratification
    - 8.1.2. Abetment
  - 8.2. Special Relationships:
    - 8.2.1. Master and servant - arising out of and in the course of employment - who is master? - the control test - who is servant? - borrowed servant - independent contractor and servant, distinguished
    - 8.2.2. Principal and agent
    - 8.2.3. Corporation and principal officer
9. Torts against persons and personal relations units 7
- 9.1. Assault, battery, mayhem
  - 9.2. False imprisonment
-

- 9.3. Defamation- libel, slander including law relating to privileges
- 9.4. Marital relations, domestic relations, parental relations, master and servant relations
- 9.5. Malicious prosecution
- 9.6. Shortened expectation of life
- 9.7. Nervous shock
10. Wrongs affecting property units 3
- 10.1. Trespass to land, trespass ab initio, dispossession
- 10.2. Movable property- trespass to goods, detinue, conversion
- 10.3. Torts against business interests - injurious falsehood, misstatements, passing off
11. Negligence units 6
- 11.1. Basic concepts
- 11.1.1. Theories of negligence
- 11.1.2. Standards of care, duty to take care, carelessness, inadvertence
- 11.1.3. Doctrine of contributory negligence
- 11.1.4. Res ipsa loquitur and its importance in contemporary law
- 11.2. Liability due to negligence : different professionals
- 11.3. Liability of common carriers for negligence
- 11.4. Product liability due to negligence : liability of manufacturers and business houses for their products
12. Nuisance units 2
- 12.1. Definition, essentials and types
- 12.2. Acts which constitute nuisance- obstructions of highways, pollution of air, water, noise, and interference with light and air
13. Absolute/Strict liability units 2
- 13.1. The rule in Rylands v. Fletcher
- 13.2. Liability for harm caused by inherently dangerous industries

Law

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**14. Legal remedies**

units 2

## 14.1. Legal remedies:

14.1.1. Award of damages- simple, special, punitive

14.1.2. Remoteness of damage- foreseeability and directness

14.1.3. Injunction

14.1.4. Specific restitution of property

14.2. Extra-legal remedies- self-help, re-entry on land, re-capture of goods, distress, damage feasant and abatement of nuisance.

**15. Consumer movements: historical perspectives**

units 2

15.1. Common law protection: contract and torts

15.2. Consumerism in India: food adulteration, drugs and cosmetics - essential Commodities

15.2.1. Criminal sanction: Sale of noxious and adulterated substances, false weights and measures. Use of unsafe carriers

**16. Consumer, the concept**

units 2

16.1. General Perspectives

16.2. Statutory and government services: to be included or not?

16.2. Definition and scope: the Consumer Protection Act 1986 (CPA)

16.3.1. Who is not a consumer?

**17. Unfair Trade Practices**

units 2

17.1. Misleading and false advertising

17.2. Unsafe and hazardous products

17.3. Disparaging competitors

17.4. Business ethics and business self-regulation

17.5. Falsification of trade marks.

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- 18. Consumer of goods** units 12
- 18.1. Meaning of defects in goods.
  - 18.2. Standards of purity, quality, quantity and potency
    - 18.2.1. Statutes: food and drugs, engineering and electrical goods.
    - 18.2.2. Common law: decision of courts
  - 18.3. Price control
    - 18.3.1. Administrative fixation
    - 18.3.2. Competitive market
  - 18.4. Supply and distribution of goods
- 19. Supply of essential commodities** Units 3
- 19.1. Quality control
  - 19.2. Sale of goods and hire purchase law
  - 19.3. Prescribing standards of quality - BIS and Agmark, Essential commodities law.
- 20. Consumer Safety** units -5
- 20.1. Storing, distribution and handling of unsafe and hazardous products.
  - 20.2. Insecticides and pesticides and other poisonous substances
- 21. Service** units 10
- 21.1. Deficiency - meaning
  - 21.2. Professional services
    - 21.2.1. Medical Services
      - 21.2.2. How to determine negligence
      - 21.2.3. Violation of statute
      - 21.2.4. Denial of medical service: violation of human rights
      - 21.2.5. Lawyering services: duty-towards-court and duty-to-client dilemma. break of confidentiality - negligence and misconduct.

Law

- 21.3. Public Utilities
- 21.3.1. Supply of electricity
- 21.3.2. Telecommunication and postal services
- 21.3.3. Housing
- 21.3.4. Banking

22. Commercial services

units 5

- 22.1. Hiring
- 22.2. Financing
- 22.3. Agency services

23. Enforcement of consumer rights

units 5

- 23.1. Consumer fora under CPA: jurisdiction, powers and functions
- 23.1.1. Execution of orders
- 23.1.2. Judicial review
- 23.2. PIL
- 23.3. Class action
- 23.4. Remedies:
- 23.5. Administrative remedies

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**BCI C 05 & C 06 FAMILY LAW I AND II*****Objectives of the course***

The course structure is designed mainly with three objectives in view. One is to provide adequate sociological perspectives so that the basic concepts relating to family are expounded in their social setting. The next objective is to give an overview of some of the current problems arising out of the foundational inequalities writ large in the various family concepts. The third objective is to view family law not merely as a separate system of personal laws based upon religions but as the one cutting across the religious lines and eventually enabling us to fulfill the constitutional directive of uniform civil code. Such a restructuring would make the study of familial relations more meaningful.

The Bar Council of India has suggested that the Family Law is to be taught in two courses while the CDC had prepared the syllabus for a comprehensive full course on Family Law. The CDC syllabi being elaborate embracing various aspects of Family Law, each University Board of Studies has the discretion to divide the CDC paper on Family Law into two.

The following syllabus prepared with this perspective will, thus, comprise about 168 units of one-hour duration.

***Syllabus*****FAMILY LAW – PAPER – 1**

- |           |   |                |
|-----------|---|----------------|
| <b>1.</b> | <b>Marriage and Kinship</b>   | <b>units 6</b> |
| 1.1.      | Evolution of the institution of marriage and family.  |                |
| 1.2.      | Role of religious rituals and practices in moulding the rules regulating to marital relations |                |
| 1.3.      | Types of family based upon  |                |
| 1.3.1.    | Lineage- patrilineal matrilineal  |                |
| 1.3.2.    | Authority structure- patriarchal and matriarchal  |                |
| 1.3.3.    | Location- patrilocal and matrilocal   |                |
| 1.3.4.    | Number of conjugal units - nuclear, extended, joint and composite.                            |                |
| 1.4.      | Emerging concepts : maitri sambandh and divided home  |                |
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## 2. Customary practices and State regulation

units 8

- 2.1. Polygamy
- 2.2. Concubinage
- 2.3. Child marriage
- 2.4. Sati
- 2.5. Dowry

## 3. Conversion and its effect on family

units 8

- 3.1. Marriage
- 3.2. Adoption
- 3.3. Guardianship
- 3.4. Succession

(In view of the conflict of inter-personal laws, conversion is causing problems. How conversion affects the family and whether it is compatible with the concept of secularism and to what extent such problems would stand resolved with the enactment of a uniform civil code are some of the basics that need to be examined).

## 4. Joint Family

units 30

- 4.1. Mitakshara joint family
- 4.2. Mitakshara coparcenary- formation and incidents
- 4.3. Property under Mitakshara law- separate property and coparcenary property
- 4.4. Dayabhaga coparcenary- formation and incidents
- 4.5. Property under Dayabhaga law.
- 4.6. Karta of the joint family - his position, powers, privileges and obligations
- 4.7. Alienation of property- separate and coparcenary.
- 4.8. Debts - doctrines of pious obligations and antecedent debt.
- 4.9. Partition and re-union

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- 4.10. Joint hindu family as a social security inslution and impact of Hindu Gains of Learning Act and various tax laws on it.
- 4.11. Matrilineal joint family
- 5. Inheritance units (36)
- 5.1. Hindus 2
- 5.1.1. Historical perspective of traditional Hindu law as a background to the study of Hindu Succession Act 1956.
- 5.1.2. Succession to property of a Hindu male dying intestate under the provisions of Hindu Succession Act 1956.
- 5.1.3. Devolution of interest in Mitakshara coparcenary with reference to the provisions of Hindu Succession Act 1956
- 5.1.4. Succession to property of Hindu female dying intestate under the Hindu Succession Act 1956.
- 5.1.5. Disqualification relating to succession
- 5.1.6. General rules of succession
- 5.1.7. Marumakkattayam and Aliyasantana laws governing people living in Travancore - Cochin and the districts of Malabar and South Kanara.
- 5.2. Muslims
- 5.2.1. General rules of succession and exclusion from succession.
- 5.2.2. Classification of heirs under Hanafi and Ithna Ashria schools and their shares and distribution of property.
- 5.3. Christians, Parsis and Jews
- 5.3.1. Heirs and their shares and distribution of property under the Indian Succession Act of 1925

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UGC Model Curriculum

*BCI C 07 LAW OF CRIMES**Objectives of the course*

The Indian society has changed very rapidly since Independence. A proper understanding of crimes; methods of controlling them and the socio-economic and political reasons for their existence is now extremely important in the larger context of India's development, if students are to use their knowledge and skills to build a just and humane society. The curriculum outlined here attempts to bring in these new perspectives.

The following syllabus will comprise of about 84 Units of one hour duration.

*Syllabus*

- |  |          |
|--|----------|
| 1. General   | units 10 |
| 1.1. Conception of crime   |          |
| 1.1.1. Pre-colonial notions of crime as reflected in Hindu, Muslim and tribal law. |          |
| 1.1.2. Macaulay's draft based essentially on British notions.                      |          |
| 1.2. State's power to determine acts or omissions as crimes                        |          |
| 1.3. State's responsibility to detect, control and punish crime.                   |          |
| 1.4. Distinction between crime and other wrongs.                                   |          |
| 1.5. IPC : a reflection of different social and moral values.                      |          |
| 1.6. Applicability of I.P.C.   |          |
| 1.6.1. Territorial   |          |
| 1.6.2. Personal  |          |
| 1.7. Salient features of the I.P.C.  |          |
| 2. Elements of criminal liability  | units 5  |
| 2.1. Author of crime - natural and legal person                                    |          |
| 2.2. Men rea - evil intention  |          |

Law

- 2.3. Importance of mens rea
- 2.4. Recent trends to fix liability without mens rea in certain socio-economic offences.
- 2.5. Act in furtherance of guilty intent
- 2.6. Omission
- 2.7. Injury to another
- 3. Group liability units 10
  - 3.1: Stringent provision in case of combination of persons attempting to disturb peace.
  - 3.2. Common intention
  - 3.3. Abetment:
    - 3.3.1. Instigation, aiding and conspiracy
    - 3.3.2. Mere act of abetment punishable
  - 3.4. Unlawful assembly:
    - 3.4.1. Basis of liability
  - 3.5. Criminal conspiracy
  - 3.6. Rioting as a specific offence
- 4. Stages of a crime units 6
  - 4.1. Guilty intention - mere intention not punishable
  - 4.2. Preparation
    - 4.2.1. Preparation not punishable
    - 4.2.2. Exception in respect of certain offences of grave nature or of peculiar kind such as possession of counterfeit coins, false weights and measures.
  - 4.3. Attempt:
    - 4.3.1. Attempt when punishable - specific provisions of IPC
    - 4.3.2. Tests for determining what constitutes attempt - proximity, equivocality and social danger
    - 4.3.3. Impossible attempt

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## 5. Factors negativing gullyt Intention

units 10

5.1. Mental incapacity

5.1.1. Minority

5.1.2. Insanity- impairment of cognitive faculties, emotional imbalance

5.1.3. Medical and legal insanity

5.2. Intoxication - involuntary

5.3. Private defence- justification and limits

5.3.1. When private defence extends to causing of death to protect body and property

5.3.2. Necessity

5.3.3. Mistake of fact

## 6. Types of punishment

units 8

6.1. Death:

6.1.1. Social relevance of capital punishment

6.1.2. Alternatives to capital punishment

6.2. Imprisonment - for life, with hard labour, simple imprisonment

6.3. Forfeiture of property

6.4. Fine

6.5. Discretion in awarding punishment:

6.5.1. Minimum punishment in respect of certain offences

## 7. Specific offences against human body

units 10

7.1. Causing death of human beings

7.1.1. Culpable homicide

7.1.2. Murder

7.2. Distinction between culpable homicide and murder

## Law

- 7.2.1. Specific mental element : requirement in respect of murder
  - 7.3. Situation justifying treating murder as culpable homicide not amounting to murder
    - 7.3.1. Grave and sudden provocation
    - 7.3.2. Exceeding right to private defense
    - 7.3.3. Public servant exceeding legitimate use of force
    - 7.3.4. Death in sudden fight
    - 7.3.5. Death caused by consent of the deceased- euthanasia and surgical operation
    - 7.3.6. Death caused of person other than the person intended
    - 7.3.7. Miscarriage with or without consent
  - 7.4. Rash and negligent act causing death
  - 7.5. Hurt- grievous and simple
  - 7.6. Assault and criminal force
  - 7.7. Wrongful restraint and wrongful confinement- kidnapping from lawful guardianship and from outside India.
  - 7.8. Abduction
- units 10
- 8. Offences against women
    - 8.1. Insulting the modesty of woman
    - 8.2. Assault or criminal force with intent to outrage the modesty of woman
    - 8.3. Causing miscarriage without woman's consent:
      - 8.3.1. Causing death by causing miscarriage without woman's consent
    - 8.4. Kidnapping or abducting woman to compel her to marry or force her to illicit intercourse
    - 8.5. Buying a minor for purposes of prostitution
    - 8.6. Rape:
      - 8.6.1. Custodial rape
-

- 8.6.2. Marital rape
- 8.7. Prevention of immoral traffic
- 8.8. Cruelty by husband or his relatives
- 8.8.1. Prevention of Sati
- 8.9. Prohibition of indecent representation of women
9. Offences against Property units 5
- 9.1. Theft
- 9.2. Cheating
- 9.3. Extortion
- 9.4. Robbery and dacoity
- 9.5. Mischief
- 9.6. Criminal misrepresentation and criminal breach of trust
10. New kinds of crimes such as terrorism, pollution and adulteration units 5
11. Law Reforms units 5

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**BCI C 09 CONSTITUTIONAL LAW****Objective of the course**

India is a democracy and her Constitution embodies the main principles of the democratic government- how it comes into being, what are its powers, functions, responsibilities and obligations- how power is limited and distributed. Whatever might have been the original power base of the Constitution, today it seems to have acquired legitimacy as a highest norm of public law. A good understanding of the Constitution and the law, which has developed through constitutional amendments, judicial decisions, constitutional practice and conventions is, therefore, absolutely necessary for a student of law. He must also know the genesis, nature and special features and be aware of the social, political and economic influence on the Constitution.

The purpose of teaching constitutional law is to highlight its never-ending growth. Constitutional interpretation is bound to be influenced by one's social, economic or political predilections. A student must, therefore, learn how various interpretations of the constitution are possible and why a significant interpretation was adopted in a particular situation. Such a critical approach is necessary requirement in the study of constitutional law.

Judicial review is an important aspect of constitutional law. India is the only country where the judiciary has the power to review even constitutional amendments. The application of basic structure objective in the evaluation of executive actions is an interesting development of Indian constitutional law. Pari pasu the concept of secularism and federalism engraved in the constitution are, and are to be, interpreted progressively.

The following syllabus prepared with this perspective will comprise of about 84 Units of one-Hour duration.

**Syllabus**

- |  |         |
|--|---------|
| 1. Historical Perspective  | units 8 |
| 1.1. Constitutional developments since 1858 to 1947                                  |         |
| 1.2. Gandhi Era - 1919 to 1947: social, political, economic and spiritual influence. |         |

LAW

- 1.3. Making of Indian Constitution
- 1.4. Nature and special features of the constitution.
2. Parliamentary Government units 15
- 2.1. Westminster model - choice of parliamentary government at the Centre and States.
- 2.2. President of India
- 2.1.1. Election, qualifications, salary and impeachment
- 2.1.2. Powers : legislative, executive and discretionary powers
- 2.3. Council of Ministers
- 2.4. Governor and state government - constitutional relationship.
- 2.5. Legislative process
- 2.5.1. Practice of law-making.
- 2.5.2. Legislative privileges and fundamental rights.
- 2.6. Prime Minister - cabinet system - collective responsibility-individual responsibility.
- 2.7. Coalition Government: Anti-defection Law.
3. Federalism units 8
- 3.1. Federalism - principles: comparative study
- 3.2. Indian Federalism: identification of federal features
- 3.2.1. Legislative relations
- 3.2.2. Administrative relations
- 3.2.3. Financial relations .
- 3.3. Governor's role
- 3.4. Centre's powers over the states - emergency
- 3.5. J & K - special status
- 3.6. Challenges to Indian federalism

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4. Constitutional Processes of Adaptation and Alteration units 5
  - 4.1. Methods of constitutional amendment
  - 4.2. Limitations upon constituent power
  - 4.3. Development of the basic Structure : Doctrine judicial activism and restraint
  
5. Secularism units 3
  - 5.1. Concept of secularism : historical perspective.
  - 5.2. Indian constitutional provision
  - 5.3. Freedom of religion - scope
  - 5.4. Religion and the state: the limits
  - 5.5. Minority rights
  
6. Equality and Social Justice units 5
  - 6.1. Equality before the law and equal protection of laws
  - 6.2. Classification for differential treatment: constitutional validity
  - 6.3. Gender justice
  - 6.4. Justice to the weaker sections of society: scheduled castes, scheduled tribes and other backwards classes
  - 6.5. Strategies for ameliorative justice
  
7. Freedoms and Social Control units 10
  - 7.1. Speech and expression
    - 7.1.1. Media, press and information
  - 7.2. Freedom of speech and contempt of court
  - 7.3. Freedom of assembly
  - 7.4. Freedom of association
  - 7.5. Freedom of movement
  - 7.6. Freedom to reside and settle.

Law

- 7.7. Freedom of profession/business
- 7.8. Property: from fundamental right to constitutional right
8. Personal Liberty units 5
- 8.1. Rights of an accused - double jeopardy - self-incrimination retroactive punishment
- 8.2. Right to life and personal liberty : meaning, scope and limitations
- 8.3. Preventive detention - constitutional policy
9. Fundamental Rights and Directive Principles units 5
- 9.1. Directive Principles- directions for social change- A new social order.
- 9.2. Fundamental Rights and Directive Principles - inter-relationship - judicial balancing.
- 9.3. Constitutional amendments - to strengthen Directive Principles.
- 9.4. Reading Directive Principles into Fundamental Rights
10. Fundamental duties units 3
- 10.1. The need and status in constitutional set up
- 10.2. Interrelationship with fundamental rights and directive principles
11. Emergency units 5
- 11.1. Emergency. meaning and scope
- 11.2. Proclamation of emergency - conditions -effect of emergency on Centre- State relations.
- 11.3. Emergency and suspension of fundamental rights
12. Judiciary under the Constitution units 10
- 12.1. Judicial process
- 12.1.1. Court system
- 12.1.2. The Supreme Court
- 12.1.3. High Courts

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12.1.4. Subordinate judiciary

12.1.5. Judges : appointment, removal, transfer and condition of service: judicial independence

12.2. Judicial review : nature and scope

13. Services under the Constitution

units 3

13.1. Doctrine of pleasure (Art. 310)

13.2. Protection against arbitrary dismissal, removal, or reduction in rank (Art.311)

13.3. Exceptions to Art.311

14. 14.1 Constitutional Reforms

unit -3

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**BCI C 13 LEGAL LANGUAGE/LEGAL INCLUDING GENERAL ENGLISH***Objectives of the course*

Command of language is an essential quality of a lawyer for presentation of not only pleadings but also arguments before a court of law. Efficiency of advocacy depends upon communication skill to a substantial extent. No doubt, he should be conversant with the legal terminology. Precision, clarity and cogence are governing principles of legal writing and dialogue. A student of law should get an opportunity to be familiar with the writings of eminent jurists of the past. This exposition will stand him in good stead in understanding the intricate problems of law and will equip him with the faculty of articulation and sound writing.

This paper with the above perspectives in view comprises about 84 units of one hour duration.

*Syllabus*

1. Introduction to Legal Language units 10
  - 1.1. Characteristics of Legal Language
  - 1.2. History of Legal Language
  - 1.3. Legal Language in India
  - 1.4. English as a medium of communication for legal transaction in India
2. Introduction to oral communication skills units 6
  - 2.1. Passive and active listening - questioning - non-verbal communication
  - 2.2. Listening comprehension
  - 2.3. Passive and active listening - questioning - non-verbal communication
3. Vocabulary units 8
  - 3.1. Consulting a dictionary - consulting a thesaurus
  - 3.2. Synonyms and antonyms - related words - regular vocabulary exercises

Syllabus

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## 4. Phonetics theory and practice

units 8

- 4.1. The phonetic script
- 4.2. Consulting a dictionary for pronunciation - exercise with audio aids
- 4.3. Reading exercises - stress, accent and intonation suitable for Indian speaker with emphasis on clarity of speech and felicity of expression
- 4.3.1. Reading comprehension of principles and practice

## 5. Legal terminology

units 10

- 5.1. Terms used in civil law and criminal law

Legal Writing with view to training the students for use of legal terms. Idioms and directions as under:

Abduction : Abetment : Abeyance, abuse of power, Accident, Accomplice, Accord, Acquittal, Act, Adoption, Adjournment, Adulteration, Affidavit, Aggrieved pension, Alien, Alimony, Allegation, Apportionment, Arrest, Assignment, Attempt, Attestation, Attorney, Abintio, Ad hoc, Adinon, Advalorem, Bail, Benami, Bench compensation, Compoundable, Offence, Confession, Conjugal Right, Contempt of Court, Conviction, Crime custody, Damage, Decree, Deed, Determination, Disposal, Divorce, Domicile, Evidence, Exeute Extortion, Heir Homicide, illegal, injury, injunction, insolvency, intravires, judgement, jurisdiction, Laws standi, malice, malafides, mutatis, mutadis, natural, justice, null and void, oath, offence, pardon, power of Attorney, preamble, presumption, prima facie, prosecution, punishment, pendatillie, quasi, resjudicate, redemption, repeal, respondent, status quo, statute, succession, sue, Sui Juris, Suo-moto, Traoi, Verdict, Warrant, ultravires, Jus in rem, Jus in personam, Lex loci, Fori, Ejusdem Generied, Ratio Decidendi Lex Meroantoria, Damnum sine Injuria, in realien, in repropria, since quo neh, double jeoparddi, vinculum juries, Vis Major.

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5.2. Latin words and expressions - law register

Maxim of Law : Consultation of Law Journals and law report as under :

Actus non facit reum nisi, mens sit rea, ignorantia juris non excuset, nullum tempus occurrit Regi, Delegatus, non potest delegare, Deminis non curat lex, Ex nudo

pacto non oritur action, In part delicto potior est conditio defendentis, exturpi causa non oritur action, nemo dat quod non habet, ubi ius, ibi remedium, volent in non fit, iniuria! res judicata pro veritate accipitur, necessitas non habitat legem, Respondeat superior vigilans non dormienti bus jure subventent.

unit - 12

6. Fundamental Principles of Legal Writing

6.1 Concision - clarity - cogency - simplicity of structures

6.2 Attention and awareness of Practical Legal import of sentences.

6.3 Brief Writing and drafting of law reports:- T. Sarita V/s Venkata Subaiah, AIR 1983,

Saravaram V/s Sudarshan AIR 1984 Sc. 1562.

6.4 Writing of case comments

6.5 Essay Writing on topics of legal interest

M.C. Mehata's Case, AIR 1987 Sc. 956. such as women and property, Atrocities on women untouchability, dowry death, dowry and like current topics.

unit - 10

7. General juristic writings in English

units 20

8. Proficiency in regional language

(Every student should acquire skills of understanding, analysis, writing and communication in the regional language which he has to use in the interaction with the potential clientele. Necessarily, the proficiency in the language will contribute in a substantial measure to a successful practice in law. The university academic bodies are given the discretion to evolve 20 units for this purpose)

### Selected bibliography

Abbet Parry, Seven Lamps of Advocacy

Mogha's, Conveyancing

UCC Model Curriculum

Mogha's, Forms and Precedents

Mogha's, Pleadings

Law and Language

Bhatnagar, R.P. & R.Bhargava, *Law and Language*, New Delhi: Macmillan,

Brown, Gordon W. *Legal Terminology*, New Jersey: Prentice Hall, 1990

Cochrane, Michael, *Legal English*, Paris Cujas, 1979

Cross, Ian et al. *Skills for Lawyers*, Jordan Publishing Co., 1997 Bristol.

Cutts, Martin, *The Plain English Guide*, Oxford University Press, 1995

Garner, Bryan, *A Dictionary of Modern Legal Usage*, New York: OUP, 1987

Gibbons, John, (ed.) *Language and the Law*, Longman, 1996 London.

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Kelkar, Ashok R. "Communication and Style in Legal Language", *Indian Bar Review* Vol.10(3): 1993

Lord Denning, "Command of Language", *The Discipline of the Law*, New Delhi: Aditya Books, 1993.

Lord Denning, "Plain English", *The Closing Chapter*, New Delhi: Aditya Books, 1993.

Melinkoff, David, *The Language of the Law*, Boston: Little Brown & Co., 1963.

Molynenux, Hael. *Legal Problems*, Macmillan, London

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Herbert Brown, *A Selection of Legal Maxims* (Reprint 1998) Sweet and Maxwell.

M.C. Setalvad, *My Life, Law Other things*, (2000), Universal, Delhi.

Olivercrona, K. "Legal Language and Reality" in M.D.A. Freeman, *Introduction to Jurisprudence*.

Riley, Alison, *English for Law*, London: Macmillan, 1991.

Williams, Glanville, "Language and the Law" in Freeman, pp.1350-53.

Thomson, A.J. & A.V. Martinet, *A Practical English Grammar*, Oxford: OUP

Turton, N.D. & J.B. Heaton, *Longman Dictionary of Common Errors*

Williams, Glanville, *Language and the Law*, in Freeman. Pp.1350-53.

Williams, Glanville, *Learning The Law*, (2000), Universal, New Delhi.

Blacks' Law Dictionary, (2000), Universal, New Delhi.

Broom's Legal Magazines (2000), Universal, New Delhi.

James and Stebbings, *A Dictionary of Legal Quotations* (1997) Universal, New Delhi.

Latin For Lawyers, (1997), Sweet and Maxwell, Universal, New Delhi.

Trayner's Latin Magazines, (1997) University, New Delhi.

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**PRACTICAL**

Paper X- Public Interest Lawyering, Legal Aid and Para Legal Services.

- i) Lok Adalat, ii) Legal Aid Camp, iii) Legal Literacy, iv) Paralegal Training, v) Editing of Law Journals, vi) Law Office Management, vii) Negotiations and Counselling, viii) Use of Computer in Legal work.

Report regarding visit, observation and other practical work completed by the candidate shall be submitted on the topics identified in the above subjects in practical book (work book). There shall be 80 marks for practical book (work book) and 20 marks for Viva-voce.

The Viva-voce will carry 20 marks.

The performance of all practical training papers shall be undertaken by the students under the supervision of the Professor in-charge. The Evaluation of the Practical training work will be conducted by the concerned professor who will submit his report to the Principal of the College. The Principal shall submit the markslist to the University. The concerned teacher should be eligible the included in the Panel of Examiners of the University.

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## OPTIONAL COURSES ANY ONE OF THE FOLLOWING

### *BCI 001 INTERNATIONAL ECONOMIC LAW*

#### *Objective of the course*

The course focuses on the problems of International attempts in making an International economic order. The agencies at the international level had already been envisaged with the birth of United Nations. However, as the economic interdependence among nations grew, the role of these specialized agencies became more prominent. The declaration of the new economic order and the declaration on the right to development coupled with the impact of Dunkel draft gave new dimensions resulting in the establishment of World Trade Organization (WTO) to regulate the liberalized trade at global level. This course goes into the different parameters of the developments whose implications the students will have to be familiar with.

The following syllabus will comprise of 84 units of one-hour duration.

#### *Syllabus*

- |   |         |
|---|---------|
| 1. Historical perspectives                                | units 4 |
| 1.1. United Nations: GATT                                 |         |
| 1.2. Evolution of New International Economic Order (NIEO) |         |
| 1.2.1. Essential components of NIEO                       |         |
| 1.2.2. State acceptance and practice of NIEO principles   |         |
| 2. Charter of Economic Rights and Duties                  | units 4 |
| 2.1. Sovereignty over wealth and natural resources        |         |
| 2.2. TNCS   |         |
| 2.3. Foreign investment                                   |         |
| 2.4. Transfer of technology                               |         |

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- 2.5. Elimination of colonisation, apartheid, racial discrimination
  - 2.6. Extension of tariff preferences
  - 2.7. Most favoured nation treatment
  - 2.8. North-south gap-widened or narrowed?
- 3. Institutions** units 4
- 3.1. UNCTAD (United Nations Conference on Trade and Development)
  - 3.2. UNCITRAL
  - 3.3. GATT
    - 3.3.1. Objectives
    - 3.3.2. Strengths and weaknesses
    - 3.3.3. Salient features of GATT 1994 (Final Act of Uruguay Round)
- 4. WTO** units 15
- 4.1. Structure, principles and working
  - 4.2. Difference between GATT and WTO
  - 4.3. Problems:
    - 4.3.1. Agriculture
    - 4.3.2. Sanitary and phyto sanitary measures (SPS)
    - 4.3.3. Technical barriers of trade (TBT)
    - 4.3.4. Textiles and clothing
    - 4.3.5. Anti-dumping
    - 4.3.6. Customs valuation
    - 4.3.7. Services
    - 4.3.8. TRIPS
    - 4.3.9. TRIMS
    - 4.3.10. Disputes settlement

Law		
4.3.11	Labour	units 2
4.3.12	Transfer of technology	units 2
4.3.13	Trade facilitation	units 2
4.3.14	E-Commerce	units 2
4.3.15	Information and technology agreement	units 2
4.4	Special permission for developing and less developed countries	units 2
4.5	Trade and development committee	units 2
4.6	Balance of payment provisions in WTO	units 2
4.7	India and WTO	units 2
5.	Trade in Goods	units 2
6.	Trade related investment measures (TRIMS)	units 6
6.1.	Relationships with GATT	
6.2.	Inalienable rights of member countries	
7.	General Agreements on Trade in Services (GATS)	units 7
7.1.	Principle: non-discrimination	
7.2.	Benefits to India	
8.	Trade Related Intellectual Property Rights (TRIPS)	units 10
8.1.	Structure	
8.2.	Principles	
8.3.	Minimum Standards	
8.3.1.	Copy rights and related rights	
8.3.2.	Trade marks	
8.3.3.	Geographical indications	
8.3.4.	Industrial designs	

- 8.3.5. Patents
- 8.3.6. Undisclosed information
- 8.3.7. Anti competitive practice
- 8.4. Enforcement of IPR
- 8.5. Transparency
- 8.6. New issues

## 9. Dispute settlement

units- 10

- 9.1. Judicial system: Dispute Settlement Board (DSB)
- 9.1.1. Elements of the system
  - 9.1.1.1. Prompt settlement
  - 9.1.1.2. Balancing of rights and obligations
  - 9.1.1.3. Objective of satisfactory settlements
- 9.1.2. Outcomes
  - 9.1.2.1. Withdrawal of the measure - violation of WTO
  - 9.1.2.2. Continuation of the measure with compensation for the loss suffered by the affected country
  - 9.1.2.3. Continuation of the measures with retaliation by the affected country to make good the loss suffered by the affected country
- 9.1.3. Special steps of DSB and WTO Secretaries for developing countries
- 9.2. Process of settlement by DSB

## 10. International Monetary Fund

units 6

- 10.1. Structure and functions
- 10.2. Concept of par value systems
- 10.3. Currency convertibility
- 10.4. Breakdown of par value system
- 10.5. Re-structuring of IMF

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11. International Bank for Reconstruction and Development units 6
- 11.1. Structure and functions
  - 11.2. International financial co-operation
  - 11.3. International development association
  - 11.4. Lending by World Bank
12. Regional Development Banks units 4
- 12.1. Structure and functions
    - 12.1.1. Asian Development Bank
    - 12.1.2. Inter American Development Bank
    - 12.1.3. Banking in relation to European Union
13. Sustainable Development units 6
- 13.1. The concept
  - 13.2. Stockholm to Rio: developments of the concept
  - 13.3. Right to development
    - 13.3.1. Basic concept
    - 13.3.2. State acceptance and practice
  - 13.4. UNCED (UN Commission on Environment and Development) report
    - 13.4.1. Principles
  - 13.5. Rio principles related to sustainable developments

### Select Bibliography

- Bandari Surendra, *World Trade Organization and Developing Countries*.(1995), Universal, Delhi
- Myneni Srinivasa Rao, *International Economic Law* (1996), Pioneer Books, New Delhi.
- Arun Goyal(ed.), *WTO in the new Millennium* (2000), Academy of Business Studies, New Delhi-110002.

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Schwarzenberger, *Economic World Order* (1970) Manchester University Press.

Jayanta Bagchi, *World Trade Organization : An Indian Perspective* (2000), Eastern Law House, Calcutta.

J.G.Starke, *Introduction to International Law* (1989) Butterworths

UNCED, *Our Common Feature* (1986), Oxford.

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Law

## LAW 002 BANKRUPTCY LAWS

*Objectives of the course*

The main concern of law is the regulation and balancing of socio-economic and political interests. In regulating the economic front, law has to take into account of negative economic impact in the situations of socio-legal problems. The bankruptcy law becomes relevant in this context. The Constitution confers on the union and the states to legislate on bankruptcy- the inability to pay debts. The Indian laws contain elaborate provisions on the status of insolvent person, legal conditions of insolvency, insolvency proceedings, distribution of property of the insolvent and on litigation by and against insolvent person. These laws have to be looked at with a comparative approach. The course excludes questions of bankruptcy in relation to company and partnership since they are dealt with in the compulsory papers.

This course with the above perspectives comprises of about 84 units of one-hour duration.

*Syllabus*

- |  |          |
|--|----------|
| 1. Introductory  | units 10 |
| 1.1. The concept: inability to pay debt  |          |
| 1.2. Comparative perspectives  |          |
| 1.2.1. England: Insolvency Act, Bankruptcy Act                                 |          |
| 1.2.3. United States   |          |
| 1.3. India: concurrent jurisdiction - the central and state legislation        |          |
| 2. Insolvency jurisdiction   | units 2  |
| 2.1. Courts  |          |
| 2.2. Powers of court   |          |
| 3. Accts of Insolvency   | units 8  |
| 3.1. Transfer of property to a third person for benefit of creditors generally |          |
| 3.2. Transfer with intent to defeat creditors.                                 |          |

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- 3.3. Fraudulent preferences in transfer of property
- 3.4. Absconding with intent to defeat the creditors
- 3.5. Sale of property in execution of decree of court.
- 3.6. Adjudication as insolvent
- 3.7. Notice to creditors about suspension of payment of debt.
- 3.8. Imprisonment in execution of a decree of a court
- 3.9. Notice by creditor
4. Insolvency petition units 6
- 4.1. By creditor
- 4.2. By debtor
- 4.3. Contents of the petition
- 4.4. Admission
- 4.5. Procedure
5. Appointment of interim receiver units 4
6. Interim proceedings against the debtor units 2
7. Duties of Debtors units 2
8. Release of debtor units 2
9. Procedure at hearing units 2
10. Dismissal of petition filed by a creditor units 4
11. Order of adjudication units 2
- 11.1. Effect
- 11.2. Publication of order

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12. Proceedings consequent on order of adjudication units 7
- 12.1. Protection order from arrest or detention
  - 12.2. Power to arrest after adjudication per attempt abscond
  - 12.3. Schedule of creditors
    - 12.3.1. Burden of creditors to prove the debt.
13. Annulment of adjudication units 5
- 13.1. Power to annul
  - 13.2. Effect
  - 13.3. Failure to apply for discharge
14. Post adjudicatory scheme for satisfaction of the debt units 2
15. Discharge of debtor units 2
16. Effect of insolvency on antecedent transaction units 5
- 16.1. On rights of creditor under execution
  - 16.2. Duties of court executing decree on the property taken in execution
  - 16.3. Avoidance of voluntary transfer
  - 16.4. Avoidance of preference
17. Realization of property units 4
- 17.1. Appointment of receiver
    - 17.1.1. Duties and powers
    - 17.1.2. Appeal against receiver
18. Distribution of property units 4
- 18.1. Priority of debts
  - 18.2. Dividends

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19. Offences by debtors

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20. Disqualification of insolvent

units 2

21. Appeal

units 2

22. Indigent persons

units 3

22.1. Suit by indigent persons

units 4

*Select bibliography*

The Provincial Insolvency Act 1920

Insolvency Acts of various States

Halsbury's Laws of England, Vol.3(2) on *Bankruptcy and Insolvency* (1989)Henry R. Cheeseman, *Business Law*, Ch.28 (1993), Prentice Hall, New JerseyC.K.Thakker, *Code of Civil Procedure* (2000) Eastern, Lucknow.Aiyar.S.K., *Law of Bankruptcy* (1998) Universal, Delhi

Law

## L 1 003 TAXATION LAWS

*Objectives of the course*

Power to tax had been described as the power to destroy. This idea is being floated often whenever the state introduces a new tax. Is this true? Is it not necessary that in order to raise revenue and place the economy on solid foundation, the taxing power should be conferred on the state? The power to tax shall not go unregulated. In the context of a federal structure the distribution of the taxing powers assumes added significance. Obviously, a study of the constitutional framework on taxation becomes important. Along with this, an analysis of the different laws enacted in exercise of these powers with their safeguards and remedies sheds light on the mechanics of the taxation by the Union and the States.

The following syllabi prepared with this perspective in view comprises of about 84 units of one-hour duration.

*Syllabus*

- |   |          |
|---|----------|
| 1. General Perspective  | units 24 |
| 1.1. History of tax law in India  |          |
| 1.2. Fundamental principles relating to tax laws  |          |
| 1.3. Governmental financial policy, tax structure and their role in the national economy. |          |
| 1.4. Concept of tax:  |          |
| 1.4.1. Nature and characteristics of taxes  |          |
| 1.4.2. Distinction between:   |          |
| 1.4.2.1. Tax and fee  |          |
| 1.4.2.2. Tax and cess   |          |
| 1.4.2.3. Direct and indirect taxes  |          |
| 1.4.2.4. Tax evasion and tax avoidance  |          |
| 1.5. Scope of taxing powers of Parliament, state Legislature and local bodies.            |          |

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UGC Model Curriculum:

## 2. Income Tax

units 30

- 2.1. Basic Concepts:
  - 2.1.1. Income
  - 2.1.2. Total income
  - 2.1.3. Income not included in total income
  - 2.1.4. Deemed income
  - 2.1.5. Clubbing of income
- 2.2. Assessee
- 2.3. Person
- 2.4. Tax Planning
- 2.5. Chargeable income
  - 2.5.1. Heads of income
    - 2.5.1.1. Salaries
    - 2.5.1.2. Income from house property
    - 2.5.1.3. Income from business or profession
    - 2.5.1.4. Capital gains
    - 2.5.1.5. Income from other sources
  - 2.5.2. Deductions, relief and exemptions
  - 2.5.3. Rate of income tax
- 2.6. Income Tax Authorities:
  - 2.6.1. Power and functions
- 2.7. Offences and penal sanctions:
- 2.8. Settlement of grievances:
  - 2.8.1. Authorities, powers and functions



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units 30

### 3. Other Tax Laws

#### 3.1. Wealth Tax

3.1.1. Taxable wealth, determination of value of assets, exemptions and rate of wealth tax

3.1.2. Wealth tax authorities

3.1.3. Offences and penalties

#### 3.2. Central Sales Tax and or State Sales Tax

3.2.1. Sale or purchase of goods:

3.2.1.1. Meaning of sale

3.2.1.2. Sale in the course of inter-state trade and commerce

3.2.1.3. Sale to take place outside a state

3.2.1.4. Sale in the course of export or import

3.2.2. Charge of tax

3.2.3. Exemption and rebate

3.2.4. Sales tax authorities

3.2.5. Offences and penalties

#### 3.3. Service Tax

3.3.1. Taxable service

3.3.1.1. Meaning and importance of service tax

3.3.1.2. Constitutional perspective

3.3.1.3. Salient provisions of the service tax law

3.3.1.4. Valuation of taxable service

3.3.1.5. Offences and penalties

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UGC Model Curriculum:

**Select bibliography**

Remesh Sharma, *Supreme Court on Direct Taxes* (1998), Bharath Law House, New Delhi.

Sampath Iyengar, *Law of Income Tax* (1998), Bharath Law House, New Delhi.

Diwan B.K. and Sanjay Mehtani, *Formation, Taxation and Assessment Charitable and Religious Trusts* (1999), Bharath Law House New Delhi

Kanga and Palkiwala, *The Law and Practice of Income Tax* (1999), Wadha, Nagpur.

K. Parameswaran, *Power of Taxation under the Constitution* (1987), Eastern, Lucknow

V. Ramachandran & T.A. Ramakrishnan (eds.) *A.N.Aiyar's Indian Tax Laws* (2000) Company Law Institute of India Pvt. Ltd. Chennai.

S.Bhattacharya & H.R. Garg, *Handbook of Direct Taxes* (1990) Eastern Law House, Calcutta.

C.A. Gularickar, *Law and Practice of Wealth Tax and Valuation* (1998), Gularickar, Mumbai.

Walter R. Mahler, *Sales and Excise Taxation in India* (1970) Orient Longman. Delhi.

R.V.Pattel, *The Central Sales Tax Act* (1966) Thripathi, Bombay.

S.D. Singh, *Principles of Law of Sales Tax* (1973), Eastern, Lucknow

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**BCI 004 COMPARATIVE LAW*****Objectives of the course***

Comparative law is a source of inestimable enlightenment. It teaches us about all those legal and juristic problems which we tend to consider "unique" and are often the common experience of world's legal systems. A course in comparative law also makes one understand the influences that shape one's own legal thought and practice. It indicates pathways of systemic change - liberation from what might be called juristic xenophobia.

Comparative studies are a rich and growing field. Varieties of starting points are available. Thus one may design a comparative law course around comparison of judicial institutions (liability, contract, precedent, family, commercial law) or one may look at historic evolution of law as such (law in a kin - based society, law in settled agricultural society, law in era of expanding commerce, colonial law in industrial revolution and late capitalism). Finally, without being exhaustive, one may also look at endeavours at global unification of law.

An introductory course must sensitise teacher and taught to all these approaches. This is a complex and demanding task. The course-content offers one approach but other approaches can also be explored. It has to be born in mind that in India, insofar as attention is given at all to comparative law, the emphasis is on "common law" and "civil law". This Euro centric focus has to change. A comparative law course in India must concentrate on the development in the law of the Third world.

This paper with the above perspective in view comprises of about 84 units one hour-duration.

***Syllabus***

- |  |         |
|--|---------|
| 1. Introductory                              | units 5 |
| 1.1. The nature and Scope of Comparative Law |         |
| 1.2. Historical development                  |         |
| 1.3. Notions of "Comparison"                 |         |
| 1.4. Methods of Comparison                   |         |

- 1.5. Types of Comparison
- 1.6. Problems of Method
2. World's Major Legal Systems : An Overview units 12
- 2.1. Roman Law
- 2.2. Jewish Law
- 2.3. Islamic Law
- 2.4. Hindu Law
- 2.5. Chinese Law
- 2.6. African Law
- 2.7. Common Law
- 2.8. Civil Law
3. Contemporary Traditions of Law units 10
- 3.1. Capitalist/bourgeois Law
- 3.2. Socialist Law
- 3.3. "Third World" Law
4. Trends In Unification of World Law units 16
- 4.1. Principle unification agencies at work : a survey
- 4.2. The International Law Commission
- 4.3. UNICITRAL
- 4.4. The World Intellectual Property Organisation (WIPO)
- 4.5. The International Labour Organisation
- 4.6. The U.N. Human Rights Agencies
- 4.7. The World Trade Organization

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5. Certain Comparable Areas in "Third World" Law and Jurisprudence units 40
- 5.1. Comparative studies of emergency and constitutionalism
  - 5.2. Comparative judicial process
  - 5.3. Comparative study of legal professions
  - 5.4. Comparative study of law reform
  - 5.5. Comparative studies of gender justice
  - 5.6. Comparative studies of environmental law
  - 5.7. Comparative analyses of contract law
  - 5.8. Comparative family law
  - 5.9. Comparative studies to access to law
  - 5.10. Religion, tradition and custom
  - 5.11. Comparative legislative process
  - 5.12. Comparative criminal justice system

Note: Only four out of the twelve sub-units in Unit 5 need be included in the study of this paper. The concerned university bodies shall have the discretion to select these papers

*Select bibliography*

Werner F. Menski, Comparative Law in a Global Context - *The Legal Systems of Asia and Africa*, (2000), Platinum Publishing Ltd., London

O. Khan Freund, Collected Essays (1978)

Indian Law Institute, An Introduction to the Study of Comparative Law Reprint (1979).

J.D.M. Derrett (ed.), An Introduction to Legal Systems

G. Eorsi, Comparative Civil Law (1979)

International Commission of Jurists, States of Emergency : Impact on Human Rights (1983).

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Y. Ghai, et.al (ed.), *The Political Economy of Law : A Third World Reader* 559-648(1987).

Indian Law Institute, *Contractual Law Remedies in Asian Countries* (1975).

Indian Law-Institute, *Family Law Reform in the Muslim World* (1972).

See, M. Cappelletti et.al., *Towards Equal Justice : A Comparative Study of Legal Aid in Modern Societies* (1975)

J.D.M. Derrett, *Religion, Law and the State in India* (1999), Oxford

H.C. Gutteridge, *Comparative Law*

I.W.F. Allilou, *A Continental Distinction in the Common Law* (1999) Oxford

Indrani Chatterjee, *Gender, Slavery and Law in Colonial India* (1999) Oxford

Eric Stokes, *The English Utilitarian and India* (1992) Oxford, Delhi.

In addition, the Encyclopaedia of Comparative Law provides a whole variety of materials in the course.

Rane Davis N.E., *Comparative law*.

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## 5. Certain Comparable Areas in "Third World" Law and Jurisprudence units 40

- 5.1. Comparative studies of emergency and constitutionalism
- 5.2. Comparative judicial process
- 5.3. Comparative study of legal professions
- 5.4. Comparative study of law reform
- 5.5. Comparative studies of gender justice
- 5.6. Comparative studies of environmental law
- 5.7. Comparative analyses of contract law
- 5.8. Comparative family law
- 5.9. Comparative studies to access to law
- 5.10. Religion, tradition and custom
- 5.11. Comparative legislative process
- 5.12. Comparative criminal justice system

Note: Only four out of the twelve sub-units in Unit 5 need be included in the study of this paper. The concerned university bodies shall have the discretion to select these papers

**Select bibliography**

Werner F. Menski, Comparative Law in a Global Context - *The Legal Systems of Asia and Africa*, (2000), Platinum Publishing Ltd., London

O. Khan Freund, *Collected Essays* (1978)

Indian Law Institute, *An Introduction to the Study of Comparative Law* Reprint (1979).

J.D.M. Derrett (ed.), *An Introduction to Legal Systems*

G. Eorsi, *Comparative Civil Law* (1979)

International Commission of Jurists, *States of Emergency : Impact on Human Rights* (1983).

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UGC Model Paper

Y. Ghai, et.al (ed.), *The Political Economy of Law : A Third World Reader* 559-648(1987).

Indian Law Institute, *Contractual Law Remedies in Asian Countries* (1975).

Indian Law Institute, *Family Law Reform in the Muslim World* (1972).

See, M. Cappelletti et.al., *Towards Equal Justice : A Comparative Study of Legal Aid in Modern Societies* (1975)

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I.W.F. Allilou, *A Continental Distinction in the Common Law* (1999) Oxford

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In addition, the Encyclopaedia of Comparative Law provides a whole variety of materials in the course.

Rane Davis N.E., *Comparative law*.

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**BCI 004 A LEGAL HISTORY*****Objectives of the course***

Study of law relating to a particular country is not complete without understanding the history and development of the laws and legal institutions. India is a country rich in history and traditions. A student of law should be exposed to the ancient social order and religious philosophy as well as to the systems of dispute settlement mechanisms existing in those days. The medieval period had influence in the development of legal system. The advent of the British was an event, which also had its influence. The growth of judicial and legislative institutions after this event has to be taught in order to give an insight and awareness of how the present system had emerged from the ancient and medieval times.

This paper with the above mentioned perspectives will comprises of about 84 units of one hour duration.

***Legal History of India***

- |      |  |          |
|------|--|----------|
| 1.   | Judicial Systems in Ancient India  | units 10 |
| 1.1. | Judicial system in ancient India: Hindu period                               |          |
| 1.2. | Ancient Hindu social order and religions philosophy                          |          |
| 1.3. | Administration of justice  |          |
| 1.4. | Judicial system in medieval India: Muslim period                             |          |
| 1.5. | The Mughal period: judicial system   |          |
| 2.   | Administration of Justice in Bombay, Madras and Calcutta                     | unit 6   |
| 2.1. | Emergence of the East India Company: development of authority under charters |          |
| 2.2. | Trading body to a territorial power: subsequent charters.                    |          |
| 2.3. | Administration of justice in Madras from 1639 to 1726.                       |          |
| 2.4. | Administration of justice in Bombay 1668 -1726                               |          |
| 2.5. | Administration of justice in Calcutta 1619 - 1726                            |          |

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UGC Model Curriculum

3. The Mayors Court units 5
- 3.1. Genesis of the charter of 1726
  - 3.2. Provisions of the charter
  - 3.3. Working of judicial system
  - 3.4. Charter of 1753
  - 3.5. Defects of judicial systems
4. Adalat System units 7
- 4.1. Grant of Diwani
  - 4.2. Execution of Diwani functions
  - 4.3. Judicial plan of 1772
  - 4.4. Defects of the plan
  - 4.5. New plan of 1774
  - 4.6. Reorganization of adalats in 1780
  - 4.7. Reforms of 1781
  - 4.8. The first civil code
  - 4.9. Reforms in the administrations of criminal justice.
5. The Regulating Act 1773 units 7
- 5.1. Charter of 1774 and the Supreme Court of Calcutta
  - 5.2. Some land mark cases
    - a. Issue of Raj Nandkumar (1775): whether a judicial murder?
    - b. The Patna case (1777-79)
    - c. The Cossijurah case (1779-80)
  - 5.3. Act of settlement 1781
    - 5.3.1. Major defects
  - 5.4. Supreme Courts at Calcutta, Madras and Bombay.
  - 5.5. Law and administration in the Supreme Court

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## 6. Judicial Reforms

units 7

- 6.1. Judicial reforms of Cornwallis
- 6.2. Problems of judicial reforms 1793-1833
- 6.3. Impact of reforms by Cornwallis 1793
- 6.4. Reforms of Sir John Shore (1793)
- 6.5. Reforms of Lord Wellesley (1798)
- 6.6. Reforms of Lord Cornwallis (1805)
- 6.7. Reforms of Lord Minto (1807)
- 6.8. Lord Hastings' administration of justice (1813)
- 6.9. Judicial reforms of Lord Bentick (1828)
  - 6.9.1. Defects of the systems

## 7. Establishment of the High Courts

units 7

- 7.1. The Indian High Courts Act 1861
- 7.2. Charter of Calcutta High Court
- 7.3. Allahbad High Court
- 7.4. The Indian High Courts Act 1911
- 7.5. The Government of India Act 1915 : other High Courts
- 7.6. Government of India Act 1935 : more high courts created
- 7.7. Jurisdiction of high courts
- 7.8. Posts constitutional developments

## 8. The Federal Court of India

units 5

- 8.1. Foundation of the Federal Court
- 8.2. Jurisdiction
- 8.3. Authority of law
- 8.4. Expansion of Jurisdiction

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UGC Mode' Curriculum

- 8.5. Abolition of the Federal Court
- 8.6. An assessment
9. Privy Council units 5
- 9.1. Jurisdiction
- 9.2. Appeals from India
- 9.3. A unique institution
10. The Supreme Court of India units 3
- 10.1. Origin
- 10.2. Constitution
- 10.3. Jurisdiction and powers
- 10.4. Doctrine of precedents and the Supreme Court
- 10.5. Recent changes
11. Development of legislative authorities in India from 1861-1935 units 8
12. Growth of Criminal Law units 2
13. Growth of personal Law of Hindus and Muslims units 2
14. Charters Act 1833 units 2
15. Influence of English Law in India units 2
16. Prerogative writs in India units 2
17. Racial discrimination units 2
18. Growth of justice, equity and good conscience units 2

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**BCI 005 INSURANCE LAW****Statement of objectives**

The insurance idea is an old-institution of transactional trade. Even from olden days merchants who made great adventures gave money by way of consideration, to other persons who made assurance, against loss of their goods, merchandise ships and things adventured. The rates of money consideration were mutually agreed upon. Such an arrangement enabled other merchants more willingly and more freely to embark upon further trading adventures.

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 of rules of interpretation as propounded by the judiciary. Besides, the insurance idea has a compensatory justice component.

This course is designed to acquaint the students with the conceptual and operational parameters, of insurance law.

This course with above perspectives comprises of about 84 units of one-hour duration.

**Syllabus**

1. Introduction units 10
  - 1.1. Definition, nature and history of insurance
  - 1.2. Concept of Insurance and law of contract and law of torts future of insurance in globalized economy.
  - 1.3. History and development of insurance in India.
  - 1.4. Insurance Regulatory Authority - role and functions.
2. General principles of law of Insurance units 14
  - 1.1. Contract of Insurance - classification of contract of insurance nature of various insurance contracts, parties thereto

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- 1.2. Principle of good faith-non-disclosure-misrepresentation in insurance contract
  - 1.3. Insurable interest
  - 1.4. The risk
  - 1.5. The policy, classification of policies-its form and contents, its commencement, duration, cancellation, alteration, rectification, renewal, assignment, construction
  - 1.6. Conditions of the policy
  - 1.7. Alteration of the risk
  - 1.8. Assignment of the subject matter
- 3. Life Insurance** units 15
- 1.1. Nature and scope of life insurance, definition, kinds of life insurance, the policy and formation of a life insurance contract
  - 1.2. Event insured against life insurance contract
  - 1.3. Circumstances affecting the risk
  - 1.4. Amounts recoverable under life policy
  - 3.5. Persons entitled to payment
  - 3.6. Settlement of claim and payment of money
- 4. Marine Insurance** units 14
- 4.1. Nature and scope
  - 4.2. Classification of marine policies
    - 4.1.1. The Marine Insurance Act 1963
    - 4.1.2. Insurable interest, insurable value
    - 4.1.3. Marine insurance policy - conditions - express warranties construction of terms of policy
    - 4.1.4. Voyage - deviation
    - 4.1.5. Perils of the sea

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1780

- 4.1.6. Partial loss of ship and of freight, salvage, general average, particular charges
- 4.1.7. Measure of indemnity, total valuation, liability to third parties
- 5. Insurance Against Third Party Risks units 10
  - 5.1. The Motor Vehicles Act, 1988 (Chapter VIII)
    - 5.1.1. Nature and scope, persons governed, definitions of 'use', 'drives', 'motor vehicle', requirements of policy, statutory contract between insurer and drive rights of third parties, limitations on third party's rights duty to inform third party
    - 5.1.2. Effect of insolvency or death on claims, insolvency and death of parties, certificate of insurance
    - 5.1.3. Conditions to be satisfied
    - 5.1.4. Claims tribunal, constitution, functions, application for compensation - who can apply? - procedure and powers of claims tribunal-its award.
    - 5.1.5. Co-operative insurance (Motor Vehicles Rules)
- 3. Social Insurance in India units 14
  - 6.1. Important elements in social insurance, its need
  - 6.2. Commercial insurance and social insurance
  - 6.3. Workmen's compensation - scope, risks covered, industrial accidents, occupational diseases, cash benefits, incapacity, amount of compensation, nature of injuries, dependents, schedule
  - 6.4. Sicknes insurance, Adarkar scheme, Stack and Rao scheme for wage earners and others, risks covered, maturity and other benefits
  - 6.5. Old age, premature death and invalidity insurance or pension insurance, public provident fund, jeevandhara policy
  - 6.6. Unemployment insurance
  - 6.7. Social insurance for people like seamen, circus workers and agricultural, workers

- Law
7. Public Liability Insurance units 5
- 7.1. The scheme
- 7.2. Authorities
8. The emerging legislative trends units 2

*Select bibliography.*

Singh, Bridge Anand, *New Insurance Law* (2000) Union Book Publishers, Allahabad.

Ivamy, *Case Book on Insurance Law* (1984), Butterworths.

Ivamy, *General Principles of Insurance Laws* (1993), Butterworths

John Birds, *Modern Insurance Law* (1988), Sweet and Maxwell

Sreenivasan. M.N., *Principles of Insurance Law* (1997), Ramaniya Publishers, Bangalore.

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LL.B. II YEAR (3 YEARS COURSE)  
NEW LAW – IV YEAR, (FIVE YEARS COURSE)  
CHAPTER II  
LL.B. PROGRAMME

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*BCI C 01 JURISPRUDENCE*

*Objectives of the course*

At the heart of the legal enterprise is the concept of law. Without a deep understanding of this concept neither legal education nor legal practice can be a purposive activity oriented towards attainment of justice in society. Moreover, without a comprehension of the cognitive and teleological foundations of the discipline, pedagogy becomes a mere teaching of the rules. It is unable to present various statutes, cases, procedure, practices and customs as a systematic body of knowledge, nor is it able to show the inter-connection between these various branches of law, procedures and principles. The fact that the basic nature and purpose of law should be clear to every student and that it should be the very foundation of law teaching needs little argument. A course in jurisprudence should, primarily, induct the student into a realm of questions concerning law so that he is able to live with their perplexity or complexity and is driven to seek out answers for himself.

It may not be possible that a one-year jurisprudence course can impart knowledge of doctrines about law and justice, developed over the years, in various nations and historical situations. At best an undergraduate course should impart the analytical skill and equip the student with the basic problems concerning law and the types of solutions sought. Thus, the student not only will be able to use this skill in practice but also is motivated to take up detailed historical studies on his own after the course. Since a basic idea in the designing of this course is to bring jurisprudence closer to our reality, in the selection of cases and reading materials the teacher should try to make use of the Indian material as far as possible.

The course will comprise of 84 units of one hour duration.

*Syllabus*

1. Introduction

units 10

- 1.1. Meaning of the term 'jurisprudence'
- 1.2. Norms and the normative system.

## Law

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- 1.2.1. Different types of normative systems, such as of games, languages, religious orders, unions, clubs and customary practice.
- 1.2.2. Legal system as a normative order: similarities and differences of the legal system with other normative systems.
- 1.3. Nature and definition of law.

**2. Schools of Jurisprudence**

units 15

- 2.1. Analytical positivism
- 2.2. Natural law
- 2.3. Historical school
- 2.4. Sociological school
- 2.5 The Bharat jurisprudence
- 2.6 The Ancient: The concept of 'Dharma']
- 2.6.1 The Modern: PIL, Social justice, compensatory jurisprudence

**3. Purpose of Law**

- 3.1. Justice
  - 3.1.1. Meaning and kinds
  - 3.1.2. Justice and law: approaches of different schools
  - 3.1.3. Power of the Supreme Court of India to do complete justice in a case: Article 142
  - 3.1.4. Critical studies
  - 3.1.5. Feminist jurisprudence

**4. Sources of Law**

units 20

- 4.1. Legislation
- 4.2. Precedents: concept of stare decisis
- 4.3. Customs
- 4.4. Juristic writings



UGC Model Curriculum

5. **Legal Rights: the Concept** units 6
    - 5.1. Rights: kinds
    - 5.2. Right duty correlation
  
  6. **Persons** units 3
    - 6.1. Nature of personality
    - 6.2. Status of the unborn, minor, lunatic, drunken and dead persons]
    - 6.3. Corporate personality
    - 6.4. Dimensions of the modern legal personality: Legal personality of non-human beings
  
  7. **Possession: the Concept** units 3
    - 7.1. Kinds of possession
  
  8. **Ownership :the Concept** units 3
    - 8.1. Kinds of ownership
    - 8.2. Difference between possession and ownership
  
  9. **Title** units 2
  
  10. **Property: the concept** units 3
    - 10.1. Kinds of property
  
  11. **Liability** units 15
    - 11.1. Conditions for imposing liability
      - 11.1.1. Wrongful act
      - 11.1.2. Darnnum sine injuria
      - 11.1.3. Causation
      - 11.1.4. Mens rea
      - 11.1.5. Intention
-

## Law

11.1.6. Malice

11.1.7. Negligence and recklessness

11.1.8. Strict liability

11.1.9. Vicarious liability

12. Obligation: Nature and kinds.

units 2

12.1. Sources of obligation

13. Procedure

units 2

13.1. Substantive and procedural laws: difference

13.2. Evidence: Nature and kinds

**Select bibliography**Bodenheimer *Jurisprudence—The Philosophy and Method of Law* (1996), Universal, Delhi.Fitzgerald, (ed.) *Salmond on Jurisprudence* (1999) Tripathi, BombayW. Friedmann, *Legal Theory* (1999) Universal, Delhi.V.D. Mahajan, *Jurisprudence and Legal Theory* (1996 re-print), Eastern, LucknowM.D.A Freeman (ed.), *Lloyd's Introduction to Jurisprudence*, (1994), Sweet & MaxwellPaton G.W., *Jurisprudence* (1972) Oxford, ELBSH.L.A. Hart, *The Concepts of Law* (1970) Oxford, ELBSRoscoe Pond, *Introduction to the Philosophy of Law* (1998 Re-print) Universal, Delhi.Dias, *Jurisprudence* (1994 First Indian re-print), Adithya Books, New Delhi.Dhyani S.N., *Jurisprudence: A study of Indian Legal Theory* (1985), Metropolitan, New Delhi.

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Law

**B.Cl C 03 CONTRACT - II (INDIAN CONTRACT ACT, INDIAN PARTNERSHIP ACT, SALE OF GOODS ACT AND OTHER SPECIFIC CONTRACTS)*****Objectives of the course***

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

The paper comprises of about 84 units of one hour duration.

***Syllabus*****1. Indemnity****units 3**

- 1.1. The concept
- 1.2. Need for indemnity to facilitate commercial transactions.
- 1.3. Methods of creating indemnity obligations.
- 1.4. Definition of Indemnity
- 1.5. Nature and extent of liability of the indemnifier
- 1.6. Commencement of liability of the indemnifier
- 1.7. Situations of various types of indemnity creators.
- 1.8. Documents/agreements of indemnity
- 1.9. Nature of indemnity clauses.
- 1.10. Indemnity in cases of International transactions
- 1.11. Indemnity by governments during interstate transactions.

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units 7

28  
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## 2. Guarantee

- 2.1. The concept.
- 2.2. Definition of guarantee: as distinguished from indemnity.
- 2.3. Basic essentials for a valid guarantee contract.
- 2.4. The place of consideration and the criteria for ascertaining the existence of consideration in guarantee contracts.
- 2.5. Position of minor and validity of guarantee when minor is the principal debtor, creditor or surety.
- 2.6. Continuing guarantee.
  - 2.6.1. Nature of surety's liability
  - 2.6.2. Duration and termination of such liability
- 2.7. Illustrative situations of existence of continuing guarantee.
  - 2.7.1. Creation and identification of continuing guarantees.
- 2.8. Letters of credit and bank guarantees as instances of guarantee transactions
- 2.9. Rights of surety:
  - 2.9.1. Position of surety in the eye of law
  - 2.9.2. Various judicial interpretations to protect the surety.
- 2.10. Co-surety and manner of sharing liabilities and rights.
- 2.11. Extent of surety's liability.
- 2.12. Discharge of surety's liability.

## 3. Bailment

units 6

- 3.1. Identification of bailment contracts in day today life.
  - 3.1.1. Manner of creation of such contracts
- 3.2. Commercial utility of bailment contracts
- 3.3. Definition of bailment
- 3.4. Kinds of bailees

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- 3.5. Duties of Bailor and Bailee towards each other
- 3.6. Rights of bailor and bailee
- 3.7. Finder of goods as a bailee.
  - 3.7.1. Liability towards the true owner.
  - 3.7.2. Obligation to keep the goods safe
  - 3.7.3. Right to dispose off the goods.

## 4. Pledge

units 4

- 4.1. Pledge: comparison with bailment
- 4.2. Commercial utility of pledge transactions
- 4.3. Definition of pledge under the Indian contract Act
- 4.4. Other statutory regulations(State & Centre)regarding pledge, reasons for the same
- 4.5. Rights of the pawner and pawnee.
  - 4.5.1. Pawnee's right of sale as compared to that of an ordinary bailee
- 4.6. Pledge by certain specified persons mentioned in the Indian Contract Act.

## 5. Agency

units 10

- 5.1. Identification of different kinds of agency transactions in day to day life in the commercial world
- 5.2. Kinds of agents and agencies.
  - 5.2.1. Distinction between agent and servant.
- 5.3. Essentials of a agency transaction
- 5.4. Various methods of creation of agency
- 5.5. Delegation
- 5.6. Duties and rights of agent
- 5.7. Scope and extent of agent's authority.
- 5.8. Liability of the principal for acts of the agent including misconduct and tort of the agent

- 5.9. Liability of the agent towards the principal.
- 5.10. Personal liability towards the parties
- 5.11. Methods of termination of agency contract
- 5.11.1. Liability of the principal and agent before and after such termination.
- 6. Sale of Goods units 22
  - 6.1. Concept of sale as a contract
  - 6.2. Illustrative instances of sale of goods and the nature of such contracts.
  - 6.3. Essentials of contract of sale
  - 6.4. Essential conditions in every contract of sale
  - 6.5. Implied terms in contract of sale
  - 6.6. The rule of caveat emptor and the exceptions thereto under the Sale of Goods Act.
  - 6.7. Changing concept of caveat emptor
  - 6.8. Effect and meaning of implied warranties in a sale
  - 6.9. Transfer of title and passing of risk
  - 6.10. Delivery of goods: various rules regarding delivery of goods.
  - 6.11. Unpaid seller and his rights
  - 6.11.2. Remedies for breach of contract
- 7. Partnership units 20
  - 7.1. Nature of partnership: definition
  - 7.2. Distinct advantages and disadvantages vis-à-vis partnership and private limited company
  - 7.3. Mutual relationship between partners
  - 7.4. Authority of partners
  - 7.5. Admission of partners.
  - 7.6. Outgoing of partners.

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7.7. Registration of Partnership

7.8. Dissolution of Partnership

## 8. Negotiable Instruments

units 12

8.1. The concept

8.2. Various kinds

8.3. Essential requirements to make an instrument negotiable.

8.4. Competent parties for making and negotiation

8.5. Acceptance of the instrument.

8.6. Dishonour by non-acceptance and remedies available to the holder

8.7. Holder and holder in due course: meaning, essential conditions rights and privileges of holder in course and indorsee from the holder in due course.

8.8. Negotiation of the instrument.

8.9. Presentment of the instrument.

8.10. Cheques: rules regarding payment of cheque

8.10.1. Liability of the collecting banker and paying banker.

8.10.2 Dishonour of cheque – Conditions to be completed before filing criminal complaint &amp; its effect.

8.10.3. Discharge from liability

8.11. Kinds of bills

8.12. Evidence

8.12.1. Special rules of evidence regarding negotiable instruments

*Select bibliography.*

R.K.Abhichandani (ed.), *Pollock and Mulla on Contracts and Specific Relief Acts* (1999) Tripathi, Bombay

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J.P.Verma (ed.), Singh and Gupta, *The Law of Partnership in India* (1999), Orient Law House, New Delhi.

A. G. Guest (ed.), *Benjamin's Sale of Goods* (1992), Sweet & Maxwell.

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M.S.Parthasarathy (ed.), J. S. Khorgamvala, *The Negotiable Instruments Act*

Beatson (ed.), *Ansons' Law of Contract*, (1998), Oxford, London

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Ramnainga, *The Sales of Goods Act* (1998), Universal

## BCI C 05 & C 06 FAMILY LAW I AND II

### *Objectives of the course*

The course structure is designed mainly with three objectives in view. One is to provide adequate sociological perspectives so that the basic concepts relating to family are expounded in their social setting. The next objective is to give an overview of some of the current problems arising out of the foundational inequalities writ large in the various family concepts. The third objective is to view family law not merely as a separate system of personal laws based upon religions but as the one cutting across the religious lines and eventually enabling us to fulfill the constitutional directive of uniform civil code. Such a restructuring would make the study of familial relations more meaningful.

The Bar Council of India has suggested that the Family Law is to be taught in two courses while the CDC had prepared the syllabus for a comprehensive full course on Family Law. The CDC syllabi being elaborate embracing various aspects of Family Law, each University Board of Studies has the discretion to divide the CDC paper on Family Law into two.

The following syllabus prepared with this perspective will, thus, comprise about 168 units of one-hour duration.

### Syllabus – FAMILY LAW - PAPER – I

- |  |         |
|--|---------|
| 1. Marriage and Kinship  | units 6 |
| 1.1. Evolution of the institution of marriage and family.  |         |
| 1.2. Role of religious rituals and practices in moulding the rules regulating to marital relations |         |
| 1.3. Types of family based upon  |         |
| 1.3.1. Lineage- patrilineal matrilineal  |         |
| 1.3.2. Authority structure- patriarchal and matriarchal  |         |
| 1.3.3. Location- patrilocal and matrilocal   |         |
| 1.3.4. Number of conjugal units - nuclear, extended, joint and composite.                          |         |
| 1.4. Emerging concepts : maitri sambandh and divided home  |         |

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**2. Customary practices and State regulation**

units 8

- 2.1. Polygamy
- 2.2. Concubinage
- 2.3. Child marriage
- 2.4. Sati
- 2.5. Dowry

**3. Conversion and its effect on family**

units 8

- 3.1. Marriage
- 3.2. Adoption
- 3.3. Guardianship
- 3.4. Succession

(In view of the conflict of inter-personal laws, conversion is causing problems. How conversion affects the family and whether it is compatible with the concept of secularism and to what extent such problems would stand resolved with the enactment of a uniform civil code are some of the basics that need to be examined).

**4. Joint Family**

units 30

- 4.1. Mitakshara joint family
- 4.2. Mitakshara coparcenary- formation and incidents
- 4.3. Property under Mitakshara law- separate property and coparcenary property
- 4.4. Dayabhaga coparcenary- formation and incidents
- 4.5. Property under Dayabhaga law.
- 4.6. Karta of the joint family - his position, powers, privileges and obligations
- 4.7. Alienation of property- separate and coparcenary.
- 4.8. Debts - doctrines of pious obligations and antecedent debt.
- 4.9. Partition and re-union

**FAMILY LAW - PAPER - II**

6. Matrimonial Remedies units (20) 24
- 6.1. Non-judicial resolution of marital conflicts.
    - a. Customary dissolution of marriage - unilateral divorce, divorce by mutual consent and other modes of dissolution.
    - b. Divorce under Muslim personal law - talaq and talaq-e-talweez.
  - 6.2. Judicial resolution of marital conflicts : the family court
  - 6.3. Nullity of marriage
  - 6.4. Option of puberty
  - 6.5. Restitution of conjugal rights
  - 6.6. Judicial separation
  - 6.7. Desertion: a ground for matrimonial relief
  - 6.8. Cruelty: a ground for matrimonial relief
  - 6.9. Adultery: a ground for matrimonial relief
  - 6.10. Other grounds for matrimonial relief
  - 6.11. Divorce by mutual consent under: Special Marriage Act 1954; Hindu Marriage Act 1955; Muslim law (Kholi and Mubaraat).
  - 6.12. Bar to matrimonial relief:
    - 6.12.1. Doctrine of strict proof
    - 6.12.2. Taking advantage of one's own wrong or disability
    - 6.12.3. Accessory
    - 6.12.4. Connivance
    - 6.12.5. Collusion
    - 6.12.6. Condonation
    - 6.12.7. Improper or unnecessary delay
    - 6.12.8. Residuary clause - no other legal ground exists for refusing the matrimonial relief.
7. Alimony and maintenance units 16
- 7.1. Maintenance of neglected wives, divorced wives, minor children, disabled children, and parents who are unable to support themselves: provisions under the Code of Criminal Procedure 1973.
  - 7.2. Alimony and maintenance as an independent remedy: a review under different personal laws - need for reforming the law

- 7.3. Alimony and maintenance as an ancillary relief
- 7.4. Maintenance of divorced Muslim women under the Muslim Women (Protection of Rights on Divorce) Act 1986 : a critical review.
8. Child and the Family units 14
- 8.1. Legitimacy
- 8.2. Adoption
- 8.3. Custody, maintenance and education
- 8.4. Guardianship and parental rights - welfare of the child principle.
9. Family and its changing patterns units 10
- 9.1. New emerging trends:
- 9.1.1. Attenuation of family ties
- 9.1.2. Working women and their impact on spousal relationship : composition of family, status and role of women
- 9.1.3. New property concepts, such as skill and job as new forms of property.
- 9.2. Factors affecting the family: demographic, environmental, religious and legislative
- 9.3. Processes of social change in India: sanskritization, westernization, secularization, universalization, parochialization, modernization, industrialization and urbanization.
10. Settlement of spousal property units 4
- 10.1. Need for development of law
11. Establishment of Family Courts units 8
- 11.1. Constitution, power and functions
- 11.2. Administration of gender justice
12. Uniform Civil Code - need for units 8
- 12.1. Religious pluralism and its implications
- 12.2. Connotations of the directive contained in Article 44 of the Constitution

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- 12.3. Impediments to the formulation of the Uniform Civil Code
- 12.4. The idea of Optional Uniform Civil Code.

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Paras Diwan, *Law of Adoption, Ministry, Guardianship and Custody* (2000), Universal

## LJCI C 10 PROPERTY LAW INCLUDING TRANSFER OF PROPERTY ACT AND EASEMENT ACT

### *Objectives of the course*

The course on property conventionally deals with the Transfer of Property Act 1882. More than a century has elapsed since the passing of the Act and far-reaching changes have occurred in the field in property laws owing to altered social conditions. While archaic feudal rules enacted by the colonial administration like the rule against perpetuities find a place in the Act, the post-independence development relating to control and use of agricultural land do not find a place. The obsolescence of the Transfer of Property Act, can be best illustrated by citing the provisions relating to leases on immovable properties. The provisions relating to leases under the Act are not applicable to agricultural leases; and even with respect to urban immovable property, the provisions are not applicable to the most dominant type, namely, housing under the rent control legislation. Thus the existing syllabus does not touch upon agrarian property relations, which affect the vast majority of people or aspects relating to intellectual property which are important in the context of development. The proposed syllabus attempts at overcoming these deficiencies and imbalances.

The following syllabus prepared with this perspective will comprise about 84 units of one-hour duration.

### *Syllabus*

- |      |  |         |
|------|--|---------|
| 1.   | Jurisprudential Controls of Property   | units 5 |
| 1.1. | Concept and meaning of property - new property - governmental largesse.  |         |
| 1.2. | Kinds of property - movable and immovable property - tangible and intangible property - intellectual property - copyright - patents and designs - trademarks |         |
| 1.3. | The concept of common property resources-  |         |
| 1.4. | Possession and ownership as man - property relationship - finder of lost goods.  |         |

UGC Model Curriculum

2. Resources Use Patterns and Concepts in India: Who owns land? Sovereign or the Subject? units 7

2.1. Pre-colonial position.

2.1.1. Hindu theory

2.1.2. Muslim theory

2.1.3. Tribal approaches

2.2. Position under colonial administration

2.2.1. Introduction of permanent settlement

2.2.2. Ryotwari settlement

2.2.3. Evaluation of eminent domain under company administration.

2.3. Effects of colonial revenue administration.

2.3.1. Intermediaries

2.3.2. Tenancies

2.3.3. "Land going to the market"

2.3.4. Inequalities in landholding

2.4. Requisitioning and acquisition of immovable property.

2.4.1. Land Acquisition: inquiry- notice and hearing - should ecological moves be examined?

2.4.1.1. Concept of public purpose

2.4.2. Requisitioning: powers, right, exemption and release

2.4.3. Inadequacies

3. Forms of Control Urban Property units 5

3.1. Right to Housing and Shelter.

3.1.1. Slum Clearance or slum improvement?

3.1.2. Housing Policy

*Law***3.2. Rent Control – Maharashtra Rent control Act, 2000**

3.2.1. Protection against eviction and fixation of fair rent

3.3. Urban development authority

3.3.1. Master plan

3.3.2. Zonal development plan

3.3.3. Declaration of development areas.

3.3.4. Powers of the authority

**4. Post-constitutional Developments with Respect to Agricultural Land units 4**

4.1. "Land to the tiller"

4.2. Land ceiling legislation

4.3. State enactments prohibiting alienation of land by tribals to non-tribals

**5. Law Relating to Transfer of Property units 45**

5.1. General principles of transfer of property

5.2. Specific transfers

5.2.1. Sales

5.2.2. Mortgages

5.2.2.1. Under the provision of the Transfer of Property Act, 1882

5.2.2.2. To a land mortgage bank, land development bank, powers and functions

5.3. Charges

5.4. Leases

5.5. Exchange

5.6. Gifts

5.7. Actionable claims

UGC Model Curriculum

6. Trusts units 3
- 6.1. Definition and classification
  - 6.2. Trust distinguished from agency, bailment and a wakf.
  - 6.3. Charitable trusts. Resulting and constructive trusts.
7. Law Relating to Certain Intangible Properties units 5
- 7.1. Goodwill
  - 7.2. Trademarks
  - 7.3. Patents and designs
  - 7.4. Copyright
  - 7.5. Video piracy
  - 7.6. Software
8. Easements units 6
- 8.1. Nature, characteristics and extinction
  - 8.2. Creation of easements
  - 8.3. Riparian rights
  - 8.4. Licenses
9. Recordation of Property Rights units 4
- 9.1. Law relating to registration of documents affecting property relations - Exemptions of leases and mortgages in favour of land development bank from registration.
  - 9.2. Recordation of rights in agricultural land and with special reference to respective states.
  - 9.3. Investigation of title to property.
  - 9.4. Law relating to stamp duties.
    - 9.4.1. Of the liability of instruments to duty.
    - 9.4.2. Duties by whom payable.
    - 9.4.3. Effect of not duly stamping instruments: Examination and impounding of instruments; inadmissibility on evidence; impounding of instruments.

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*BCI C 14 ADMINISTRATIVE LAW**Objectives of the course*

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

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

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

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

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

The following syllabus prepared with this perspective will comprise of about 84 units of one hour duration.

1. Evolution, Nature and Scope of Administrative Law units 8
    - 1.1. From a laissez-faire to a social welfare state
      - 1.1.1. State as regulator of private interest
      - 1.1.2. State as provider of services
      - 1.1.3. Other functions of modern state : relief, welfare
    - 1.2. Evolution of administration as the fourth branch of government- necessity for delegation of powers on administration.
    - 1.3. Evolution of agencies and procedures for settlement of disputes between individual and administration
      - 1.3.1. Regulatory agencies on the United States
      - 1.3.2. Conseil d'Etat
      - 1.3.3. Tribunalization in England and India
    - 1.4. Definition and scope of administrative law
    - 1.5. Relationship between constitutional law and administrative law
    - 1.6. Separation of powers
    - 1.7. Rule of law
  
  2. Civil Service in India units 8
    - 2.1. Nature and organization of civil service: from colonial relics to democratic aspiration
    - 2.2. Powers and functions
    - 2.3. Accountability and responsiveness: problems and perspectives
    - 2.4. Administrative deviance- corruption, nepotism, mal-administration.
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UGC Model Curriculum

**3. Legislative Powers of Administration**

units 8

- 3.1. Necessity for delegation of legislative power
- 3.2. Constitutionality of delegated legislation - powers of exclusion and inclusion and power to modify statute
- 3.3. Requirements for the validity of delegated legislation
  - 3.3.1. Consultation of affected interests and public participation in rule-making
  - 3.3.2. Publication of delegated legislation
- 3.4. Administrative directions, circulars and policy statements
- 3.5. Legislative control of delegated legislation
  - 3.5.1. Laying procedures and their efficacy
  - 3.5.2. Committees on delegated legislation - their constitution, function and effectiveness
  - 3.5.3. Hearings before legislative committees
- 3.6. Judicial control of delegated legislation
- 3.7. Sub-delegation of legislative powers

**4. Judicial Powers of Administration**

units 8

- 4.1. Need for devolution of adjudicatory authority on administration
- 4.2. Administrative tribunals and other adjudicating authorities : their ad-hoc character
- 4.3. Tribunals - need, nature, constitution, jurisdiction and procedure
- 4.4. Jurisdiction of administrative tribunals and other authorities
- 4.5. Distinction between quasi-judicial and administrative functions
- 4.6. The right to hearing- essentials of hearing process
  - 4.6.1. No man shall be judge in his own cause
  - 4.6.2. No man shall be condemned unheard
- 4.7. Rules of evidence - no evidence, some evidence and substantial evidence rules
- 4.8. Reasoned decisions

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- 4.9. The right to counsel
- 4.10. Institutional decisions
- 4.11. Administrative appeals

5. Judicial Control of Administrative Action

units 20

- 5.1. Exhaustion of administrative remedies
- 5.2. Standing : standing for Public interest litigation (social action litigation) collusion, bias
- 5.3. Laches
- 5.4. Res judicata
- 5.5. Grounds
  - 5.5.1. Jurisdictional error/ultra vires
  - 5.5.2. Abuse and non exercise of jurisdiction
  - 5.5.3. Error apparent on the face of the record
  - 5.5.4. Violation of principles of natural justice
  - 5.5.5. Violation of public policy
  - 5.5.6. Unreasonableness
  - 5.5.7. Legitimate expectation
- 5.6. Remedies in judicial Review:
  - 5.6.1. Statutory appeals
  - 5.6.2. Mandamus
  - 5.6.3. Certiorari
  - 5.6.4. Prohibition
  - 5.6.5. Quo-Warranto
  - 5.6.6. Habeas Corpus
  - 5.6.7. Declaratory judgments and injunctions
  - 5.6.8. Specific performance and civil suits for compensation

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**6. Administrative Discretion**

units 8

- 6.1. Need for administrative discretion
- 6.2. Administrative discretion and rule of law
- 6.3. Limitations on exercise of discretion
  - 6.3.1. Malafide exercise of discretion
  - 6.3.2. Constitutional imperatives and use of discretionary authority
  - 6.3.3. Irrelevant considerations
  - 6.3.4. Non-exercise of discretionary power

**7. Liability for Wrongs (Tortious and Contractual)**

units 8

- 7.1. Tortious liability: sovereign and non-sovereign functions
- 7.2. Statutory immunity
- 7.3. Act of state
- 7.4. Contractual liability of government
- 7.5. Government privilege in legal proceedings- state secrets, public interest
- 7.6. Transparency and right to information
- 7.7. Estoppel and waiver

**8. Corporations and Public Undertakings**

units 8

- 8.1. State monopoly-remedies against arbitrary action or for acting against public policy
- 8.2. Liability of public and private corporations - departmental undertakings
- 8.3. Legislative and governmental control
- 8.4. Legal remedies
- 8.5. Accountability- Committee on Public Undertakings, Estimates Committee, etc.

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## 3. Informal Methods of Settlement of Disputes and Grievance Redressal Procedures

Units 8

- 9.1. Conciliation and mediation through social action groups
- 9.2. Use of media, lobbying and public participation
- 9.3. Public inquiries and commissions of inquiry
- 9.4. Ombudsman : Lok Pal, Lok Ayukta
- 9.5. Vigilance Commission
- 9.6. Congressional and Parliamentary Committees

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BCI C 15 COMPANY LAW

*Objectives of the course*

Industrialisation is the way out of poverty in the economic development of India. In the post-independence era, industrialisation for an entrepreneur is a principal means in the strategy for attaining constitutional values. Corporations are an effective powerful instruments for development. Besides bringing returns and financial benefits to the capital and labour they help amelioration of the living conditions of masses. In a developing society like India, vast varieties of consumer goods are manufactured or produced and different kinds of public utility services are generated both for general welfare and consumption purposes. Obviously, it is beyond the capacity of one or a few entrepreneurs to engage into such activities. Because the problem of raising large capital needed for such enterprises, there is a looming danger of market risks. Hence, taking recourse to the device of incorporation is the only efficacious way to surmount all such hurdles.

This course is comprises of about 84 units of one-hour duration.

*Syllabus*

1. **Meaning of Corporation**
  - 1.1. Theories of corporate personality units 2
  - 1.2. Creation and extinction of corporations.
2. **Forms of Corporate and Non-Corporate Organisations** units 2
  - 2.1. Corporations, partnerships and other associations of persons, state corporations, government companies, small scale, co-operative, corporate and joint sectors.
3. **Law relating to companies - public and private - Companies Act, 1956**
  - 3.1. Need of company for development formation of a company registration and incorporation. units 3
  - 3.2. Memorandum of association - various clauses - alteration therein - doctrine of ultra vires. units 4

Law

- 3.3. Articles of association - binding force - alteration - its relation with memorandum of association - doctrine of constructive notice and indoor management - exceptions  
units 4
- 3.3.1. Prospectus - issue - contents - liability for misstatements - statement in lieu of prospectus.  
units 2
- 3.4. Promoters - position - duties and liabilities  
units 2
- 3.4.1. Shares - general principles of allotment statutory restrictions - share certificate its objects and effects - transfer of shares - restrictions on transfer - procedure for transfer - refusal of transfer - role of public finance institutions - relationship between transferor and transferee - issue of shares at premium and discount - depository receipts - dematerialised shares (DEMAT)  
units 2
- 3.4.2. Shareholder - who can be and who cannot be a shareholder - modes of becoming a shareholder - calls on shares - forfeiture and surrender of shares - lien on shares.  
units 2
- 3.4.3. Share capital - kinds - alteration and reduction of share capital - further issue of capital - conversion of loans and debentures into capital - duties of courts to protect the interests of creditors and share holders  
units 2
- 3.5. Directors - position - appointment - qualifications - vacation of office - removal - resignation - powers and duties of directors - meeting, registers, loans - remuneration of directors - role of nominee directors - compensation for loss of office - managing directors - compensation for loss of office - managing directors and other managerial personnel  
units 15
- 3.5.1. Meetings - kinds - procedure - voting  
units 2
- 3.5.2. Dividends - payment - capitalisation - profit  
units 2
- 3.6. Audit and accounts  
units 1
- 3.7. Borrowing powers - powers - effect of unauthorised borrowing - charges and mortgages - loans to other companies - investments - contracts by companies  
units 3
- 3.8. Debentures - meaning - fixed and floating charge - kinds of debentures - shareholder and debenture holder - remedies of debenture holders  
units 2

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- 3.9. Protection of minority rights units 3
- 3.10. Protection of oppression and mismanagement - who can apply? - powers of the company, court and of the central government units 5
- 3.11. Investigation - powers units 1
- 3.12. Private companies - nature and advantages - government companies - holding and subsidiary companies units 6
- 3.13. Regulation and amalgamation units 2
- 3.14. Winding up - types - by court - reasons - grounds - who can apply - procedure - powers of liquidator - powers of court - consequences of winding up order - voluntary winding up by members and creditors - winding up subject to supervision of courts - liability of past members - payment of liabilities - preferential payment, unclaimed dividends - winding up of unregistered company units 6
4. Law and Multinational Companies units 2
- 4.1. International norms for control
- 4.2. National law FEMA (Foreign Exchange Management Act 1999) controls joint ventures - investment in India - repatriation of project.
- 4.3. Collaboration agreements for technology transfer
5. Corporate Liability units 2
- 5.1. Legal liability of companies - civil and criminal
- 5.2. Remedies against them civil, criminal and tortious - Specific Relief Act, writs, liability under special statutes.

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Law

**BCI C 16 HUMAN RIGHTS AND INTERNATIONAL LAW****Objectives of the course**

The main thrust of this course shall be development of human rights (HR) law and jurisprudence at international, regional and national levels. There need not be an attempt to teach the whole gamut of international law in this course. This is because many areas of international law are taught in optional papers like International Economic Law(BCI O 01), Air and Space Law(BCI O 11) and Maritime Law(BCI O 15). The HR dimensions shall be discussed in other papers like Environmental Law(BCI C18), Labour Law(BCI C19) and Women and Law And Law Relating To Child (BCI O 13A). Needless to say that this course is to be confined to deliberation of international law topics relevant to the growth of HR law and how international norms and directions are applied in the municipal law of the country.

This paper comprises about 84 units of one-hour duration.

**Syllabus**

1. **Theoretical Foundations of Human Rights and International Law** units 12
  - 1-1 A Nature, Origin & scope of International Law
  - 1-1 B Basic Principles: sovereign equality of states–non–intervention–non use of force–international co-operation- peaceful settlement of disputes
  - 1-2 Individuals as subjects of international Law
  - 1.3. State jurisdiction on terrorism, hijacking, narcotics, war crimes and crimes against peace
  - 1.4. Treatment of aliens
2. **Historical development of the concept of human rights** units 10
  - 1.15. Human rights in Indian tradition : ancient, medieval and modern
  - 2.2. Human rights in Western tradition
    - 2.2.1. Concept of natural law
    - 2.2.2. Concept of natural rights
  - 2.3. Human rights in legal tradition: International Law and National Law

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## 3. UN and Human Rights

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units 14

- 3.1. Universal Declaration of Human Rights (1948) - individual and group rights
- 3.2. Covenant on Political and Civil Rights (1966)
- 3.3. Covenant on Economic, Social and Cultural Rights (1966)
- 3.4. I L O and other Conventions and Protocols dealing with human rights
- 3.5. Solidarity rights
- 3.6. Disarmament: threat to human rights
- 3.7. International HR Commission
  - 3.7.1. Mandates to States
- 3.8. Right to development

## 4. Role of Regional Organizations

units 10

- 4.1. European Convention on Human Rights
- 4.2. American Convention on Human Rights
- 4.3. African Convention on Human Rights
- 4.4. SAARC

## 5. Protection agencies and mechanisms

units 14

- 5.1. International Commission of Human Rights
  - 5.1.1. Amnesty International
  - 5.1.2. Non-Governmental Organizations (NGOs)
- 5.2. European Commission on Human Rights/Court of Human Rights.
- 5.3. U.N. Division of Human Rights
- 5.4. International Labour Organization
- 5.5. UNESCO
- 5.6. UNICEF

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6. Impact and implementation of international human rights norms in India units 14
- 6.1. Human rights norms reflected in fundamental rights in the Constitution
- 6.2. Directive Principles: legislative and administrative implementation of international human rights norms
- 6.3. Implementation of international human rights norms through judicial process
7. Enforcement of Human Rights in India units 10
- 7.1. Role of courts: the Supreme Court, High Courts and other courts
- 7.2. Statutory commissions- human rights, women's, minority and backward class

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BCI C 17 **ARBITRATION, CONCILIATION AND ALTERNATE  
DISPUTE RESOLUTION SYSTEM**

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**Objectives of the course**

The major concern of law is conflict resolution. Familiarization with the modalities and techniques of resolution of conflict is a necessary component in the endeavours of developing expertise in juridical exercise. The traditional justice delivery system through adjudication by courts had already given way to a large extent to many an alternative mode of dispute resolution in the common law countries. The advent of globalisation has enthused this transformation everywhere. The study of ADR is highly significant in moulding the students of law to act as soldiers of justice in the ever-changing socio-economic scenario. The course aims to give the students an insight into the processes of arbitration, conciliation and mediation in areas where the traditional judicial system had its sway in the past and in the new areas of conflicts that demand resolution by alternative methods. No doubt, the course has to be taught with comparative and international perspectives with a view to bringing out the essential awareness of the national and international systems emerging at the present context.

This paper with the above-mentioned perspectives comprises about 84 units of one hour duration.

**Syllabus**

- |   |                 |
|---|-----------------|
| <b>1. Arbitration : meaning, scope and types</b>  | <b>units 15</b> |
| 1.1A Types of Alternate dispute resolution system |                 |
| 1.1B Distinctions                                 |                 |
| 1.1.1. 940 law and 1996 law: UNCITRAL model law   |                 |
| 1.1.2. Arbitration and conciliation               |                 |
| 1.1.3. Arbitration and expert determination       |                 |
| 1.2. Extent of judicial intervention              |                 |
| 1.3. International commercial arbitration         |                 |

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units 15

## 2. Arbitration agreement

- 2.1. Essentials
- 2.2. Kinds
- 2.3. Who can enter into arbitration agreement
- 2.4. Validity
- 2.5. Reference to arbitration
- 2.6. Interim measures by court

units 10

## 3. Arbitration Tribunal

- 3.1. Appointment
- 3.2. Challenge
- 3.3. Jurisdiction of arbitral tribunal
  - 3.3.1. Powers
  - 3.3.2. Grounds of challenge
- 3.4. Procedure
- 3.5. Court assistance

units 10

## 4. Award

- 4.1. Rules of guidance
- 4.2. Form and content
- 4.3. Correction and interpretation
- 4.4. Grounds of setting aside an award
  - 4.4.1. Can misconduct be a ground?
  - 4.4.2. Incapacity of a party, invalidity of arbitration agreement
  - 4.4.3. Want of proper notice and hearing
  - 4.4.4. Beyond the scope of reference

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- 4.4.5. Contravention of composition and procedure
- 4.4.6. Breach of confidentiality
- 4.4.7. Impartiality of the arbitrator
- 4.4.8. Bar of limitation, res judicata
- 4.4.9. Consent of parties
- 4.5. Enforcement
- 5. Appeal and revision units 7
- 6. Enforcement of foreign awards units 7
  - 6.1. New York convention awards
  - 6.2. Geneva convention awards
- 7. Conciliation units 10
  - 7.1. Distinction between "Conciliation", "negotiation", "mediation", and "arbitration".
  - 7.2. Appointment
  - 7.3. Statements to conciliator
  - 7.4. Interaction between conciliator and parties
    - 7.4.1. Communication
    - 7.4.2. Duty of the parties to co-operate
    - 7.4.3. Suggestions by parties
    - 7.4.4. Confidentiality
  - 7.5. Resort to judicial proceedings
  - 7.6. Costs
- 8. Rule-making power units 5
  - 8.1. High Court
  - 8.2. Central Government

Law

Legal Services Authorities Act - Scope

100  
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units 5

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Gerald R.Williams (ed.), *The New Arbitration and Conciliation Law of India*, Indian Council of Arbitration (1998), New Delhi

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## PRACTICAL PAPER

### Paper X

Public Interest Lawyering Legal Aid and Paralegal services.

i) Lok Adalat ii) Legal Aid Camp iii) Legal Literacy iv) Paralegal Training. v) Editing of Law Journals vi) Law Office Management , vii) Negotiations and Counselling viii) Use of Computer in Legal work.

Report regarding visits, observation and other practical work completed by the candidates shall be submitted on the topics identified in the above subjects in Practical Book. (Work Book )

The performance of all the practical training papers shall be undertaken by the student under the supervision of the professor-in-charge.

The Evaluation of the Practical training work will be conducted by the concerned professor who will submit his report to the Principal of the college. The Principal shall submit the marklist to the University.

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**OPTIONAL PAPERS**  
**ANY ONE OF THE FOLLOWING**

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**BCI 006 CONFLICT OF LAWS***Objectives of the course*

Conflict of law and also private international law is perhaps one of the few courses which have been least codified and is always growing. Initially, after Independence we were still drawing guidance from English Private International Law and even to-day we do it often, but with a distinct determination that we have to develop this subject on our own.

Our courts have taken this challenge well. Indian Private International Law course cannot be taught in isolation but with guidance from English Private International law rules since our roots in this area, like many others, have been to common law

The following syllabus prepared with this perspective will comprise about 84 units of one hour duration.

*Syllabus*

1. Introductory units 8
    - 1.1. What and why of conflict of laws: its function, bases like comity, convenience and justice.
    - 1.2. Difference between Public and Private International law.
    - 1.3. Development and history - England and India - a comparative sketch with reference to USA and other countries.
    - 1.4. Unification effects: In Europe and America.
    - 1.5. Unification effects : In Europe and America
    - 1.6. Modern theories:  
Statutory, territorial, international, local law and justice.
    - 1.7. Stage in a Private International law case
    - 1.8. Choice of Jurisdiction
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- Law
- 1.9. Choice of law (lex cause)
  - 1.10. Recognition and enforcement of foreign judgements/awards.
  2. Choice of Jurisdiction (First stage) units 8
    - 2.1. Meaning, bases of jurisdiction, limitations like effectiveness principles - Relevant C.P.C. provisions regarding jurisdiction -ss. 15-20, 33, 84, and 86
    - 2.2. Kinds of jurisdiction:
      - 2.2.1. Actions in personam - contract and tort.
      - 2.2.2. Actions in rem - such as matrimonial causes and probate
      - 2.2.3. Admiralty action - S V! the Admiralty Courts Act.
      - 2.2.4. Actions under assumed discretionary jurisdiction (inherent jurisdiction) (Indian Context : ss. 10 and 151 of C.P.C.
  3. Choice of Law-Lex Causae (Second Stage) units 8
    - 3.1. Classification/characterization/categorization - allocation of juridical category to the foreign element case.
    - 3.2. Necessity for classification - different legal concepts with different content - matters like domicile, talaq and dower in different legal systems.
    - 3.3. Various theories - leading cases
    - 3.4. Connecting factor - What is connection factor; lex fori to determine.  
Selection of lex causae through connecting factor.
    - 3.5. Application of lex causae - three meanings of Lex Causae - Renvoi: partial and total(foreign court theory) - critical analysis of Renvoi - Indian position
  4. Limitations on application or exclusion of foreign law units 4
    - 4.1. When foreign law is excluded: grounds - Public Policy, Revenue Laws and Penal Law
  5. Incidental Question and Time Factor in private International law units 4

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6. Concept of Domicile units 8
- 6.1. General principles/fundamental Principles
  - 6.2. Elements - intention and residence
  - 6.3. Kinds
    - 6.3.1. Domicile of Origin
    - 6.3.2. Domicile of Choice
    - 6.3.3. Domicile of dependence: married women's position in English and Indian laws.
    - 6.3.4. Domicile of corporation.
7. Status units 4
- 7.1. What is Status?
  - 7.2. Incidents
  - 7.3. What law governs status
  - 7.4. Universality of status
8. Marriage units 8
- 8.1. Marriage as a contract and also status how different from other contracts (social persona: contract)
  - 8.2. Kinds of Marriage
  - 8.3. How in India, marriage as a concept moved from partially polygamous towards monogamous type and total sacrament to secularization to some extent.
  - 8.4. Questions of format and essential validity:
    - 8.4.1. Formal validity by lex loci celebrationis
    - 8.4.2. Essential/material/intrinsic validity.
  - 8.5. Capacity to marriage
    - 8.5.1. Consent
    - 8.5.2. Not within prohibited degrees.

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- 8.5.3. Not previously married
- 8.5.4. Physical incapacity
- 8.5.5. Of proper age.
- 8.6. Essential validity usually governed by lex domicilii:
  - 8.6.1. English cases
  - 8.6.2. Indian position clarified in cases

9. Matrimonial Causes units 3

- 9.1. Concept of matrimonial cause (Relief) - English and Indian positions.
- 9.2. Available Reliefs
  - 9.2.1. Divorce, Nullity, judicial separation
  - 9.2.2. Restitution of Conjugal Rights (in English law)
  - 9.2.3. Restitution of Conjugal Rights has no place now:
  - 9.2.4. Choice of Jurisdiction and Choice of Law to be examined.

10. Legitimacy and Legitimation units 3

- 10.1. What is legitimacy
- 10.2. What law governs legitimacy
- 10.3. Validity of marriage
- 10.4. Legitimation
  - 10.4.1. What it is
  - 10.4.2. How affected
  - 10.4.3. Legitimation and Succession.

11. Adoption units 3

- 11.1. Purpose of adoption
  - 11.1.2. Common law

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- 11.1.3. Indian Law
- 11.1.3.1. Hindu law
- 11.2. Recognition of foreign adoption

**12. Custody and Guardianship**

units 3

- 12.1. Purpose
- 12.2. Adoption and succession.

**13. Property**

units 8

- 13.1. Distinction between movable and immovable property (English idea of personal and real property).
- 13.2. Immovables governed by lex situs - exceptions in English Law - S.16 C.P.C. lex situs rule
- 13.3. Succession to immovable property - lex patrae.
- 13.3. Movables: tangible and intangible - choses in possession and choses in action in English Law - Choses in action as actionable claims in India Law with some exception (SS 3 and 130 T.P. Act 1882.)
- 13.4. Transfer of Tangible Movables (Particular Assignment).
- 13.5.1. Different theories
- 13.5.2. Assignment of Intangible Movables
- 13.5.3. Kinds of assignment-voluntary and involuntary
- 13.5.4. Formal and essential validity

**14. Succession**

units 3

- 14.1. Testate and in testate (Involuntary Assignment) - relevant provisions of Indian succession Act.
- 14.2. In testate succession
- 14.3. Wills- Formal and Essential Validity
- 14.4. Capacity-lex domicilii to make will (movables generally)
- 14.5. In case of immovables, lex situs governs

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15. Contracts 118  
148  
units 3
- 15.1. Contract- a leading relationship in private international law system
- 15.2. Validity of contracts
- 15.3. Capacity to contract- Main four theories Lex Loci, Lex Domicilii, lex situs and proper law.
- 15.4. Formal validity - lex loci contractus governs
- 15.5. Essential validity - proper law is usually accepted as governing.
- 15.6. Discharge of contract - Lex loci solutions governing.
- 15.7. Doctrine of "proper law"- of contract subjective and objective Theories.
16. Torts units 3
- 16.1. Traditional theories
- 16.2. Ideas of tort of recent importance in private International Law such as drugs, environments, transport and satellite communication
17. Recognition and Enforcement of Foreign Judgments units 3
- 17.1. Need recognizing foreign judgements
- 17.2. Limitations in recognising and enforcement
- 17.3. Section 13,14 and 444 of C.P.C. and S. 41 of the Indian Evidence Act.

**Select bibliography**

Paras Diwan, *Private International law* (1998), Deep & Deep, New Delhi

Cheshire, *Private International Law*

Sumberg, *Private International Law*

A.V. Dicey, *Conflict of Laws*

BCI 007 BANKING LAWS INCLUDING NEGOTIABLE INSTRUMENTS ACT

*Objectives of the course*

The modern society functions, contrary to the old barter system, on monetary transactions. In a developing country like India, the banking system takes off and becomes quite common even among the common people. The services banks render to the general public do have a significant contribution to the development of the economy. Pari passu, the security to the assets money as well as other valuable belonging to individuals and family units is to a large extent assured through the service of the banks. The variety of assistance tended by the banks to the common people and business community cannot be overemphasized in this context. The process of the working of the banks and the legal control over them as well as the protection to the consumers of banking services are areas which a student of law is necessarily familiar with.

This paper with the perspectives comprises about 84 units of one hour duration.

1. Introduction units 7
  - 1.1. Banking: definition- common law and statutory
  - 1.2. Commercial banks: functions.
    - 1.2.1. Essential functions
    - 1.2.2. Agency services
    - 1.2.3. General utility services
    - 1.2.4. International trading service
    - 1.2.5. Information services
    - 1.2.6. Emergence of multi functional dimensions.
  - 1.3. Systems of Banking: Unit banking, branch banking, group banking and chain banking
  - 1.3. Banking companies in India
2. Banks and Customers units 10
  - 2.1. Customer: meaning
  - 2.2. Legal character of banker- customer relationship

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- 2.3. Rights and obligations of banks
  - 2.3.1. Right of set-off
  - 2.3.2. Banker's lien
  - 2.3.3. Right to charge interest and commission
  - 2.3.4. Obligation to honour customers' cheques
  - 2.3.5. Duty of confidentiality
    - 2.3.5.1. Nature and justification of the duty
    - 2.3.5.2. Exceptions to the duty
  - 2.3.6. Garnishee orders
- 2.4. Accounts of customers
  - 2.4.1. Current Accounts
  - 2.4.2. Deposit Accounts
  - 2.4.3. Joint Accounts
  - 2.4.4. Trust Accounts
- 2.5. Special types of customers:- Lunatics, minors, agents, administrators and executors, partnership firms and companies

**3. Control over Banks**

units 10

- 3.1. Control by Government and its agencies
    - 3.1.1. Need for- elimination of systemic risk, avoidance money laundering, consumer protection, promotion of fair competition. On management
    - 3.1.2. On account and audit
    - 3.1.3. On money lending
    - 3.1.4. Reorganization and reconstruction
    - 3.1.5. On suspension and winding up
  - 3.2. Control by Ombudsman
  - 3.3. RBI.
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units 16

- 4.1. Evolution of Central Banks
- 4.2. Characteristics and functions of central banks
- 4.3. Central bank as banker and adviser of the State
- 4.4. Central bank as banker's bank
- 4.5. The Reserve Bank of India as central bank in india
  - 4.5.1 Objectives and organizational structure
  - 4.5.2 Functions
  - 4.5.3 Regulations of the monetary system
  - 4.5.4 Monopoly of note issue
  - 4.5.5 Credit control
  - 4.5.6 Determination of bank rate policy
  - 4.5.7 Open market operations
  - 4.5.8 Banker to government
  - 4.5.9 Control over Non-banking financial institutions
  - 4.5.10 Economic and statistical research.
  - 4.5.11 Staff training
  - 4.5.12 Control and supervision of other banks

**5. Lending by Banks**

units 15

- 5.1. Principles of good lending
- 5.2. Securities for bank advances
  - 5.2.1. pledge
  - 5.2.2. mortgage
  - 5.2.3. charge
  - 5.2.4. goods or documents of title to goods
  - 5.2.5. life insurance policies as security

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- 5.2.6. debentures as security
- 5.2.7. guarantees as security
  - 5.2.7.1. contract of guarantee and contract of indemnity
  - 5.2.7.2. kinds of guarantees: specific & continuing
  - 5.2.7.3. surety's rights and liabilities.
- 5.3. Repayment
  - 5.3.1. Interest: Rule against penalties
- 5.4. Default and Recovery
  - 5.4.1. Recovery of Debts Due to Banks and Financial Institutions Act, 1993
  - 5.4.2. Establishment of; debt recovery tribunals- constitution and functioning
- 6. Merchant Banking units 5
  - 6.1. Merchant Banking in India
  - 6.2. SEBI (Merchant Bankers) Regulations, 1992
- 7. Letter of Credit and Demand Guarantee units 5
  - 7.1. Letter of Credit
    - 7.1.1. Basic features
    - 7.1.2. Parties to a letter of credit
    - 7.1.3. Fundamental principles
  - 7.2. Demand Guarantee
    - 7.2.1. Legal character
  - 7.3. Distinction between irrevocable letter of credit and demand guarantees
- 8. Law Relating to Negotiable Instruments units 17
  - 8.1. Negotiable instruments Kinds
  - 8.2. Holder and Holder in due course
  - 8.3. Parties

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- 8.4. Negotiation
  - 8.5. Presentiment
  - 8.6. Discharge from liability
  - 8.7. Dishonour
  - 8.8. Civil liability
  - 8.9. Liability: procedure for prosecution: extent of penalty
  - 8.10. The Paying Banker
  - 8.11. Duty to honour customers' cheques
  - 8.12. Conditions
  - 8.13. Exceptions to the duty to honour cheques
  - 8.14. Money paid by mistake
  - 8.15. The Collecting Banker
    - 8.15.1. Liability for conversion
    - 8.15.2. Duties
    - 8.15.3. Good faith and statutory protection to the collecting banker

#### *Select bibliography*

- M.S. Parthasarathy (Ed.), *Kherganvala on the Negotiable Instruments Act (1998)* Buterworth, New Delhi.
- M.L.Tannen, *Tannen's Banking Law and Practice in India*, (2000) India Law House, New Delhi.
- S.N.Gupta, *The Banking Law in Theory and Practice*, (1999) Universal, New Delhi
- G.S.N.Tripathi (Ed.), *Sethi's Commentaries on Banking Regulation Act 1949 and Allied Banking Laws* (2000) Law Publishers, Allahabad.
- Bashyam and Adiga, *The Negotiable Instruments Act* (1997) Bharath Law House, New Delhi.
- S.N.Gupta, *Banks and the Consumer Protection Law* (2000) Universal, Delhi.
- Mukherjee. T.K., *Banking Law and Practice* (1999), Universal, Delhi.

Law

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**JCI 008 INVESTMENT AND SECURITY LAWS*****Objectives of the course***

There is a revolution in the laws relating to the investment and security. The economic and social development depends on security market at national and global levels. In the global level there is a trend for unification of controls of securities and investments. Reflection of this global phenomenon is essentially to be felt in India. The new laws and regulations now fall in line with the global requirements at times transcending the constitutional limitations. Needless to say that the study of law relating to investment and securities attains new dimensions.

This paper is designed keeping in view the changes that are taking place in the Indian context and comprises of 84 units of one hour duration.

1. Historical Background of securities and investment laws units 6
    - 1.1. Securities : the concept
    - 1.2. England: Banking corporate finance and private financial services
    - 1.3. India: from usury laws to the modern system
  
  2. Securities: Kinds units 7
    - 2.1. Government Securities
    - 2.2. Securities issued by banks
    - 2.3. Securities issued by corporations
    - 2.4. Securities in mutual fund and collective investment scheme
    - 2.5. Depository receipts
  
  3. Government Securities units 10
    - 3.1. Bonds issued by government and semi government institutions
    - 3.1. Role of Central Bank (the RBI in India)
    - 3.2. Impact of issuance of bonds on economy
    - 3.3. Government loan from the general public
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- 3.4. External borrowing
    - 3.5.1. World Bank
    - 3.5.2. I.M.F.
    - 3.5.3. Assian Development Bank
    - 3.5.4. Direct from foreign government.
  - 3.5. Government loan: the constitutional dilemma and limitations
  - 3.6. Can a state go for external loans?
  - 3.7. Impact on economic sovereignty
  - 3.8. Dilution of power of the Central Bank (RBI)
  - 3.9. Treasury deposits
4. Securities Issued by Banks units 10
- 4.1. Bank notes: is it the exclusive privilege of the central bank in the issue
  - 4.2. Changing functions of banks from direct lending and borrowing to modern System
  - 4.3. Bank draft, travellers' cheques, cheque cards, credit cards, cast cards
  - 4.4. Deposits' nature: current, saving and fixed deposits, interest warrants
5. Corporate Securities units 25
- 5.1. Shares
  - 5.2. Debentures
  - 5.3. Company deposits
  - 5.4. Control over corporate securities
    - 5.4.1. Central government: Company Law Board
    - 5.4.2. SEBI : guide lines on capital issues
    - 5.4.3. RBI
  - 5.5. Protection of investor
    - 5.5.1. Administrative regulation

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- 5.5.2. Disclosure regulation
- 5.5.3. Protection by criminal sanction
6. Collective Investment units 12
- 6.1. Unit Trust of India
- 6.2. Venture capital
- 6.3. Mutual fund
- 6.4. Control over issue and management of UTI, venture capital and mutual funds
- 6.5. Plantations and horti-culture farms
- 6.5.1. General control
- 6.5.2. Control by rating
- 6.5.3. Regulation on rating.
7. Depositories units 6
- 7.1. Denationalized securities
- 7.2. Recognition of securities
- 7.3. Types of depository receipts: IDR, ADR, GDR and Euro receipts
- 7.4. SEBI guideline on depositories
8. Investment in non-banking financial institutions units 5
- 8.1. Control by usury laws
- 8.2. Control by RBI
- 8.3. Regulation on non-banking financial and non-financial companies
- 8.3.1. Private-financial companies: registration and regulation
- 8.3.2. Chit funds
9. Foreign Exchange Control Regime in India units 3
- 9.1. Concept of foreign exchange regulation
- 9.2. Administration of exchange control

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*Select bibliography*

Farrar, John, H. and Hanniyan, Brenda, *Farr's Comopany Law*, (1998) Butterworths, London

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Ramaiya. A., *Guide to the Companies Act*. (1998) Wadhwa and Co., New Delhi.

Bhandari, M.C., *Guide to Company Law Procedures*, (1996) Wadhwa and Co., New Delhi.

Ford, Haj A.M., et. al. *Ford's Principles of Corporations Law*, (1999) Butterworths, London.

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453**BCI 009 TRUSTS, EQUITY AND FIDUCIARY RELATIONSHIPS****Objectives of the course**

Trust being an obligation connected with property, the law has to play a key role in protecting interests of persons for whose benefit trust is created and for balancing the rights and duties of persons connected with trust transactions. There are also instances where even in the absence of specific trust, law has to protect the beneficial interests of persons on equitable considerations. Trusts may also be created for public purposes of charitable and religious nature. The existing laws in respect of trusts, equitable and fiduciary relations connected with property are to be taught in detail. Students should also be conscientized of the emerging public trust doctrine of common property resources.

This paper with the above perspectives comprises of 84 units of one-hour duration.

**Syllabus**

- |      |   |         |
|------|---|---------|
| 1.   | Introduction  | units 5 |
| 1.1  | The concept of trust : distinction with agency and contract |         |
| 1.2  | Development of law: common law and equity                   |         |
| 1.3  | Trusts : classification                                     |         |
| 2.   | Definition and Nature of trusts under the Indian law        | units 3 |
| 2.1. | Creation of trusts : rules                                  |         |
| 3.   | Duties of trustees  | units 8 |
| 3.1. | Execution   |         |
| 3.2. | Acquittance with the nature of property                     |         |
| 3.3. | Duties in respect of title                                  |         |
| 3.4. | Duty of care  |         |
| 3.5. | Conversion  |         |
| 3.6. | Impartiality  |         |
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- 3.7. Prevention of waste
- 3.8. Keeping of accounts and giving of information
- 3.9. Investment
- 3.10. Sale
- 3.11. Liability for breach of trust
- 4. Rights of Trustees units 8
  - 4.1. Title deed
  - 4.2. Reimbursement
  - 4.3. Indemnity
  - 4.4. Seeking direction from court
  - 4.5. Settlement of accounts
  - 4.6. General authority
- 5. Powers of trustees units 8
  - 5.1. Sale
  - 5.2. Varying of investment
  - 5.3. Property of minors
  - 5.4. Giving receipts
  - 5.5. Power to compound, compromise and settle
  - 5.6. Exercising authority on death or disclaimer of one of the trustees
  - 5.7. Suspension of trustee's power
- 6. Disabilities of trustees units 2
- 7. Rights of beneficiaries units 8
  - 7.1. Rents and profits
  - 7.2. Specific execution
  - 7.3. Inspection and information

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- 7.4. Transfer
  - 7.5. Suit for execution
  - 7.6. To have proper trustees
  - 7.7. Right to compel the trustee to do the duties
  - 7.8. Rights on wrongful purchase or acquisition by trustees
  - 7.9. Follow up of trust properties in the hands of third parties
  - 7.10. Blending of property by trustee
  - 7.11. Wrongful application of trust property by partner trustee for partnership purposes.
- 8. Liabilities of Beneficiaries units 2
  - 9. Discharge of Trustees units 3
  - 10. Appointment of New Trustees units 3
  - 11. Extinction of Trust units 3
  - 12. Constructive trusts : the equitable and fiduciary Relationship units 20
    - 12.1. Transfer without intent to dispose beneficial Interest
    - 12.2. Trust incapable of execution and trusts executed fully without exhausting property - the cypress doctrine
    - 12.3. Transfer and request for illegal purpose
    - 12.4. Transfer pursuant to rescindable contract
    - 12.5. Debtor becoming creditor's representative
    - 12.6. Advantage from undue influence
    - 12.7. Advantage by qualified owner
    - 12.8. Property acquired with notice of existing contract
    - 12.9. Purchase by person contracting to buy property to be held on trust
    - 12.10. Possession of property without whole beneficial interest
    - 12.11. Duties of constructive trustees
    - 12.12. Rights of bonafide purchasers

## 13. Special legislation

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units 8

## 13.1. Charitable and religious trust

## 14. Common property resources and public trust doctrine

units 3

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S.Krishnamurthy Aiyar and Harbans Lal Swin, *Principles and Digest of Trusts Laws* (1998), University Book Agency, Allahabad.

R.H.Mandsley and E.H.Burn, *Trust and Trustees : Cases and Materials* (1978) Butterworths, London.

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*BCI 010 CRIMINOLOGY AND PENOLOGY**Objectives of the course*

The course is designed to acquaint students with advances made by sociology and psychiatry in understanding human behaviour, particularly, deviant behaviour. In the past criminality was confined to acts of violence or unlawful acts of commission or omission. Thus the purpose behind criminality in the past was to do acts of revenge or to commit it for personal gain. The concept of crime has changed considerably in recent years. Unscrupulous members of society to indulge in anti-social behaviour with impunity have devised sophisticated methods. The perpetrators of crime include persons in high places, public officials, public and private enterprise against whom it is difficult to procure conviction under the traditional criminal law process due to abuse of power or power of the purse. Criminal gangs have come on the scene and indulge in offences such as smuggling, illegal trafficking in drugs and bootlegging. Communal and cast warfare has been a recurring phenomenon in recent times and the enormity of suffering of innocent persons has necessitated re-examination of our pre-conceived notions regarding the causes of crime and the methods used for its prevention and control. In view of the magnitude of the problem the existing machinery for control of crime, namely the police and the courts have come under severe criticism.

Emphasis will be laid on understanding the weak and strong points of the existing system in order to determine whether it can meet the challenge and carry new burdens. Much has been said against capital punishment and imprisonment as methods of preventing and control of crime. Nevertheless these continue to be the backbone of the system in India. Several alternatives such as conditional release, parole and commutation of sentences have been suggested in this regard. The course shall dwell on these themes with a view to develop among students a greater understanding of social costs of crime and the effective ways of lessening them.

Rehabilitation process is undoubtedly an important component of criminal justice system. The advances made in this respect in developed countries will be discussed to create awareness among the students of the problems in the context of Indian conditions.

The following syllabus prepared with this perspective will comprise about 84 units of one hour duration.

~~15B~~**Syllabus**

UGC Model Curriculum

1. **Dimensions of Crime in India** units 14
  - 1.1. Nature and extent of crime in India
  - 1.2. General approaches to crime control.
  - 1.3. Crimes of the powerful
    - 1.3.1. Organised crime - smuggling, traffic in narcotics.
    - 1.3.2. White collar crime - corruption in public life
    - 1.3.3. Socio-economic crime: adulteration of foods and drugs; fraudulent trade practices.
    - 1.3.4. Crimes in the professions - medical, legal, engineering.
    - 1.3.5. Criminality by agencies of the state.
  - 1.4. Perpetrators of ordinary crime
    - 1.4.1. The situational criminal.
    - 1.4.2. The chronic offender.
    - 1.4.3. Criminality of women
    - 1.4.4. Young offenders
    - 1.4.5. Criminal gangs.
  
2. **Causes of Criminal Behaviour** units 14
  - 2.1. Nature of the problem : some unscientific theories
  - 2.2. The constitutional School of Criminology - Lombroso and others (heredity and mental retardation as causes of crime)
  - 2.3. Sociological theories Anomies
  - 2.4. Modern sociological theories - Sutherland's differential association theory: Reckless's social vulnerable theory.
  - 2.5. Economic theories and their relevance.
  - 2.6. Environment - home and community influences, urban and rural crimes.
  - 2.7. The ghetto, broken homes, the effect of motion pictures, T.V. and video, press, narcotics and alcohol.

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- 2.8. Caste and community tensions : caste wars and communal riots - their causes and demoralising effects; atrocities against scheduled cadres.
  - 2.9. Emotional disturbance and other psychological factors.
  - 2.10. Multiple causation approach to crime.

### 3. Police and the criminal justice

units 13

- 3.1. The police system
- 3.2. Structural organisation of police at the centre and the states.
- 3.3. Mode of recruitment and training.
- 3.4. Powers and duties of police under the police acts, Criminal Procedure Code and other laws.
- 3.5. Arrest, search and seizure and constitutional imperatives.
- 3.6. Methods of police investigation
- 3.7. Third degree methods
- 3.8. Corruption in police
- 3.9. Relationship between police and prosecution.
- 3.10. Liability of police for custodial violence.
- 3.11. Police public relations
- 3.12. Select aspects of National Police Commission report.

### 4. Punishment of Offenders

units 15

- 4.1. Some discarded modes of punishment
  - 4.1.1. Corporal punishment : whipping and flogging : mutilation and branding
  - 4.1.2. Transportation
  - 4.1.3. Public execution
- 4.2. Punishments under the Indian criminal law
  - 4.2.1. Capital punishment
  - 4.2.2. Imprisonment

UGC Model Curriculum

- 4.2.3. Fine
- 4.2.4. Cancellation or withdrawal of licences
- 4.3. The prison system
- 4.3.1. Administrative organisation of prisons.
- 4.3.2. Mode of recruitment and training
- 4.3.3. The Jail Manual.
- 4.3.4. Powers of prison officials.
- 4.3.5. Prisoners classification - male, female : juvenile and adult : undertrial and convicted prisoners
- 4.3.6. Constitutional imperatives and prison reforms
- 4.3.7. Prison management: prisoners right and security compulsions.
- 4.3.8. Open prisons
- 4.3.9. Prison labour
- 4.3.10. Violation of prison code and its consequences.
- 4.4. Appraisal of imprisonment as a mode of punishment.
5. Treatment of Correction of Offenders units 15
- 5.1. The need for reformation and rehabilitation of offenders undergoing punishment/ imprisonment.
- 5.2. Classification of offenders through modern diagnostic techniques.
- 5.3. The role of psychiatrists, psychoanalysts and social workers in the prison.
- 5.4. Vocational and religious education, and apprenticeship programmes for the offenders.
- 5.5. Group counselling and re-socialisation programmes.
- 5.6. Prisoners organisations for self-government.
- 5.7. Participation of inmates in community services.
- 5.8. An appraisal of reformatory techniques.

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5.9. Efficacy of imprisonment as a measure to combat criminality and the search for substitutes

6. Re-socialisation processes

units 13

6.1. Parole:

6.1.1. Nature of parole.

6.1.2. Authority for granting parole.

6.1.3. Supervision of parolees.

6.1.4. Parole and conditional release.

6.2. Release of the offender:

6.2.1. Problems of the released offender.

6.2.2. Attitudes of the community towards released offender.

6.2.3. Prisoner aid societies and other voluntary organisations.

6.2.4. Governmental action.

6.2.5. An appraisal.

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- 12.4. Revisional jurisdiction (Sections 397-405)
- 12.5. Transfer of cases (Section 406, 407)
13. Juvenile delinquency units 7
- 13.1. Nature and magnitude of the problem
- 13.2. Causes
- 13.3. Juvenile court system
- 13.4. Treatment and rehabilitation of juveniles
- 13.5. Juveniles and adult crime
- 13.6. Legislative and judicial protection of juvenile offender
- 13.7. Juvenile Justice Act 1988
14. Probation units 7
- 14.1. Probation of offenders law
- 14.2. The judicial attitude
- 14.3. Mechanism of probation : standards of probation services.
- 14.4. Problems and prospects of probation
- 14.5. The suspended sentence
15. Reform of criminal procedure units 2

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- Chandrasekharan Pillai ed., *Kelkar Lectures on Criminal Procedure* (1998) Eastern, Lucknow
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Law

**E/C 12 CIVIL PROCEDURE AND LIMITATION ACT****Objectives of the course**

Civil Procedure Code is a subject of daily use by the courts and lawyers and a student cannot afford to have scant knowledge of civil procedure when he goes out to practise as a lawyer. True that it is through experience one gets expert knowledge of civil procedure. However, it is necessary to have good grounding in the subject before one enters the profession. While the substantive law determines the rights of parties, procedural law sets down the norms for enforcement. Whenever civil rights of persons are affected by action, judicial decisions will supply the omissions in the law.

The Code of Civil Procedure in India has a chequered history and lays down the details of procedure for redressal of civil rights. Many questions may prop up when one goes to indicate one's civil rights. The court where the suit is to be filed, the essential forms and procedure for institution of suit, the documents in support and against, evidence taking and trial, dimensions of an interim order, the peculiar nature of the suits, the complexities of executing a decree and provisions for appeal and revision are all matters which a lawyer for any side is to be familiar with.

A delay in filing the suit, besides indicating the negligence of the plaintiff in effectively agitating the matter on time, may place courts in a precarious situation. They may not be in a position to appreciate the evidence correctly. Evidence might have been obliterated. Hence, the statute of limitation fixes a period within which a case has to be filed.

This paper with the above mentioned perspectives comprises of about 84 units of one hour duration.

1. Introduction units 5
  - 1.1. Concepts
    - 1.1.1. Affidavit, order, judgement, decree, plaint, restitution, execution, decree-holder, judgment-debter, mesne profits, written statement.
    - 1.1.2. Distinction between decree and judgment and between decree and order.
2. Jurisdiction units 7
  - 2.1. Kinds
    - 2.1.1. Hierarchy of courts

**LL. B. FINAL YEAR ( 3 Years and 5 Years Course )**

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**BCI C 08 CRIMINAL PROCEDURE CODE, JUVENILE JUSTICE ACT AND PROBATION OF OFFENDERS ACT*****Objective of the course***

The criminal process involves increasing expenditure of government resources. At the same time it confronts a crisis of intrusion into individual rights in order to protect the common weal. Obviously, criminal procedure has to be just, fair and reasonable to the accused as well as to the victims. Undoubtedly the process is to be carried out in an objective manner. Criminal procedure, thus, makes a balance of conflicting interests. This imposes a duty upon those connected with the working of the criminal process to abide by the law and to exercise discretion conferred on them in the best manner. Code of Criminal Procedure, originally enacted years ago, had undergone many trials and experiments, too enormous to be placed within a class room discussion. However, the students should obtain a fair idea how the code works as the main spring of the criminal justice delivery system and should be exposed to the significant riddles of the procedure.

Juvenile justice and probation of offenders are combined with the study of criminal procedure. These topics also do have their roots in criminal procedure. The rubrics under their head are intended to render an essential grasp of the areas.

This paper with the above perspectives comprises about 84 units of one-hour duration.

- |   |                |
|---|----------------|
| <b>1. Introductory</b>  | <b>units 5</b> |
| 1.1. The rationale of criminal procedure: the importance of fair trial.   |                |
| 1.2. Constitutional perspectives: Articles 14, 20 & 21.   |                |
| 1.3. The variety of criminal procedures ( the class should examine, in particular the procedure for trial of special offences, especially, offences under the Prevention of Corruption Act and Narcotic Drugs and Psychotropic Substances Act ) |                |
| 1.4. The organisation of police, prosecutor, defence counsel and prison authorities and their duties, functions and powers.   |                |

UGC Model Curriculum

units 6

2. Pre-trial process : arrest
  - 2.1. The distinction between cognisable and non-cognisable offences: relevance and adequacy problems.
  - 2.2. Steps to ensure accused's presence at trial : warrant and summons.
  - 2.3. Arrest with and without warrant (Section 70-73 and 41).
  - 2.4. The absconder status (Section 82, 83, 84 and 85)
  - 2.5. Right of the arrested person
  - 2.6. Right to know grounds of arrest (Section 50(1), 55, 75).
  - 2.7. Right to be taken to magistrate without delay (Section 56, 57).
  - 2.8. Right of not being detained for more than twenty-four hours (section 57): 2.9 Article 22(2) of the Constitution of India.
  - 2.9. Right to consult legal practitioner, legal aid and the right to be told of rights to bail
  - 2.10. Right to be examined by a medical practitioner (Section 54).
3. Pre-trial process: Search and Seizure
  - 3.1. Search warrant (Section 83, 94, 97, 98) and searches without warrant (Section 103)
  - 3.2. Police search during investigation (Section 165, 166, 153)
  - 3.3. General principles of search (section 100)
  - 3.4. Seizure (Section 102)
  - 3.5. Constitutional aspects of validity of search and seizure proceedings
4. Pre-trial Process: FIR
  - 4.1. F.I.R. (section 154)
  - 4.2. Evidentiary value of F.I.R. (See Sections 145 and 157 of Evidence Act)
5. Pre-trial Process: Magisterial Powers to Take Cognizance

units 5

units 5

units 5

**6. Trial Process****units 6**

- 1.1. Commencement of proceedings: (Section 200, 201, 202)
- 1.2. Dismissal of complaints (Section 203, 204)
- 1.3. Bail: concept, purpose : constitutional overtones
- 1.3.1. Bailable and Non- Bailable offences (Section 436, 437, 439)
- 1.3.2. Cancellation of bail (Section 437 (5) )
- 1.3.3. Anticipatory bail (Section 438)
- 1.3.4. Appellate bail powers (Section 389(1), 395 (1), 437(5))
- 1.3.5. General principles concerning bond (Sections 441-450)

**7. Fair Trial****units 6**

- 7.1. Conception of fair trial
- 7.2. Presumption of innocence.
- 7.3. Venue of trial.
- 7.4. Right of the accused to know the accusation (Section 221-224)
- 7.5. The right must generally be held in the accused's presence (Section 221-224)
- 7.6. Right of cross -examination and offering evidence in defence: the accused's statement
- 7.7. Right to speedy trial

**8. Charge****units 6**

- 8.1. Framing of charge
- 8.2. Form and content of charge (Section 211, 212, 216)
- 8.3. Separate charges for distinct offence (Section 218, 219, 220,221,223)
- 8.4. Discharge - pre-charge evidence

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9. Preliminary pleas to bar the trial units 6
- 9.1. Jurisdiction (Section 26, 177-188, 461,462,479)
  - 9.2. Time limitations: rationale and scope (section 468-473)
  - 9.3. Pleas of autrefois acquit and autrefois convict (Section 300, 22D)
  - 9.4. Issue-Estoppel
  - 9.5. Compounding of offences
10. Trial Before a Court of Sessions: Procedural Steps and Substantive Rights units 5
11. Judgement units 5
- 11.1. Form and content (Section 354)
  - 11.2. Summary trial
  - 11.3. Post-conviction orders in lieu of punishment: emerging penal policy (Section 360,361, 31)
  - 11.4. Compensation and cost (Section 357, 358)
  - 11.5. Modes of providing judgement (Section 353, 362, 363)
12. Appeal, Review, Revision units 7
- 12.1. No appeal in certain cases (Section 372, 375, 376)
  - 12.2. The rationale of appeals, review, revision.
  - 12.3. The multiple range of appellate remedies:
    - 12.3.1. Supreme Court of India (Sections 374, 379, Articles 31, 132,134,136)
    - 12.3.2. High Court (Section 374)
    - 12.3.3. Sessions court (Section 374)
    - 12.3.4. Special right to appeal (Section 380)
    - 12.3.5. Governmental appeal against sentencing (Section 377, 378)
    - 12.3.6. Judicial power in disposal of appeals (Section 368)
    - 12.3.7. Legal aid in appeals.

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- 2.2. Suit of civil nature - scope and limits
- 2.3. Res-subjudice and Resjudicata
- 2.4. Foreign judgment - enforcement
- 2.5. Place of suing
- 2.6. Institution of suit
- 2.6.1. Parties to suit: joinder, mis-joinder or non-joinder of parties : representative suit.
- 2.6.1.1. Frame of suit : cause of action
- 2.6.2. Alternative disputes resolution (ADR)
- 2.6.3. Summons
3. Pleadings units 7
- 3.1. Rules of pleading, signing and verification.
- 3.1.1. Alternative pleadings
- 3.1.2. Construction of pleadings
- 3.2. Plaint : particulars
- 3.2.1. Admission, return and rejection
- 3.4. Written statement : particulars, rules of evidence
- 3.3.1. Set off and counter claim : distinction
- 3.4. Discovery, inspection and production of documents.
- 3.4.1. Interrogatories
- 3.4.2. Privileged documents
- 3.4.3. Affidavits
4. Appearance, examination and trial units 8
- 4.1. Appearance
- 4.2. Ex-parte procedure

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- 4.3. Summary and attendance of witnesses
- 4.4. Trial
- 4.5. Adjournments
- 4.6. Interim orders: commission, arrest or attachment before judgment, injunction and appointment of receiver
- 4.7. Interests and costs

## 5. Execution

units 12

- 5.1. The concept
- 5.2. General principles
- 5.3. Power for execution of decrees
- 5.4. Procedure for execution (ss. 52-54)
- 5.5. Enforcement, arrest and detention (ss. 55-59)
- 5.6. Attachment (ss. 60-64)
- 5.7. Sale (ss.65-97)
- 5.8. Delivery of property
- 5.9. Stay of execution

## 6. Suits in particular cases

units 12

- 6.1. By or against government (ss.79-82)
  - 6.2. By aliens and by or against foreign rulers or ambassadors (ss.83-87A)
  - 6.3. Public nuisance (ss.91-93)
  - 6.4. Suits by or against firm
  - 6.5. Suits in forma pauperis
  - 6.6. Mortgages
  - 6.7. Interpleader suits
  - 6.8. Suits relating to public charities
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- UGC Model Curriculum
7. Appeals units 8
    - 7.1. Appeals from original decree
    - 7.2. Appeals from appellate decree
    - 7.3. Appeals from orders
    - 7.4. General provisions relating to appeal
    - 7.5. Appeal to the Supreme Court
  8. Review, reference and revision units 5
  9. Miscellaneous units 4
    - 9.1. Transfer of cases
    - 9.2. Restitution
    - 9.3. Caveat
    - 9.4. Inherent powers of courts
  10. Law reform: Law Commission on Civil Procedure- amendments units 4
  11. Law of Limitation: units 14
    - 11.1. The concept - the law assists the vigilant and not those who sleep over the rights.
    - 11.2. Object
    - 11.3. Distinction with laches, acquiescence, prescription.
    - 11.4. Extension and suspension of limitation
    - 11.5. Sufficient cause for not filing the proceedings
      - 11.5.1. Illness
      - 11.5.2. Mistaken legal advice
      - 11.5.3. Mistaken view of law
      - 11.5.4. Poverty, minority and Purdha
      - 11.5.5. Imprisonment

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- 11.5.6. Defective vakalatnama
- 11.6. Legal liabilities
- 11.7. Foreign rule of limitation : contract entered into under a foreign law
- 11.8. Acknowledgement - essential requisites
- 11.9. Continuing tort and continuing breach of contract.

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**BCI C 11 LAW OF EVIDENCE****Objectives of the course**

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

This paper with above-mentioned perspectives in view comprises about 84 units of one-hour duration.

**Syllabus**

1. **Introductory** units 6
    - 1.1. The main features of the Indian Evidence Act 1861.
    - 1.2. Other acts which deal with evidence (special reference to CPC, CrPC).
    - 1.3. Problem of applicability of Evidence Act
      - 1.3.1. Administrative
      - 1.3.2. Administrative Tribunals
      - 1.3.3. Industrial Tribunals
      - 1.3.4. Commissions of Enquiry
      - 1.3.5. Court-martial
    - 1.4. Disciplinary authorities in educational institutions
  
  2. **Central Conceptions in Law of Evidence** units 9
    - 2.1. Facts : section 3 definition: distinction -relevant facts/facts in issue
    - 2.2. Evidence : oral and documentary.
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- 2.3. Circumstantial evidence and direct evidence
- 2.4. Presumption (Section 4)
- 2.5. "Proving", "not providing" and "disproving"
- 2.6. Witness
- 2.7. Appreciation of evidence
- 3. Facts : relevancy units 4
  - 3.1. The Doctrine of res gestae (Section 6,7,8,10)
  - 3.2. Evidence of common intention (Section 10)
  - 3.3. The problems of relevancy of "Otherwise" irrelevant facts (Section 11)
  - 3.4. Relevant facts for proof of custom (Section 13)
  - 3.5. Facts concerning bodies & mental state (Section 14, 15)
- 4. Admissions and confessions units 20
  - 4.1. General principles concerning admission (Section 17, 23)
  - 4.2. Differences between "admission" and "confession"
  - 4.3. The problems of non-admissibility of confessions caused by "any inducement, threat or promise" (Section 24)
  - 4.4. Inadmissibility of confession made before a police officer (Section 25)
  - 4.5. Admissibility of custodial confessions (Section 26)
  - 4.6. Admissibility of "information" received from accused person in custody; with special reference to the problem of discovery based on "joint statement" (Section 27)
  - 4.7. Confession by co-accused (Section 30)
  - 4.8. The problems with the judicial action based on a "retracted confession"
- 5. Dying Declarations units 4
  - 5.1. The justification for relevance on dying declarations (Section 32)
  - 5.2. The judicial standards for appreciation of evidentiary value of dying declarations.

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6. Other Statements by Persons who cannot be called as Witnesses units 4
- 6.1. General principles.
- 6.2. Special problems concerning violation of women's rights in marriage in the law of evidence
7. Relevance of Judgments units 4
- 7.1. General principles
- 7.2. Admissibility of judgments in civil and criminal matters (Section 43)
- 7.3. "Fraud" and "Collusion" (Section 44)
8. Expert Testimony units 4
- 8.1. General principles
- 8.2. Who is an expert? : types of expert evidence
- 8.3. Opinion on relationship especially proof of marriage (Section 50)
- 8.4. The problems of judicial defence to expert testimony.
9. Oral and Documentary Evidence units 5
- 9.1. General principles concerning oral evidence (Sections 59-60)
- 9.2. General principles concerning Documentary Evidence (Sections 67-90)
- 9.3. General Principles Regarding Exclusion of Oral by Documentary Evidence
- 9.4. Special problems: re-hearing evidence
- 9.5. Issue estoppel
- 9.6. Tenancy estoppel (Section 116)
10. Witnesses, Examination and Cross Examination units 8
- 10.1. Competency to testify (Section 118)
- 10.2. State privilege (Section 123)
- 10.3. Professional privilege (Section 126, 127, 128)

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- 10.4. Approval testimony (Section 133)
  - 10.5. General principles of examination and cross examination (Section 135-166)
  - 10.6. Leading questions (Section 141-143)
  - 10.7. Lawful questions in cross-examination (Section 146)
  - 10.8. Compulsion to answer questions put to witness
  - 10.9. Hostile witness (Section 154)
  - 10.10. Impeaching of the standing or credit of witness (Section 155)
11. Burden of Proof. unit 8
- 11.1. The general conception of onus probandi (Section 101)
  - 11.2. General and special exceptions to onus probandi
  - 11.3. The justification of presumption and of the doctrine of judicial notice
  - 11.4. Justification as to presumptions as to certain offences (Section 111A)
  - 11.5. Presumption as to dowry death (Section 113-B)
  - 11.6. The scope of the doctrine of judicial notice (Section 114)
12. Estoppel unit 8
- 12.1. Why estoppel? The rationale (Section 115)
  - 12.2. Estoppel, res judicata and waiver and presumption
  - 12.3. Estoppel by deed
  - 12.4. Estoppel by conduct
  - 12.5. Equitable and promissory estoppel
  - 12.6. Questions of corroboration (Section 156-157)
  - 12.7. Improper admission and of witness in civil and criminal cases.



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BCI C 18

Title of the paper be changed as  
 'Environmental Law including Laws for the  
 protection of the wild life and other living  
 creatures including animal welfare'.

Model Curriculum

### Objectives of the course

The Environmental law programme, in contrast to other law curricula, has certain characteristics which make it unique and is one of the best instruments for breaking the ice of colonial legal education. Its uniqueness lies in the fact that the problems it raises do not relate merely to specific individuals but about such matters as national development, industrial policy, policies concerning natural resources, injustice to communities, inter generational equity and prevention of pollution. All these issues relate to problematic about construction of a just, humane and healthy society. Secondly, environmental law necessarily demands an inter-disciplinary approach. Thirdly, uniqueness of the subject is borne out by the new epistemological outlook which ecology-related knowledge has brought about in recent times. The development of ecological knowledge has necessitated an overall change not only in managerial studies but also in socio-legal explorations. This approach to the growing dimensions of environmental law is essential.

This paper with the above-mentioned perspectives comprises of about 84 units of one-hour duration.

1. Concept of environment and Pollution units 4
  - 1.1. Environment
    - 1.1.1. Meaning and contents
  - 1.2. Pollution
    - 1.2.1. Meaning
    - 1.2.2. Kinds of pollution
    - 1.2.3. Effects of pollution
2. Legal control: historical perspectives units 4
  - 2.1. Indian tradition : dharma of environment
  - 2.2. British Raj - industrial development and exploitation of nature
    - 2.2.1. Nuisance: penal code and procedural codes

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2.3. Free India - continuance of British influence

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2.3.1. Old laws and new interpretations

## 3. Constitutional Perspectives

units 15

3.1. Constitution making - development and property oriented approach

3.2. Directive principles

3.2.1. Status, role and interrelationship with fundamental rights and fundamental duties.

3.3. Fundamental Duty

3.3.1. contents

3.3.2. judicial approach

3.4. Fundamental Rights

3.4.1. Rights to clean and healthy environment

3.4.2. Right to education

3.4.3. Right to information

3.4.4. Environment v. Development

3.5. Enforcing agencies and remedies

3.5.1. Courts

3.5.2. Tribunal

3.5.3. Constitutional, statutory and judicial remedies

3.6. Emerging principles

3.6.1. Polluter pays: public liability insurance

3.6.2. Precautionary principle

3.6.3. Public trust doctrine

3.6.4. Sustainable development

	UGC Model Curriculum
4. Water and Air Pollution	Units
4.1. Meaning and standards	
4.2. Culprits and victims	
4.3. Offences and penalties	
4.4. Judicial approach	
5. Noise Pollution	Units 4
5.1. Legal control	
5.6. Court's of balancing : permissible and impermissible noise	
6. Environment Protection	units 15
6.1. Protection agencies: power and functions	
6.2. Protection : means and sanctions	
6.3. Emerging protection through delegated legislation	
6.3.1. Hazardous waste,	
6.3.2. Bio-medical waste	
6.3.3. Genetic engineering	
6.3.4. Disaster emergency preparedness	
6.3.5. Environment impact assessment.	
6.3.6. Coastal zone management	
6.3.7. Environmental audit and eco mark	
6.4. Judiciary : complex problems in administration of environmental justice	
7. Town and country planning	units 4
7.1. Law : enforcement and constrain	
7.3. Planning - management policies	

Law

## Forest and greenery

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## 8.1. Greenery conservation laws

## 8.1.1. Forest conservation

## 8.1.2. Conservation agencies

## 8.1.3. Prior approval and non-forest purpose

## 8.1.4. Symbiotic relationship and tribal people

## 8.1.5. Denudation of forest : judicial approach

## 8.2. Wild life

## 8.2.1. Sanctuaries and national parks.

## 8.2.2. Licensing of zoos and parks

## 8.2.3. State monopoly in the sale of wild life and wild life articles

## 8.2.4. Offences against wild life.

## 9. Bio-diversity

units 4

## 9.1 Legal control

## 9.2 Control of eco-unfriendly experimentation on animals, plants, seeds and micro organism.

## 10. International regime

units 15

## 10.1. Stockholm conference

## 10.2. Green house effect and ozone depletion

## 10.3. Rio conference

## 10.4. Bio-diversity

## 10.5. U.N. declaration on right to development.

## 10.6. Wellands

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- Christopher D.Stone, *Should Trees Have Standing and other Essays on Law, Morals and the Environment* (1996), Oceana
- Leelakrishnan, P et. al. (eds.), *Law and Environment* (1990), Eastern, Lucknow
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- a) **Environmental Protection Act 1986 with rules.**
- b) **The water(Prevention & Controls of Pollution) Act 1974** Marks-60
- a) **Forest (Conservation Act 1980)** Marks-40
- b) **The wild life (Protection) Act 1972**

06  
**BCI C 20 INTERPRETATION OF STATUTES**

UGC Mode: Curriculum

**Objectives of the course**

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

With the above problems and perspectives in view, this paper comprises of about 84 units of one hour duration.

**Syllabus**

1. Principles of Legislation units 19
  - 1.1. Law-making - the legislature, executive and the judiciary
  - 1.2. Principle of utility
  - 1.3. Relevance of John Rawls and Robert Nozick - individual interest to community interest
  - 1.4. Operation of these principles upon legislation
  - 1.5. Distinction between morals and legislation
2. Interpretation of Statutes units 8
  - 2.1. Meaning of the term 'statutes'
  - 2.2. Commencement, operation and repeal of statutes
  - 2.3. Purpose of interpretation of statutes.

Law

## 9. Protection of the weaker sectors of labour

units 5

- 9.1. Tribal labour : need for regulation
- 9.2. Unorganised labour like domestic servants : problems and perspectives
- 9.3. Bonded labour : socio-economic programmes for rehabilitation.
- 9.4. Contract labour - regulation
- 9.5. Daily wage workers.

*Select bibliography*

- John Bowers and Simon Honeyball, *Text Book on Labour Law* (1996), Blackstone, London
- Srivastava K.D., *Commentaries on Payment of Wages Act 1936* (1998), Eastern, Lucknow
- Srivastava K.D., *Commentaries on Minimum Wages Act 1948* (1995), Eastern, Lucknow
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- Seth.D.D., *Commentaries on Industrial Disputes Act 1947* (1998), Law Publishing House, Allahabad
- Srivastava K.D., *Disciplinary Action against Industrial Employees and Its Remedies* (1990), Eastern, Lucknow
- Srivastava. K .D., *Commentaries on Factories Act 1948* (2000), Eastern, Lucknow
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- V.V. Giri, *Labour Problems in Indian Industry* Chs. 1 and 15, (1972).
- Indian Law Institute, *Labour Law and Labour Relations* (1987)
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- Report of the National Commission on Labour*. Ch. 14-17, 22, 23 and 24.
- O.P. Malhotra, *The Law of Industrial Disputes* (1998), Universal, Delhi.
- S.C. Srivastava, *Social Security and Labour Laws* Pts. 5 and 6 (1985).Universal, Delhi.
- S.C.Srivastava, *Commentary on the Factories Act 1948* (1999) Universal, Delhi.

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**3. Aids to Interpretation**

units 12

## 3.1. Internal aids

## 3.1.1. Title

## 3.1.2. Preamble

## 3.1.3. Headings and marginal notes.

## 3.1.4. Sections and sub-sections

## 3.1.5. Punctuation marks.

## 3.1.6. Illustrations, exceptions, provisos and saving clauses

## 3.1.7. Schedules

## 3.1.8. Non-obstante clause.

## 3.2. External aids

## 3.2.1. Dictionaries

## 3.2.2. Translations

3.2.3. *Travaux Preparatoires*3.2.4. Statutes in *pari materia*3.2.5. *Contemporanea Exposito*

## 3.2.6. Debates, inquiry commission reports and Law Commission reports

**4. Rules of Statutory Interpretation**

units 5

## 4.1. Primary Rules

## 4.1.1. Literal rule

## 4.1.2. Golden rule

4.1.3. Mischief rule (rule in the *Heydon's case*)

## 4.1.4. Rule of harmonious construction

## 4.2. Secondary Rules

4.2.1. *Noscitur a sociis*

- 4.2.2. Eiusdem generis
- 4.2.3. Reddendo singula singulis
5. Presumptions in statutory interpretation units 7
- 5.1. Statutes are valid
- 5.2. Statutes are territorial in operation
- 5.3. Presumption as to jurisdiction
- 5.4. Presumption against what is inconvenient or absurd
- 5.5. Presumption against intending injustice
- 5.6. Presumption against impairing obligations or permitting advantage from one's own wrong
- 5.7. Prospective operation of statutes
6. Maxims of Statutory Interpretation units 13
- 6.1. Delegatus non potest delegare
- 6.2. Expressio unius exclusio alterius
- 6.3. Generalia specialibus non derogant
- 6.4. In pari delicto potior est conditio possidentis
- 6.5. Utres valet potior quam pareat
- 6.6. Expressum facit cessare tacitum
- 6.7. In bonam partem
7. Interpretation with reference to the subject matter and purpose units 10
- 7.1. Restrictive and beneficial construction
- 7.1.1. Taxing statutes
- 7.1.2. Penal statutes
- 7.1.3. Welfare legislation

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16P

- 7.2. Interpretation of substantive and adjunctive statutes
- 7.3. Interpretation of directory and mandatory provisions
- 7.4. Interpretation of enabling statutes
- 7.5. Interpretation of codifying and consolidating statutes
- 7.6. Interpretation of statutes conferring rights
- 7.7. Interpretation of statutes conferring powers.

## 8. Principles of Constitutional Interpretation

units 10

- 8.1. Harmonious construction
- 8.2. Doctrine of pith and substance
- 8.3. Colourable legislation
- 8.4. Ancillary powers
- 8.5. "Occupied field"
- 8.6. Residuary power
- 8.7. Doctrine of repugnancy

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G.P.Singh, *Principles of Statutory Interpretation*, (7th Edition) 1999, Wadhwa, Nagpur.

P. S. Langan (Ed.). *Maxwell on The Interpretation of Statutes* (1976) N.M.Tripathi, Bombay

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V.Sarathi, *Interpretation of Statutes*, (1984) Eastern, Lucknow

M.P.Jain, *Constitutional Law of India*, (1994) Wadhwa & Co.

M.P.Singh, (Ed.) V.N.Sukla's *Constitution of India*, (1994) Eastern, Lucknow.

U.Baxi, Introduction to Justice K.K.Mathew's, *Democracy Equality and Freedom* (1976) Eastern, Lucknow

Books Recommended:

1. Industrial Law : by G.M.Kothan
2. Labour & Industrial Laws: Dr.V.G.Goswami
3. Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act: R.S.Deogaonkar.

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UGC Model Curriculum:

## BCI C 21 LAND LAWS INCLUDING CEILING AND ANY OTHER LOCAL LAWS

*Objectives of the course*

The legislative power to make laws relating to land and land ceiling is in the state list. Different states have enacted their own laws on this subject. The Constitutional perspectives relating to this subjects have to be taught as an essential part of this course. The provisions in the Constitution in Part III, IV and XII as well as those in Schedule VII relating to distribution of legislative powers over land are essentially to be taught with emphasis. The law relating to land in the state where the students take the course will have to be selected by the University Boards of Studies as part of the syllabus for this paper. This paper comprises of 84 units of one hour duration.

*Syllabus*

## 1. Constitutional provisions

units: 20

- 1.1. Fundamental Rights
  - 1.1.1. Agricultural reform.
- 1.2. Property as legal right
- 1.3. Legislative powers
  - 1.3.1. The Union
  - 1.3.2. States
  - 1.3.3. Local bodies

## 2. State Legislation

units: 64

(Different laws enacted in the states where the course is offered, are to be studied in depth. This may include such topics as land acquisition, land tax, land utilization and conversion, land conservation and land assignment. The State and Union agencies constituted for the purpose of the land development are to be studied in this course)

Land Laws including ceiling and any other local laws

- 1) Maharashtra Land Revenue Code by - Kulkarni V. D.
- 2) the Maharashtra (Rent and Lease) Control Act 2000
- 3) Hyderabad Tenancy & Agricultural Lands Act by - Adyant
- 4) Maharashtra Agricultural and Land (Ceiling on Holdings) Act.

Paper VIII Moot Court, Pre-trial preparations and participation in Trial Proceedings.

(a) Moot Court ( 30 marks). Every student will do at least three moot courts in a year with 10 marks for each. The Moot Court work will be on assigned problems and evaluated for 5 marks for written submissions and 5 marks for oral advocacy.

(b) Observance of Trial in two cases, one civil and one criminal 30 Marks —

Students will attend two trials in the course of the last 2 or 3 years of LL.B. studies. They will maintain a record and enter the various steps observed during their attendance on different days in the court-assignment. This scheme will carry 30 Marks

(c) Interviewing technique and practical preparations. 30 Marks

Each student will observe two interviewing sessions of clients at the Lawyears, office/Legal Aid Office and record the proceedings in a diary which will carry 15 marks. Each student will further observe the preparation of documents and court papers by the Advocate and the procedure and court papers by the Advocate and the procedure for the filing of the suit/petition. This will be recorded in the diary which will carry 15 marks.

Paper IX Drafting, Pleading and Conveyancing.

This course will be taught through class/instructions and simulation exercises, preferably with assistance of practising lawyers/retired judges. Apart from teaching the relevant provisions of law the course will include 15 exercises in Drafting carrying a total of 45 marks and 15 exercises in conveyancing carrying another 45 marks. ( 3 marks for each exercise )

NOTE :

a) DRAFTING :  
General principles of drafting and relevant substantive rules shall be taught.

b) PLEADINGS :

1. Civil : i) Plaint, ii) written statement, iii) Interlocutory Application, iv) Original Petition, v) Affidavit, vi) Execution Petition, vii) Memorandum of Appeal and Revision, and viii) Petition under Article 226 and 32 of the constitution of India.

2. Criminal: i) Complaints, ii) Criminal Miscellaneous petition, iii) Bail Application and iv) Memorandum of Appeal and Revision.

c) CONVEYANCING :

i) Sale Deed, ii) Mortgage Deed, iii) Lease Deed, iv) Gift Deed, v) Promissory Note, vi) Power of Attorney, vii) will.

The remaining 10 marks will be given in a Viva-voce examination which will test the understanding of legal practice in relation to Drafting, pleading and conveyancing.

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BCI 011 AIR AND SPACE LAW

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**OPTIONAL PAPERS**  
**ANY ONE OF THE FOLLOWING**

**Objectives of the course**

There were only a few regulations relating to air and space in the past. There are at present unprecedented activities both in air space and outer space. This leads to multiplicity of multilateral and bilateral conventions and agreements in international air transportation and in outer space exploration. Questions of safety of flights are not merely questions of municipal law but are challenges to the international norms of newly developing air and space law. As in other branches, globalisation and liberalisation had their impact on these branches too. Terrorism against aviation is a matter of serious concern with the escalation of international civil aviation. Advancement of science and technology has pushed man to have sway into the outer space. Thus sharing of geo-stationary orbits and control over experimentation in outer space have thrown new problems. This course deals with all these aspects which do bring in several conventions and treaties - multilateral, regional, bilateral - into focus.

This paper with the above mentioned perspectives will comprise of eighty four units of one hour duration.

**Syllabus**

- |   |         |
|---|---------|
| 1. Introduction   | units 5 |
| 1.1. Definition of Air law  |         |
| 1.2. Nature, scope and source   |         |
| 1.3. Development of air law ( Paris Convention 1910, Paris Convention 1919, Madrid Convention 1926, Havana Convention 1928, Warsaw Convention and Chicago Convention 1944 ) |         |
| 2. Regulation   | units 5 |
| 2.1. Freedom of the air and sovereignty in the air  |         |
| 2.2. Membership and organs of ICAO  |         |
| 2.2.1. Legislative, administrative and judicial functions   |         |
| 2.2.2. Economic and technical regulations   |         |

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3. **Bilateralism and multi-lateralism** units 5
- 3.1. Concept of bilateralism
- 3.2. Views on multi-lateralism
- 3.3. Merits and demerits
- 3.4. Regionalism in civil aviation
4. **India and bilateral agreements** units 5
5. **Safety and Security in civil aviation** units 5
- 5.1. The concept
- 5.2. Aviation terrorism
- 5.3. International norms: conventions, protocols and regulations
- 5.4. Regulations in India
- 5.4.1. Air safety provisions
6. **Air traffic management** units 5
- 6.1. Legal regime of air space and outer space
- 6.1.1. Problems of application of air, space and telecommunication laws
- 6.1.2. State obligation to provide air navigation services
- 6.1.3. Sovereign rights of States
7. **New Development in India** units 5
- 7.1. Technology development and problems in civil aviation
- 7.2. Airports: leasing and privatization - legal issues
8. **Liability in international civil aviation** units 5
- 8.1. Manufacturers, operators, operators' agents and maintenance contractors
- 8.2. Third party liability for surface damage
9. **Changing Global trends** units 5
- 9.1. Globalization, de-regulation and liberalisation in international civil aviation: infra structural problems of air port

9.2.	Private involvement in ownership, operation and management of air ports	
9.3.	International regulatory framework	
10.	Rights and Privileges of air passengers	units 5
10.1.	Consumer protection in civil aviation	
10.1.1.	Liability for death, injury and delay	
10.1.1.1.	Global trends	
10.1.1.2.	Indian law	
11.	Air Cargo	units 5
11.1.	International Conventions and Regulations	
11.2.	India: regulations	
12.	Aviation related Environmental Problems	units 5
13.	Aircraft financing and leasing	units 2
14.	Aviation Insurance	units 2
15.	Settlement of Aviation Related Disputes	units 2
15.1.	General Principles	
15.2.	Role of ICAO and ICJ	
15.3.	Arbitration	
15.4.	Settlement under municipal law	
16.	Space Law	Units 3
16.1.	Definition, nature, scope and development	
16.2.	Sources	
17.	UN and Outer Space	units 3
17.1.	Space technology: establishment of COPUOS	
17.2.	International co-operation for peaceful use	

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- 17.3. Development by General Assembly resolutions
- 17.4. UN space treaties: strengths and needs
18. Development of law by treaties units 3
- 18.1. The space treaty 1967
- 18.2. The rescue Agreement 1968
- 18.3. The Liability Convention 1972
- 18.4. The Registration Convention 1975
- 18.5. The Moon Treaty 1979
- 18.6. Partial Test Ban Treaty 1963
- 18.7. Weather Modification Convention 1977
19. International and Inter-governmental Organizations units 2
20. Non-governmental Organizations and Space Activities units 2
21. Bilateral Agreements in Space Activity units 2
- 21.1. Liability
- 21.2. Satellite Broadcasting and Telecommunications
- 21.3. Space based Observation, monitoring remote sensing, tracking telemetry and communications
22. Use of Space technology units 2
- 22.1. Peaceful and non-peaceful
- 22.2. Remote sensing
- 22.3. Environmental protection
- 22.4. Disaster prediction, warning and mitigation
- 22.5. Management of earth resources
- 22.6. Satellite navigation and location
- 22.7. Space communication

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23. Commercialization of Space Activities units 2
- 23.1. Public and private sector activities
- 23.2. Industry-government partnership
- 23.3. IPR rights
24. Dispute Settlement units 2
25. India and Space Law units 2
- 25.1. Contribution to development of international law
- 25.2. Organisation of Space activities: DOS, ISRO
- 25.3. Space policy
- 25.4. Need for the law in the country

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- Jerome Morenoff, *World Peace through Space Law* (1967), The Michie Co., Virginia.

**BCI 012 LAW AND MEDICINE**

LSC Model Curriculum

**Objective of the course**

The Constitution of India has certain norms to be operative in the field of health care. Coupled with these constitutional norms, there have been many legislative measures. The judiciary had a leap forward and contributed significantly in the area. But there are gaps to be filled. While law aims at just society by adjusting and balancing the rights and duties of individuals, medicine aims at creating a healthy society by concentrating on the health of individuals. Law and medicine are thus areas of high social concern. The law in its relation to medicines is significant as justice and fairness in health care.

This course is designed to expose the students to the various problems of medicine and law and to acquaint them with the existing law and its missing links. Those taking up this optional course should acquire the capability to evaluate the adequacy of law in solving the problems with comparative perspectives.

This paper with the above perspectives comprises of 84 units of one-hour duration.

**Syllabus****1. Introduction**

units 10

- 1.1. General background
  - 1.1.1. Interrelationship between law and medicine
    - 1.1.1.1. Issues involved
    - 1.1.1.2. Need of legal control
  - 1.2. Constitutional perspectives
    - 1.2.1. Rights to life : Fundamental right
      - 1.2.1.1. Right to health
      - 1.2.1.2. Right to emergency medical care
    - 1.2.2. Directive principles
      - 1.2.2.1. Health of workers

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- 1.2.2.2. Public assistance in sickness and disability
- 1.2.2.3. Raising the level of nutrition and public health
- 1.3. Power to make law
  
- 2. Regulation of medical and paramedical profession units 7
  - 2.1. Regulatory authorities
  - 2.2. Disciplinary controls
  - 2.3. Doctors and Para-medical professionals
  - 2.4. Controls on institutions
    - 2.4.1. Hospitals
    - 2.4.2. Testing laboratories
    - 2.4.3. Institutions for research and experiments
  
- 3. Regulation on manufacture, storage and sale of medicines units 10
  - 3.1. Production, transport and storage
  - 3.2. Sale
  - 3.3. Advertisement
  
- 4. Liability for professional negligence units 10
  - 4.1. Tort
    - 4.1.1. Standard of care
    - 4.1.2. problems of evidence
  - 4.2. Contractual liability
  - 4.3. Criminal liability
  - 4.4. Liability of doctors and hospitals under the consumer protection law
  
- 5. Science and Technology units 4
  - 5.1. Transplantations of organs
  - 5.2. Test tube basics

- AICTE Model Curriculum
- 5.3. Artificial insemination
- 5.4. Genetic engineering
6. Population control units 4
- 6.1. Law, practice and society
- 6.2. Family planning : legality of coercive methods
- 6.3. Sterilisation of unfit.
- 6.4. Social Response
7. Medical wastes units 4
- 7.1 Controls on handling and disposal of bio- medical wastes
8. Experiments on human beings units 6
- 8.1. The concept
- 8.2. Kinds
- 8.3. Subjects of experimentation
- 8.4. Controls
9. Surrogate Motherhood units 10
- 9.1. Historical background
- 9.2. The contractual aspect and enforceability
- 9.3. Parent-hood - who is the legal parent?
- 9.3.1. Problems of consent in caesarean surgery
- 9.4. Rights of husband against the right of the wife for surrogate motherhood
- 9.5. Rights and duties of surrogate mother when genetic parents refuse to accept the child.
10. Aids Law units 10
- 10.1. Nature and scope
- 10.1.1. Regulation of blood and blood products

*Law*

- 10.1.2. Regulation of sexual activity
- 10.2. Rights and freedom
  - 10.2.1. Privacy and liability to report
  - 10.2.2. Liberty and security
  - 10.2.3. Movement
  - 10.2.4. Marriage and setting up of a family
  - 10.2.5. Work
  - 10.2.6. Education
  - 10.2.7. Social security
  - 10.2.8. Right against degrading treatment
  - 10.2.9. Equality before law

**11. The unborn**

units 5

- 11.1. Has the unborn constitutional or other legal rights?
- 11.2. Causing miscarriage and injuries to the unborn - liability
- 11.3. Amniocentesis
- 11.4. Medical termination of pregnancy

**12. International norms**

- 12.1 Council of Europe Convention on Human rights and Bio medicine 1997
  - 12.1.1. Health care
  - 12.1.2. Professional standards
  - 12.1.3. Consent
  - 12.1.4. Privacy and right to information
  - 12.1.5. Non-discrimination
  - 12.1.6. Genetic tests
  - 12.1.7. Organ transplantation
  - 12.1.8. Scientific research

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Digumarti Bhaskara Rao (ed.) *HIV/AIDS and Ethics and Human Rights* (2000) Discovery Publishing House, New Delhi

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Law

## BCI 013A WOMEN AND LAW AND LAW RELATING TO CHILD

*Objectives of the course*

The need to study gender and juvenile justice as special subjects are to be emphasised as the constitutional guarantees have not achieved the desired results. The fundamental rights did not preclude having special provisions.

The planners and the policy makers therefore treated women only as beneficiaries of welfare measures. The hope was the benefits of development would percolate below to all including women and therefore there was no need for special efforts to bring them into the mainstream. This trickle down theory of development is still to be materialised in spite of the positive action of woman's representation in local bodies. Women are discriminated in almost all sectors.

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

The course will study the above mentioned problems and comprises of about 84 units one-hour duration.

*Syllabus*

- |   |         |
|---|---------|
| 1. International concerns and conventions | Units 2 |
| 2. Women in India                         | units 5 |
| 2.1. Pre-independence period              |         |
| 2.1.1. Social and legal inequality        |         |

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- 2.1.2 Social Reform Movement in India
- 2.1.3 Karachi Congress - Fundamental Rights Resolution, Equality of Sexes
3. Women in post independence India units 5
- 3.1. Preamble of the Constitution: equality provisions in Fundamental Rights and Directive Principles of State Policy
- 3.2. Personal laws - unequal position of women
- 3.3. Uniform Civil Code towards gender justice.
4. Sex Inequality in Inheritance Rights units 5
- 4.1. Feudal institution of joint family - women's inheritance position
- 4.2. Hindu Law
- 4.3. Muslim Law
- 4.4. Matrimonial property
- 4.5. Movement Towards Uniform Civil Code
5. Guardianship units 5
- 5.1 Right of women to adopt a child
- 5.2. Problems of women guardianing
6. Divorce units 5
- 6.1 Indian Divorce Act
- 6.2 Christian Law
- 6.3 Muslim Law
7. Criminal Law units 2
- 7.1. Adultery
- 7.2. Rape

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8. Social Legislation 175.  
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units 2
- 8.1. Dowry Prohibition
  - 8.2. Prevention of immoral traffic
9. Woman participation in democratic government units 2
- 9.1. Parliament
  - 9.2. State Legislation
  - 9.3. Local bodies
10. Women and Employment units 4
- 10.1. Labour force
  - 10.2. Protective Laws
  - 10.3. Exploitation and harassment in workplaces
11. Protection and enforcement agencies units 6
- 11.1. Courts
  - 11.2. Family courts
  - 11.3. Commission for women
  - 11.4. NGOs.
12. Social Constitutional and International Legal Status of Child units 6
- 12.1. Magnitude of the problem
  - 12.2. Special status of child - national policies
  - 12.3. Constitutional concern - Article 15(3), Article 24 and Article 45
  - 12.4. International concern and endeavour for the welfare of the children:
    - 12.4.1. Minimum Age conventions
    - 12.4.2. Child rights conventions
    - 12.4.3. U.N. Declaration of the rights of the child, 1924, 1959.

- UGC Model Curriculum*
13. Problems of conception, birth and nuourishment and health of the child Units 5
- 13.1. Legal status of child in work
  - 13.2. Tortious liability against injuries to unborn children.
  - 13.3. Coparcenary and property rights of the unborn children.
  - 13.5. Law relating to maternity benefit and relief
  - 13.6. Lack of legal protection of children of impecverished parentage
14. State responsibility for the education of children units 2
- 14.1. Evaluation of the efforts of the State towards the provision of education to children.
  - 14.2. Pre-primary and nursery education - elementary education.
  - 14.3. Contributions by International Organizations for elementary education - UNESCO, UNICEF.
15. Legal Control of Child Labour units 7
- 15.1. Regulation of the employment: protection of the health and well-being
  - 15.2. International conventions and recommendations of the ILO.
  - 15.3. Recommendations of the National Commission of Labour.
  - 15.4. Legislation relating to factories, plantation labour, mines, merchant shipping, motor transport workers, apprentices, shop & establishments and child labour
16. Family Relations and Child units 3
- 16.1. The status of a child in matters of marriage, legitimacy, guardianship, adoption, maintenance and custody.
  - 16.2. Provisions in the statutes relaing to hindu marriages, restraint on child marriage, guardians and wards, hindu minority and guardianship, hindu adoptions and maintenance and in the Indian Evidence Act 1872;
17. Child and Contractual Liability units 2
- 17.1. Minors Agreements

- 17.2. Testimony of children
- 17.3. Suits by and against minors.

18. Child and Criminal Liability

units 5

- 18.1. Crimes committed by child; crimes committed by others in relation to children;
- 18.2. Implementation of social policy through criminal sanctions in relation to child;
- 18.3. Variation of procedure in case of child offender
- 18.4. Judicial proceedings in criminal cases relating to children
- 18.5. Statutory provisions - Sections 82, 83, 299 Exp.3, 363A, 372 and 376 of IPC - Suppression of Immoral Traffic Act 1956 (SITA) - penal provisions contained in Child Marriage Restraint Act 1929 as amended in 1978 - Young Persons Harmful Publications Act 1956 - The Children Act 1960 - Section
- 18.6. 27 of the Cr. P.C. - Reformatory Schools Act 1897 - Juvenile Delinquency Act, 1986.

19. Law and Offences Against Child

units 8

- 19.1. Protection of neglected children
- 19.2. Institutions for the protection of neglected children;
- 19.3. Juvenile Justice Act
- 19.4. Juvenile delinquency : law and offences against child
- 19.5. Contribution by parents; licensing;
- 19.6. Protection of girls from immoral traffic;
- 19.7. Prevention of vagrancy and beggary;

20. Discrimination Against Female Children

units 4

- 20.1. Amniocentesis,
- 20.2. Deferred infanticide through based nutritional discrimination)
- 20.3. Termination of pregnancy.

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Students should be encouraged to look at the distinctive legal problems of children in the area where instructions is imparted. The literature on children's plight is vast and varied. But it is important that the focus of the course be on understanding of the distinctively legal problems in the region and ways in which we can contribute to change.

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## LICI 013B LAW, POVERTY AND DEVELOPMENT

*Objectives of the course*

The State of India's poor does not feature much in Indian law Curricula. Only a few law schools offer an optional course. The Constitution of India - especially Article 39-A since 1976 commands innovation of legal system in such ways that no one, especially because of economic condition, is denied access to the law and its benefits. In so far as legal education is a state-funded or sponsored action and even otherwise, this Directive Principle must apply to renovation of legal education.

The constitutional programme of social justice displays a dramatic concern for the "weaker sections of society". Steadily, legislation protecting their entitlements has grown to impressive proportion in the last forty years. They would be advocates, counsellors, judges, teachers, scientists in law ought to have a complete grounding in these legal processes of "development". The burgeoning "poverty law" involves: (a) constitutional provisions' (b) legislation; (c) administrative anti-poverty programmes aimed at improving economic condition of the poor; (d) legal services programmes; (e) adjudication on the entitlement of the poor through social action litigation. All these need careful study in this compulsory course.

The following syllabus prepared with this perspective will comprise of about 84 units of one hour duration.

*Syllabus*

1. The concept of poverty units 10
  - 1.1. Economical
  - 1.2. Cultural
  - 1.3. Situational
  - 1.4. Distinction between "natural" and "social" poverty
  - 1.5. Absolute and relative poverty
  - 1.6. Sociological
  - 1.7. Religion and poverty

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2. Identification and Measurement

UGC Model Curriculum

units 12

- 2.1. The struggle over conceptualisation of Improverishment.
- 2.2. Poverty line as a way of identifying the improverished.
- 2.3. Problems of data and India-wide generalization.
- 2.4. Nutritional norm of poverty line (Debate between Dandeker and Sukhatme)
- 2.5. "Income" and "consumption" criteria
- 2.6. The PQIL (the Quality of Life) indices of poverty
- 2.7. The problems of heterogeneity of the poor and poverty line conceptions.
- 2.8. The debate on "Crossing of the Poverty Line"
- 2.9. Constitutionality of criteria of poverty line as a basis of state action.

3. The "Determinants" of Impoverishment

units 10

- 3.1. Population growth as determinant.
- 3.2. Legal system as a determinant of Impoverishment.
- 3.3. Planning as a determinant of poverty:
  - 3.3.1. The Nehru Phase : 1950-1964
  - 3.3.2. The Green Revolution and basic needs strategies: 1964-1977
  - 3.3.3. The anti-poverty Programme strategy : 1977-1988
  - 3.3.4. The Lackadaisical agrarian reforms programme.

4. Poverty of Planning and Anti-poverty Programmes

units 10

- 4.1. SFDA (Small Farmer Development Programme)
- 4.2. MFAL (Project for Marginal Farmers and Agricultural Labourers)
- 4.3. DPAP (The Drought - Prone Areas Programme)
- 4.4. IRDP (Integrated Rural Development Programme)
- 4.5. NREP (National Rural Employment Programme)
- 4.6. RLEGP (Rural Landless Labour Employment Guarantee Programme).

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10. Marginalized Communities units 5
- 10.1. Beggars and the law
  - 10.2. Ex-Criminal tribes
  - 10.3. Vagrants
  - 10.4. Physically and psychologically
  - 10.5. Aged
  - 10.6. Juveniles.
11. Women, Poverty and the Law units 10
- 11.1. Special features of impact of gender discrimination on the Impoverished Women
  - 11.2. Specific domains
    - 11.2.1. Bidi workers
    - 11.2.2. Wage discrimination by public financial institutions
  - 11.3. Atrocities against women
    - 11.3.1. Rape, sexual assault including custodial rape.
    - 11.3.2. Institutionalised abuse
    - 11.3.3. Trafficing in women
    - 11.3.4. Devadasi system.
    - 11.3.5. Sati
    - 11.3.6. Dowry
12. Legal services of the poor units 7
- 12.1. Concept of legal aid
  - 12.2. Growth of legal aid movement in India
  - 12.3. Krishna Iyer report
  - 12.4. Bhagwati report.
  - 12.5. The Tamil Nadu legal services programmes

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- 12.6. Case law on legal services
- 12.7. The Legal Services and Lok Adalat Act, 1986.
- 12.8. Role of students and teachers

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Leelakrishnan.P, et.al.(eds.), *Tribal Welfare: Law and Practice* (1985), Cochin University Department of Law.

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## BCI 014 INTELLECTUAL PROPERTY LAW

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586*Objectives of the course*

The importance of this branch of the law is to be sufficiently realised in the Indian legal education. Compendious courses on the law of copyright, trademarks and patents are offered in few law schools as optional courses, but these do not either integrate the significance of these subject matters under any comprehensive aspect of 'modernisation' or 'development' nor do they spread even emphasis between and among the subject areas represented by these three interconnected bodies of the law.

The three areas are now internationally conceptualised as representing intellectual property. It is often the case that while the law of patents and trademarks is referred to as industrial property, the law relating to copyright is named intellectual property. While both these terms could be suitably invoked, we here speak of intellectual property as signifying all the three bodies of the law as well as the law on industrial designs.

Unlike other forms of property, intellectual property refers to regimes of legal recognition of, primarily, the products of the mind or imagination. The subject matter of property relations is here pre-eminently based on mental labour. The law relating to intellectual property protects the right to mental labour.

The law confers rights of proprietary nature on relative intellectual labour primarily on the basis that it is in the interests of society and state to promote creativeness and inventiveness. Limited monopoly provides incentive for greater inventive and innovative efforts in society. An important aspect of the exploration in this course would be the ways in which the laws strike a fair balance between the interests and rights of the intellectual labourers on the one hand and organized industrial enterprises on the other. Another dimension is a study of the ways in which this regime of laws militates against, or favours, community property in national cultures.

As concerns 'modernization' crucial questions arise in the field of copyright protection in computer software and hardware, internet, electronic music and scientific research. Both copyright, trademarks, design and patent law here relate basically to the law of unfair competition and constitute an aspect of consumer protection and welfare not only in the context of national perspectives but

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also in view of the waves of globalisation already set in. Both from the standpoint of human resources development, modernisation and justice it is important that the curricular change takes serious notice of these areas.

The following syllabus prepared with the above objectives will comprise of 84 units each of one hour duration.

**Syllabus**

units 20

**1. Introductory**

- 1.1. The meaning of Intellectual property
- 1.2. Competing rationales of the legal regimes for the protection of intellectual property
- 1.3. The main forms of intellectual property : copyright trademarks, patents, designs
- 1.4. The competing rationales for protection of rights in
  - 1.4.1. Copyright
  - 1.4.2. Trade marks
  - 1.4.3. Patents
  - 1.4.4. Designs
  - 1.4.5. Trade secrets
  - 1.4.6. Other new forms such as plant varieties and geographical Indians
- 1.5. Introduction to the leading international instruments concerning intellectual property rights: the Berne Convention, Universal Copyright Convention, the Paris Union TRIPS the World Intellectual Property Rights Organisation (WIPO) and the UNESCO.

units 20

**2. Select aspects of the law of copyright in India**

- 2.1. Historical evolution of the law
- 2.2. Meaning of copyright
- 2.3. Copyright in literary, dramatic and musical works
- 2.4. Copyright in sound records and cinematograph films
- 2.5. Copyright in computer programme

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- 2.6. Ownership of copyright
- 2.7. Assignment of copyright
- 2.8. Author's special rights
- 2.9. Notion of infringement
- 2.10. Criteria of infringement
- 2.11. Infringement of copyright by films of literary and dramatic works.
- 2.12. Importation and infringement
- 2.13. Fair use provisions
- 2.14. Piracy in internet
- 2.15. Aspects of copyright justice
- 2.16. Remedies, especially, the possibility of Anton pillar injunctive relief in India.
3. Intellectual Property in Trademarks units 20
- 3.1. The rationale of protection of trademarks as (a) an aspect of commercial and (b) of consumer rights.
- 3.2. Definition and concept of trademarks
- 3.3. Registration
- 3.4. Distinction between trademark and property mark
- 3.5. The doctrine of honest Current User
- 3.6. The doctrine of deceptive similarity
- 3.7. Protection of well-known marks
- 3.8. Passing off and infringement
- 3.9. Criteria of infringement
- 3.10. Standards of proof in passing off action
- 3.11. Remedies
4. The law of intellectual property : patents units 24
- 4.1. Concept of patent

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- 4.2. Historical view of the patents law in India
- 4.3. Patentable inventions with special reference to biotechnology products entailing creation of new forms of life.
- 4.4. Patent protection for computer programme
- 4.5. Process of obtaining a patent : application, examination, opposition and sealing of patents : general introduction
- 4.6. Procedure for filing patents... Patent co-operation treaty
- 4.7. Some grounds for opposition
  - 4.7.1. The problem of limited locus standi to oppose, specially in relation to inventions having potential of ecological and mass disasters
  - 4.7.2. Wrongfully obtaining the invention
  - 4.7.3. Prior publication or anticipation
  - 4.7.4. Obviousness and the lack of inventive step
  - 4.7.5. Insufficient description
- 4.8. Rights and obligations of a patentee
  - 4.8.1. Patents as chose in action
  - 4.8.2. Duration of patents : law and policy considerations
  - 4.8.3. Use and exercise rights
  - 4.8.4. Right to secrecy
  - 4.8.5. The notion of "abuse" of patent rights
  - 4.8.6. Compulsory licenses
- 4.9. Special Categories
  - 4.9.1. Employee Invention : Law and Policy Consideration
  - 4.9.2. International Patents, Transfer of Technology, Know-How and problems of self reliant development
- 4.10. Infringement



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- 4.10.1. Criteria of infringement
- 4.10.2. Onus of Proof
- 4.10.3. Modes of Infringement : the Doctrine of Colourable Variation
- 4.10.4. Defences in suits of infringement
- 4.10.5. Injunctions and related remedies.

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**BCI 015 MARITIME LAW*****Objective of the course***

There is a sea change and conceptual revolution in maritime law. With more interactions between nations and nations as well as between persons, natural and legal, in one country to others in another country led to evolution of new norms of behaviour in maritime scenario. Changes in the extent of territorial waters, exploration into and exploitation of, zona and deep sea living and non living resources, the need for liberal approach to transit and innocent passage of ships and the all important demand for elimination of marine pollution from any source have thrown new challenges. This course is intended to look at the problems more from a public law point of view than from private law perspectives and to provide a basic knowledge that helps one to study more about the widening frontiers of maritime law in the years to come.

The paper comprise of about 84 units of one-hour duration.

***Syllabus***

- |  |         |
|--|---------|
| 1. Maritime law: sources   | units 6 |
| 1.1. Custom  |         |
| 1.1.1. Binding nature  |         |
| 1.2. International conventions   |         |
| 1.2.1. Law-making treaties   |         |
| 1.2.2. Multi-lateral and bilateral   |         |
| 1.3. Resolution and recommendation of international organisations such as IMO(International Maritime Organisation), International Sea Bed Authority and UNEP (United National Environmental Programme) |         |
| 1.4. Decisions of courts: ICJ, international arbitration and national courts   |         |
| 1.5. State practices   |         |
| 1.6. Juristic writings   |         |

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2. Internal waters units 8
- 2.1. Meaning
  - 2.2. Maritime boundary
    - 2.2.1. Baseline concept : determination of baseline
  - 2.3. Innocent passage: scope of coastal state interference
  - 2.4. Regime of maritime ports
    - 2.4.1. Port state jurisdiction : civil and criminal
    - 2.4.2. Attachment of ships: arrest of ships
    - 2.4.3. Access of foreign ships to ports
      - 2.4.3.1. Ships in distress
      - 2.4.3.2. Quarantine regulations
3. Territorial waters units 8
- 3.1. Territorial sea : concept and development
  - 3.2. Width, conflicting claims of coastal states
    - 3.2.1. Coastal state jurisdiction
    - 3.2.2. Access of ships to the territorial sea
    - 3.2.3. Scientific research: jurisdiction on
4. Contiguous Zone units 2
- 4.1. Concept and relevance in present times
  - 4.2. Coastal state jurisdiction over customs and law and order confined to contiguous or not
5. Exclusive Economic zone unit 10
- 5.1. Definition
  - 5.2. Jurisdiction

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## 6. Delimitation of Maritime Boundary

units 4

- 6.1. Opposite state
- 6.2. Adjacent state
- 6.3. Equitable doctrine
- 6.4. Regional agreement

## 7. Continental shelf

units 10

- 7.1. Development of the concept
- 7.2. Coastal state claim; legal basis
  - 7.2.1. Submerged territory theory
  - 7.2.2. Contiguous area theory
  - 7.2.3. Recognition of the state claim over sea bed and subsoil
- 7.3. Nature of the state rights
- 7.4. Width and limits
- 7.5. Jurisdiction over foreign ships
  - 7.5.1. Protection of equipment and installations
- 7.6. Scientific research

## 8. International straits and archipelagos

units 8

- 8.1. Regime of international straits
  - 8.1.1. Transit passage
  - 8.1.2. Jurisdiction of coastal states
- 8.2. Archipelagos: Meaning
  - 8.2.1. Distinction from islands
  - 8.2.2. Archipelago waters
  - 8.2.3. Innocent passage
  - 8.2.4. Resource jurisdiction

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9. International fisheries units 8
- 9.1. Conflicting state claims
  - 9.2. Migratory species
  - 9.3. Marine mammals
  - 9.4. Sedentary species
  - 9.5. Protection of endangered species
  - 9.6. International co-operation for conservation
  - 9.7. Optimum utilization and surplus sharing
  - 9.8. Fisheries in high seas
    - 9.8.1. Special protection:
      - 9.8.2. Atlantic ocean
      - 9.8.3. Pacific ocean
10. High Seas units 10
- 10.1. Concept of patrimonial sea and common heritage of mankind
  - 10.2. Access to high seas : conflict between maritime states and land locked states
  - 10.3. Piracy
  - 10.4. Hot pursuit
  - 10.5. International sea bed authority : constitution, power and jurisdiction
  - 10.6. Exploration and exploitation of sea bed
  - 10.7. Pioneer investors
11. Conservation and Exploitation of Maritime Resources units 10
- 11.1. Living and Non-living resources: Importance, kinds
  - 11.2. Conservation and management of the resources
    - 11.2.1. Jurisdiction
    - 11.2.2. Problems