

## **COURSE CURRICULUM OF MASTER OF LAWS (LL.M.) Degree Programme**

### **Compulsory Courses**

1. CC001 LAW AND SOCIAL TRANSFORMATION IN INDIA.
2. CC002 LEGAL PROCESS – I. (Legislative Process and Administrative Process)
3. CC003 LEGAL PROCESS – II (JUDICIAL PROCESS)
4. CC004 LEGAL EDUCATION AND RESEARCH METHODOLOGY
5. CC005 Practical examination (Research Methodology and Law Teaching)
6. CC006 DISSERTATION- based on the optional course

### **Optional groups:**

The constituent colleges may choose the optional groups from the list approved by the university, based on the availability of infrastructure, faculty and other facilities at the commencement of every academic year; and intimate the same to the university. Only two optionals shall be offered to a batch.

The Government Law colleges shall give priority in offering Business Laws as an optional, apart from the optionals being currently offered; since BBA.,LL.B.(Honours) with specialization in Business Laws is being offered at present in the concerned colleges.

### **Group A : Business Laws**

A001 Law of Industrial and Intellectual Property

A002 Legal Regulation of Economic Enterprises

A003 Law of Export - Import Regulation

A004 Law of Banking.

A005 Law of Insurance

A006 Corporate Finance *(COMMON COURSE FOR BUSINESS LAWS AND TAXATION LAWS)*

A007 Corporate Taxation *(COMMON COURSE FOR BUSINESS LAWS AND TAXATION LAWS)*

Considering the demand in the job market, LL.M. program with taxation laws as optional subjects has to be retained. LL.M. in taxation is offered only in a handful of institutions in India and hence is a rare course.

The courses for taxation laws shall be as follows :

#### **GROUP B : TAXATION LAWS**

B 001. Fundamental Principles and Theoretical Foundations of Direct Taxation.

.B.002 Direct tax Administration and Procedure.

.B.003 Fundamental principles and Theoretical Foundations of Indirect Taxation.

.B.004 Indirect tax Administration and Procedure.

.B.005. International taxation and electronic commerce

.A.006. Corporate Finance *(COMMON COURSE FOR BUSINESS LAWS AND TAXATION LAWS)*

A 007. Corporate Taxation. *(COMMON COURSE FOR BUSINESS LAWS AND TAXATION LAWS)*

### **GROUP C: CRIMINAL LAW**

**C.001.** Principles of Criminal Law

**C.002.** Offences against vulnerable groups

**C.003.** Criminology, penology and victimology

**C.004.** Comparative criminal procedure

**C.005.** Criminal investigation and forensic science

**C.006.** Soci-economic crimes and privileged class deviance

**C.007.** Transnational crimes and criminal law

### **GROUP D: ADMINISTRATIVE LAW**

**D.001.** Constitutional foundations of administrative Law

**D.002.** General Principles of administrative law

**D.003.** legislative and quasi-judicial powers of administration

**D.004.** Discretionary powers, Ministerial and administrative instructions

**D.005.** Judicial review of administrative action

**D.006.** powers and liabilities of public authorities

**D.007.** legal devices to control maladministration and corruption

**The course design shall be as follows :**

Semester	Compulsory/core Course	Optional course	Total	Marks
First	2	2	4	400
Second	1+1 (Practical)	2	4	400
Third	1	2	3	300
Fourth	Dissertation (equivalent to 2 courses)	1	3	300
			<b>Total</b>	<b>1400</b>

Every paper shall carry 100 marks out of which 60 marks are for written examination and 40 marks for internal assessment.

The **criteria for internal assessment** shall be as follows:

- |   |          |
|---|----------|
| (i) Presentation of Papers                                      | 10 marks |
| (ii) written Assignment   | 10 marks |
| (iii) Class Tests (minimum 2)                                   | 15 marks |
| (iv) Attendance (one mark for every<br>5% attendance above 75%) | 05 marks |

**Total 40 marks**

Every paper shall be evaluated externally for 60 marks in addition to the continuous internal assessment of 40 marks described above.

Internal assessment shall be completed within the semester itself before submission of application for end semester examination. Supplementary / improvement chances will not be there for internal assessment.

Dissertation on a topic based on the optional, carrying 200 marks shall be evaluated externally with 150 marks for the written work and with 50 marks for presentation and viva-voce.

### **Practical examination**

The practical examination shall be held at the end of the second semester on Research Methodology, Law Teaching and Clinical work. There shall be 15 marks each for doctrinal research and for non doctrinal research, 20 marks for clinical work and 50 marks for law teaching. How the components of practical shall be evaluated is left to individual faculties of law. They can formulate their own models of assessment. However, for making the practical examination objective and meaningful, the following guidelines shall be adhered to.

### **Part 1. Research Methodology and Clinical Legal Education.**

#### **(i) Doctrinal research (15 marks)**

Each student is assigned in advance a separate topic and asked to collect materials. A period of 5-7 days can be set apart for carrying out this assignment in the library. The materials indicated

or collected during the assignment shall be evaluated internally by a group of senior faculty members who are engaging LL.M. Classes regularly.

**(ii) Non-doctrinal research (15 marks)**

Here the students are asked to go out of the class room and library and make an empirical study of a problem which has social, economic, moral or political dimension. Field data can be collected through any model of data collection. The results are to be assessed internally by a team of senior faculty members who are engaging LL.M. Classes regularly.

**(iii). Clinical work (20 marks)**

The modalities can be evolved by the colleges. One method is that the legal aid clinic of the law school can involve itself with other legal aid programmes in the area. Students are encouraged not only to work with the clinic but also to acquaint themselves with court proceedings, working of a business organisation, tackling of labour disputes, drafting of business or other deeds and with public interest litigation. The initiative and potential of the student and the actual work turned out by him shall be assessed by the team of senior faculty who are engaging LL.M. Classes regularly. Focus, priority and weightage shall be for the research being done by the students in the above areas.

**Part II. Law Teaching (50 marks)**

A topic is assigned to the student in advance. He is required to handle a class for 25 to 30 minutes.

Where LL.B. programme co-exists with LL.M programme, the students may also be asked to teach the LL.B students also. They can select any of the methods of teaching. In law teaching practical, the LL.M students are to be evaluated internally and externally. The average marks shall be reckoned. Internal evaluation shall be by a group of senior faculty who are regularly engaged in handling LL.M. classes. External evaluation shall be by a Board constituted by The University for the purpose.

**Pass Minimum.**

A student has to secure a minimum of 50% marks in each part (Part I and Part II) of the practical examination, for a pass. A student who fails to secure the minimum marks in any part of the practical examination will have to repeat that part with the junior batch.

### Scheme of Subjects ,Teaching and examination- Master of Laws (LL.M.)

Paper code	Subject(s)	Maxi Mum marks	Remarks
	<b><u>Semester I</u></b>		
CC001	Law and social transformation in India	100	Regular classes will be held in the colleges from Monday to Friday from 10 AM to 4 PM
CC002	Legal Process –I (legislative process and administrative process)	100	End semester examination will be held on 2 compulsory and 2 optional papers for 60 marks each, apart from continuous evaluation for 40 marks each.
B001. or A001 Or C001	Fundamental principles and theoretical foundations of direct taxation.  or  Law of Industrial and Intellectual Property  or  Principles of criminal law	100	Total marks for the semester will be 400  The semester duration of 18-20 weeks shall be inclusive of the time for conduct of all the examinations for the semester

Or	or		
D001.	Constitutional foundations of administrative law		
B.002	Direct tax Administration and Procedure		
Or		100	
A002	Legal regulation of economic enterprises		
Or	or		
C.002.	Offences against vulnerable groups		
Or	or		
D.002	General principles of administrative law		
Paper code	Subject(s)	Maxi Mum marks	Remarks
	<b><u>Second semester</u></b>		



CC004	Legal Education And Research methodology	100	<p>End semester examination will be held on 1 compulsory and 2 optional papers for 60 marks each, apart from continuous evaluation for 40 marks each.</p> <p>Besides, the students will have to complete the prescribed practicals within the semester itself for 100 marks.</p> <p>Total marks for the semester will be 400</p> <p>The semester duration of 18-20 weeks shall be inclusive of the time for conduct of all the examinations for the semester</p>
B003  Or A003  Or C003  Or D003	<p>Fundamental principles and Theoretical Foundations of Indirect Taxation</p> <p>or</p> <p>Law of export-import Regulation</p> <p>or</p> <p>Criminology, penology and victimology</p> <p>or</p> <p>Legislative and quasi-judicial powers of administration</p>	100	
B004  Or A004  Or C004  Or D004	<p>Indirect tax Administration and Procedure</p> <p>Or</p> <p>Law OF Banking</p> <p>or</p> <p>Comparative criminal procedure</p> <p>Or</p> <p>Discretionary powers, ministerial action and</p>	100	

	administrative instructions		
Practical CC005	Research Methodology, Law teaching and clinical work	100	
	<b><u>Third semester</u></b>		End semester examination will be held on 1 compulsory and 2 optional papers for 60 marks each, apart from continuous evaluation for 40 marks each.
CC003	Legal Process-II (Judicial Process)	100	Total marks for the semester will be 300
B005  Or  A005 Or C005 Or D005	International taxation and electronic commerce  Or  Law of Insurance  or  Criminal investigation and forensic science  Or  Judicial review of administrative action	100	
			The semester duration of 18-20 weeks shall be inclusive of the time for conduct of all the examinations for the semester

A006	Corporate Finance  (COMMON COURSE FOR BUSINESS LAWS AND TAXATION LAWS)	100	
Or	or		
C006	Socio-economic crimes and privileged class deviance		
Or			
D006	Or  Powers and liabilities of public authorities		
	<b><u>Fourth semester</u></b>		End semester examination will be held on 1 optional paper for 60 marks, apart from continuous evaluation for 40 marks.
A007	Corporate Taxation  (COMMON COURSE FOR BUSINESS LAWS AND TAXATION LAWS)	100	Students shall also have to complete and submit the dissertation before applying for the 4 <sup>th</sup> semester examination.
Or	or		
C007	Trans-national crimes and criminal law		
Or			
D007.	Or  Legal devices to control maladministration and corruption		

CC006	Dissertation	200	<p>Dissertation of each student should be on topics from the area of specialization chosen, and approved by the Academic programme committee.</p> <p>Typed and bound dissertations shall be of uniform pattern. Font size 12, new times roman, single space, margin 1", A4 paper, minimum 150 and maximum 200 pages.</p> <p>3 copies of the dissertation shall be submitted to the college prior to registration for the 4<sup>th</sup> semester examination.</p> <p>Maximum 150 will be awarded for the dissertation. Remaining 50 marks will be for the presentation and viva-voce examination.</p>

## Syllabus for Master of Laws (LL.M.) Degree Programme

### COMPULSORY COURSES

#### CC001. LAW AND SOCIAL TRANSFORMATION IN INDIA.

##### Objectives of the course

This course is designed to offer the teacher and the taught with - (a) awareness of Indian approaches to social and economic problems in the context of law as a means of social control and change;

and (b) a spirit of inquiry to explore and exploit law and legal institutions as a means to achieve development within the framework of law. The Endeavour is to make the students aware of the role the law has played and has to play in the contemporary Indian society

The following syllabus prepared with these perspectives will be spread over a period of one semester

##### Syllabus

##### 1. Law and social change

1.1. Law as an instrument of social change.

1.2. Reforms of Family Law

1.3. Agrarian Reforms

1.4 Industrial Reforms.

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##### 2. Religion and the law

2.1. Religion as a divisive factor.

2.2. Secularism as a solution to the problem.

2.3.. Freedom of religion and non-discrimination on the basis of religion.

2.4. Religious and linguistic minorities and the law.

2.5. Right of minorities to establish educational institutions.

### 3. Community and the law

#### 3.1. Caste as a divisive factor

#### 3.2. Non-discrimination on the ground of caste.

#### 3.3. Acceptance of caste as a factor to undo past injustices.

#### 3.4. Protective discrimination: Scheduled castes, tribes and backward classes.

#### 3.5. Reservation; Statutory Commissions., Statutory provisions.

### 4. Women and the law

#### 4.1. Crimes against women.

#### 4.2. Gender injustice and its various forms.

#### 4.3. Women's Commission.

#### 4.4. Empowerment of women: Constitutional and other legal provisions.

### 5. Children and the law

#### 5.1. Child labour.

#### 5.2. Sexual exploitation.

#### 5.3. Adoption and related problems.

#### 5.4. Children and education.

### 6. Education as an instrument of social change

#### 6.1. Right to education

#### 6.2. Commercialisation of education and its impact

#### 6.3. Entry of foreign educational institutions into India

#### 6.4. Regulating standards of education through statutory measures.

### Select Bibliography

Marc Galanter (ed.), Law and Society in Modern India (1997 ) Oxford,

Robert Lingat, The Classical Law of India (1998), Oxford

U. Baxi, The Crisis of the Indian Legal System (1982). Vikas, New Delhi.

U. Baxi (ed.), Law and Poverty Critical Essays (1988). Tripathi, Bombay.

Manushi, A Journal About Women and Society.

Duncan Derret, The State, Religion and Law in India (1999). Oxford University Press, New Delhi.

H.M. Seervai, Constitutional Law of India (1996), Tripathi.

D.D. Basu, Shorter Constitution of India (1996), Prentice - Hall of India (P) Ltd., New Delhi.

Sunil Deshta and Kiran Deshta, Law and Menace of Child Labour (2000) Armol Publications, Delhi.

Savitri Gunasekhare, Children, Law and Justice (1997), Sage

Indian Law Institute, Law and Social Change : Indo-American Reflections, Tripathi (1988)

Prof.(Dr) G.Rajasekharan Nair : Gender justice under Indian Criminal justice system(2011) eastern Law House,Kolkatta.

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

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

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

## **CC002 LEGAL PROCESS- I (LEGISLATIVE PROCESS AND ADMINISTRATIVE PROCESS)**

1. Jurisprudential introduction to legal process- separation of powers-role of legislature, executive and judiciary in the performance of legal process.
2. Legislative organ of the state-powers, functions and limitations—comparative position in USA, UK and India-- parliamentary privileges.
3. Principles of legislation- underlying principles of modern legislation-legislative procedure in passing bills- special procedure in financial bills and constitutional amendments- legislation and pressure groups.

4. Legislative drafting- parts and arrangement of a statute-steps in drafting- language in drafting- drafting of repealing and amending statute- drafting of consolidating and codifying statutes.
5. Administrative organ of the state- structure, powers, functions and limitations- comparative position in USA, UK and India.
6. Delegated legislation- reasons for development- impact-control

#### Select Bibliography:

Kaul and shakder :practice and procedure of parliament  
 Subash Kashyap : Parliamentary procedure in India  
 Brown : underlying principles of modern legislation  
 Jennings : The law and the Constitution  
 Ilbert : Methods and forms of law making  
 May Erskine : Parliamentary Practice  
 Mukherji : Parliamentary Procedure in India  
 Markose A.T. : Judicial control of administrative action ( chapters 1 and 2)  
 De Smith : Judicial control of administrative action  
 Wade : administrative Law  
 Jain and Jain : Administrative Law  
 Jaffe : Administrative Law  
 Indian Law Institute : Delegated Legislation  
 Thornton : Legislative Drafting

### **CC003. LEGAL PROCESS – II. (JUDICIAL PROCESS )**

#### Objectives of the course

A lawyer, whether academic or professional, is expected to be competent to analyse and evaluate the legal process from a broader juristic perspective. Hence a compulsory paper on Judicial Process is essential in the LL.M curriculum. The objective of this paper is to study the nature of judicial process as an instrument of social ordering. It is intended to highlight the role of court as policy maker, participant in the power process and as an instrument of social change.

This paper further intends to expose the intricacies of judicial creativity and the judicial tools and techniques employed in the process.

Since the ultimate aim of any legal process or system is pursuit of justice, a systematic study of the concept of justice and its various theoretical foundations is required. This paper, therefore,



intends to familiarise the students with various theories, different aspects and alternative ways, of attaining justice.

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

## Syllabus

### 1. Nature of judicial process and concept of justice

#### 1.1. Judicial process as an instrument of social ordering

#### 1.2. Legal systems in USA, UK and India

#### 1.3. The concept of justice or dharma in Indian Thought

#### 1.4 . The concept and various theories of justice in the western thought

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### 2. Doctrine of precedent

#### 2.1. Precedent- stability and change-

#### 2.2. Ratio Decidenti-

#### 2.3.. obiter dicta-

#### 2.4. stare decises-

#### 2.5.. overruling , prospective over ruling-

#### 2.6 distinguishing

### 3. Judicial Process in India

#### 3.1. Indian debate on the role of judges and on the notion of judicial review.

#### 3.2. The "independence" of judiciary and the "political" nature of judicial process

#### 3.3. Judicial activism and creativity of the Supreme Court - the tools and techniques of creativity.

#### 3.4. Judicial process in pursuit of constitutional goals and values - new dimensions of judicial activism and structural challenges

3.5. Institutional liability of courts and judicial activism - scope and limits.

3.6.. Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

4.Reasoning :

4.1. Logical reasoning

4.2. Deductive and inductive reasoning

4.3. Reasoning by analogy

4.4. Reasoning based on sociological data

4.5. Factors influencing judicial reasoning

5. Interpretation of statutes

5.1. Principle rules of interpretation

5.2. Subsidiary rules of interpretation

5.3. Presumptions and maxims

Select Bibliography

Julius Stone, The Province and Function of Law, Part II, Chs. 1. 8-16 (2000), Universal, New Delhi.

Cardozo, The Nature of Judicial Process (1995) Universal, New Delhi

Henry J.Abraham , The Judicial Process (1998), Oxford.

J.Stone, Precedent and the Law: Dynamics of Common Law Growth (1985) Butterworths

W.Friedmann, Legal Theory (1960), Stevens, London

Bodenheimer, Jurisprudence - the Philosophy and Method of the Law (1997), Universal, Delhi

J..Stone, Legal System and Lawyers' Reasoning (1999), Universal, Delhi (chapters 6,7,and 8)

U.Baxi, The Indian Supreme Court and Politics (1980), Eastern,Lucknow.

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

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

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

Rupert Cross : precedent in English Law

Allen C.K. : Law in the making (chapters III and IV)

Lakshminath : Precedent in Indian Law

Julius Stone : Social Dimensions of law and Justice (chapter XIV)

## **CC004 LEGAL EDUCATION AND RESEARCH METHODOLOGY**

### Objectives of the course

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

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

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

### Syllabus

1. Objectives of Legal Education
2. Lecture Method of Teaching - Merits and demerits
3. The Problem Method
4. Discussion method and its suitability at postgraduate level teaching

5. The Seminar Method of teaching
6. Examination system and problems in evaluation
7. External and internal assessment.
8. Clinical legal education - legal aid, legal literacy, legal survey and law reform
9. Research Methods
  - 9.1. Socio Legal Research
  - 9.2. Doctrinal and non-doctrinal
  - 9.3. Relevance of empirical research
  - 9.4. Induction and deduction
10. Identification of Problem of research
  - 10.1. What is a research problem?
  - 10.2. Survey of available literature and bibliographical research.
    - 10.2.1. Legislative materials including subordinate legislation, notification and policy statements
    - 10.2.2. Decisional materials including foreign decisions; methods of discovering the "rule of the case" tracing the history of important cases and ensuring that these have not been over-ruled; discovering judicial conflict in the area pertaining to the research problem and the reasons thereof.
    - 10.2.3. Juristic writings - a survey of juristic literature relevant to select problems in India and foreign periodicals.
    - 10.2.4. Compilation of list of reports or special studies conducted relevant to the problem.
11. Preparation of the Research Design
  - 11.1. Formulation of the Research problem
  - 11.2. Devising tools and techniques for collection of data : Methodology
    - 11.2.1. Methods for the collection of statutory and case materials and juristic literature
    - 11.2.2. Use of historical and comparative research materials

11.2.3. Use of observation studies

11.2.4. Use of questionnaires/interview

11.2.5. Use of case studies

11.2.6. Sampling procedures - design of sample, types of sampling to be adopted.

11.2.7. Use of scaling techniques

11.2.8. Jurimetrics

11.3. Computerized Research - A study of legal research programmes such as Lexis and West law coding

11.4. Classification and tabulation of data - use of cards for data collection - Rules for tabulation. Explanation of tabulated data.

11.5. Analysis of data

#### Bibliography

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

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

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

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

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

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

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

Payne, The Art of Asking Questions (1965)

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

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

Havard Law Review Association, Uniform System of Citations.

ILLI Publication: Legal Research and Methodology.

Glanville Williams : Learning the Law.

#### **CC005. PRACTICAL TRAINING**

#### **CC006. DISSERTATION**

### **Optional groups**

#### **Optional: Group B. Taxation laws**

**[Since tax laws are amenable to frequent and repeated changes, detailed course plan will have to be charted out by the academic programme committee of the college every year immediately after admission to each batch is completed; under intimation to The University]**

#### **B.001. Fundamental principles and theoretical foundations of direct taxation.**

1. History, types and methods of taxation-Cannons and policies of taxation-Tax avoidance, evasion, planning and management-Taxation and sovereign powers-Legislative competency-constitutional provisions relating to direct taxation-Taxing Powers of local bodies-Finance Acts and money bills-Taxation enquiry committee reports

2. Definitions-Basis of charge- residential status-total income- income not included in total income- exclusions- persons not liable to tax-
3. Wealth tax- charge-assets- net wealth – inclusions- exclusions-
4. Computation of total income- sources of income- ordinary and special sources- income from business (outline only)- income from employment- income from house property- capital gains- income from residuary sources
5. Penalties and prosecution- instances which attract liability- extent of liability- special provisions

### **Suggested readings:**

Essays on taxation- Seligman [ macmillan , new York]

Principles of taxation – sreenivasan.P [orient longman]

Fundamental principles of taxation – stamp.J.C. [ macmillan]

World tax series [ Harvard publications]

Constitution of india D.D.Basu

Reports of the taxation enquiry committees and tax reforms committees

Public finance B.P.Tyagi

Public finance in developing countries. Tripathy

Constitutional sanctions of Indian tax laws – nirmal mukerjea [ eastern]

Taxation and the Indian economy – jha [ deep & deep]

Interpretation of statutes – singh.G.P.

DIRECT TAX CODE as amended from time to time

DIRECT TAX- TAXMANN

DIRECT TAX- SINGHANIA

DIRECT TAX- MEHROTHRA AND GOYAL

DIRECT TAX- T.N.MANOCHARAN

DIRECT TAX- AHUJA

## **B002. Direct tax administration and procedure**

(based on Direct tax code )

1. Direct tax administration- establishment of institutions- functions of Board- Direct tax authorities- powers of authorities- jurisdiction- search, survey, seizure-discovery-retention and release of materials and documents
2. Assessment Procedure- self reporting- tax return preparers- self assessment tax- processing of returns- scrutiny assessment – determination of value of assets-best judgment assessment
3. Assessment in special cases- representative assesses- business reorganization- partition of HUF –agents of non residents- persons leaving country- reconstitution of firms- discontinued business- death.
4. Remedies- appeals and revision- appeals to commissioner – appellate - tribunal- appeals to NTT- appeals to Supreme Court-revision of orders
5. Collection and recovery- TDS- TCS- advance tax- tax credit relief- payment of wealth tax-interest-refund- recovery

### **suggested readings**

DIRECT TAX CODE as amended from time to time.

DIRECT TAX- TAXMANN

DIRECT TAX- SINGHANIA

DIRECT TAX- MEHROTHRA AND GOYAL



DIRECT TAX- T.N.MANOCHARAN

DIRECT TAX- AHUJA

### **B003. Fundamental principles and theoretical foundations of indirect taxation.**

1. History, types and methods of indirect taxation- policies of indirect taxation- -  
Legislative competency-constitutional provisions relating to indirect taxation- -  
relevant Taxation enquiry committee reports
2. **Customs Law** – preliminary- definitions-officers- Customs ports, airports,  
warehouses -Prohibition on import / export- Illegal exports/ imports – detection &  
prevention- Power to exempt- Levy -Customs clearance, transit, warehousing, -  
duty drawback- coastal goods-baggage-Overview of customs rules-Overview of  
customs tariff Act-Overview of foreign trade ( development and regulation) Act  
1992
3. **Central excise Law**- Central excise Act – basic concepts-basic conditions of  
liability-Levy and collection-Indicating amount of duty-Powers and duties of  
officers-Valuation methods-Presumptions- Overview of central excise rules-  
Overview of central excise tariff Act-Overview of additional duties of excise (   
goods of special importance ) Act
4. **Service Tax**- history-constitutional basis- levy & collection- classification of  
services-exemptions and concessions-valuation- credits- implications of other  
indirect taxes on service tax- export of services-individual taxable services-  
negative list concept
5. **Goods and services tax**- historical perspective- central & state GST-  
international scenario- constitutional issues- levy- rates- valuation- inter-state  
taxation- tax credit- import & export issues- exemptions-

### **Suggested readings**

Customs Act- V.S.Datey [ taxman]

Customs Act-P.L.Malik

Customs Act-mukerjea

Customs tariff in india – kapil singhania [ taxman]

Customs manual

Service tax manual- bharat's

Guide to goods and service tax regime- Bharath's

Central excise manual –banerjea and mukerjea

Central excise Act and rules – sethi

Central excise tariff- kapil singhanian

Guide to central excise procedures- datey [ taxman]

#### **B.004. Indirect Tax administration and Procedure.**

- 1 **Customs Law**-officials and powers-Search, seizure, arrest , confiscation- assessment-collection and recovery-Penalties, offences, prosecution-Appeals and other Remedies-Settlement-Advance rulings- Overview of customs rules- Overview of customs tariff Act-
- 2 **Central Excise Laws**- assessment- powers of officials- registration-self removal procedure- collection and recovery- remedies-settlement- advance rulings- Overview of central excise rules-penalties , prosecution-
- 3 **Service tax**- returns-assessment- demand-recovery-interest & penalties- registration & records-refunds- service tax audit- grievance redressal mechanisms.
- 4 **Goods and service tax**- returns- e-payment- invoice- registration-check posts- cash refunds- administrative mechanism- audit- remedies

#### **Suggested readings**

Central excise manual –banerjea and mukerjea

Central excise Act and rules – sethi

Central excise tariff- kapil singhanian

Guide to central excise procedures- datey [ taxman]

Service tax manual- bharat's

Guide to goods and service tax regime- Bharath's

Customs Act- V.S.Datey [ taxman]

Customs Act-P.L.Malik

Customs Act-mukerjea

Customs tariff in india – kapil singhania [ taxman]

Customs manual

### **B.005. International taxation and Electronic-commerce**

1. International aspects of E-commerce- tax reforms in emerging global economy- taxing cyberspace- tax and income distribution-
2. Online trading and taxation-contracts and sales over net- constitutional issues- commerce in intangibles-taxing software-accounting for websites- service tax on net-problems in valuation
3. Importance of source- characterization of income- authority to tax- allocation of deductions-
4. Non- residents and taxation- taxing FDI- Transfer pricing and tax havens- advance rulings
5. Double taxation, and avoidance agreements – foreign tax credit-treaties-OECD & UN Models- comparison- analysis.
6. Jurisdictional issues-- refundable tax credits-technological challenges- concept of permanent establishment -
7. Analysis of current issues in international taxation - international tax competition and incentives in developing countries-

**Suggested readings**

International tax law- Andrea Amatucci (Kluwer)

Foundations of international income taxation . – graetz

Taxation of international transactions – Gustafson [ west publishing co]

Taxation of electronic commerce- gopalakrishnan [ snow white]

International taxation of electronic commerce [kluwer ]

Electronic commerce and multi-jurisdictional taxation [kluwer]

International taxation – Charles I.Kingson

**A.006. CORPORATE FINANCE (Common with business laws optional)****A.007.CORPORATE TAXATION (Common with business laws optional)****Optional group A****GROUP - A: BUSINESS LAW****A.001. LAW OF INDUSTRIAL AND INTELLECTUAL PROPERTY****Objectives of the course**

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

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

## Syllabus

1. IPR and International Perspectives
2. Trademarks and Consumer Protection (Study of UNCTAD report on the subject)
3. The Legal Regime of Unfair Trade Practices and of Intellectual Industrial Property
  - 3.1. United Nations approaches (UNCTAD, UNCITRAL)
  - 3.2. EEC approaches
  - 3.3. Position in U.S.
  - 3.4. The Indian situation.
4. Special Problems of the Status of Computer Software in Copyright and Patent Law: A Comparative Study.
5. Biotechnology Patents:
  - 5.1. Nature and types of biotechnology patents
  - 5.2. Patent over new forms of life : TRIPS obligations
  - 5.3. Plant patenting
  - 5.4. Sui generis protection for plant varieties
  - 5.5. Multinational ownership
  - 5.6. Regulation of environment and health hazards in biotechnology patents
  - 5.7. Indian policy and position.
6. Patent Search, Examination and Records:
  - 6.1. International and global patent information retrieval systems (European Patent Treaty).
  - 6.2. Patent Co-operation Treaty( PCT )
  - 6.3. Differences in resources for patent examination between developed and developing societies
  - 6.4. The Indian situation

## 7. Special Problems of Proof of Infringement:

7.1. Status of intellectual property in transit - TRIPS obligation - Indian position.

7.2. The evidentiary problems in action of passing off.

7.3. The proof of non-anticipation, novelty of inventions protected by patent law

7.4. Evidentiary problems in piracy : TRIPS obligation - reversal of burden of proof in process patent

7.5. Need and Scope of Law Reforms.

## 8. Intellectual Property and Human Right

8.1. Freedom of speech and expression as the basis of the regime of intellectual property right - copyright protection on internet - WCT (WIPO Copyright Treaty, 1996).

8.2. Legal status of hazardous research protected by the regime of intellectual property law.

8.3. Human right of the impoverished masses intellectual property protection of new products for healthcare and food security

8.4. Traditional knowledge - protection- biodiversity convention- right of indigenous people.

## Select bibliography

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

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

Iver P. Cooper, Biotechnology and Law (1998), Clerk Boardman Callaghan, New York.

David Bainbridge, Software Copyright Law (1999), Butterworths

Sookman, Computer Law (1998), Carswell

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

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

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

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

## **A.002. LEGAL REGULATION OF ECONOMIC ENTERPRISES**

### Objectives of the course

After independence we have placed greater emphasis on the growth of our economy. The focus is on growth, both in public and private sectors, so as to cope up with the problems of population explosion. We have found that there is now almost a circle from laissez faire to welfare state and again back to laissez faire. Adoption of the concept of global economy in the presence of the socialistic perspectives in the Constitution presents a dilemma. The trends of liberalisation starting in the early nineties and continuing to this day bring a shift in focus of regulation in diverse fields of economic activities.

This course is designed to acquaint the students of the eco-legal perspectives and implications of such developments. It will comprise of about 42 units of one-hour duration each spread over a period of one semester.

### Syllabus

#### 1. The Rationale of Government Regulation

##### 1.1. Constitutional perspectives

##### 1.2. The new economic policy - Industrial policy resolutions, declarations and statements

##### 1.3. The place of public, small scale, co-operative, corporate, private and joint sectors in the changing context

##### 1.4. Regulation of economic activities

##### 1.4.1. Disclosure of information

##### 1.4.2. Fairness in competition

##### 1.4.3. Emphasis on consumerism

#### 2. Development and Regulation of Industries

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

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

5. Licensing Policy and Legal Process - Growing Trends of Liberalisation
  6. Deregulation of essential commodities: developmental sign or a social mishap?
  7. Financial Services : Changing Techniques of Regulation
  8. Critical Issues Regarding the Capital Issues
    - 8.1. Equity and debt finance
    - 8.2. Global depositories
    - 8.3. De-materialised securities
  9. Problems of Control and Accountability: Regulation of Hazardous Activity
    - 9.1. Mass disaster and environmental degradation : legal liability and legal remedies
    - 9.2. Public Liability Insurance : adequacy
    - 9.3. Issues in zoning and location of industrial units
  - 10.1. Telecom Regulatory Authority
  - 10.2. Insurance Regulatory Authority
  - 10.3. Broadcasting Regulatory Authority
  11. Legal Regulation of Multi-Nationals
    - 11.1. Collaboration agreements for technology transfer
    - 11.2. Development and regulation of foreign investments
      - 11.2.1. Investment in India : FDIs and NRIs
      - 11.2.2. Investment abroad
- Select bibliography
- S.Aswani Kumar, The Law of Indian Trade Mark (2001), Commercial Law House, Delhi.
- Industrial Policy Resolutions of 1948,1956, 1991
- Industrial Licensing Policy 1970,1975
- Industrial Policy Statements 1973,1977, 1980
- Reports of Committees on Public Undertakings of Parliament.
- Industries (Development and Regulation) Act, 1951



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

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

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

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

### **A.003. LAW OF EXPORT- IMPORT REGULATION**

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

After independence India has embarked upon all round efforts to modernise her economy through developmental ventures. Greater and greater emphasis is placed on increase of production in both industrial and agricultural sectors. Besides, there was the ever-pressing need for raising capital for investment in certain basic and key industries. All these required a considerably high rate of investment of capital. The process of modernisation necessitated the adoption of newer technologies for industry and agriculture. These technologies had to be borrowed from other developed countries. This, in turn, needed foreign exchange which could be earned by the increased exports of goods and raw materials from India.

The need for accelerating the export trade of India's developing economy can hardly be over emphasised. Export earnings enable a developing country to finance its massive requirements of growth, to maintain its essential imports and thereby stimulate the process of its economic developments. In the words of Prof. V.K. R.V. Rao: "In fact, expansion of exports may well be described as an integral part of the development process, neglect of which can only be at the peril of development itself".

Increasing exports have been necessitated to meet the growing needs of defence. India is a country rich in natural resources. One of the approaches to combat its economic backwardness could be in large-scale production and in maximization of its exports.

Import and export of goods and raw materials is a complex, complicated and intricate activity. It involves elaborate economic, fiscal, budgetary and monetary policy considerations. Export and Import control policy is also closely connected with country's balance of payment position.

The detailed procedures for imports and exports are provided in the Hand Book. The Union Government used to declare its import and export policy for a three-year period. At present they declare the policy for five years. The controls on exports and imports are closely connected with the Foreign Trade Regulation Act 1992.

This course is designed to acquaint the students about the parameters of legal controls on imports and exports.

The following syllabus prepared with these objectives will comprise about 42 units of one-hour duration each spread over a period of one semester.

## Syllabus

### 1. Introduction

1.1. State control over import and export of goods - from rigidity to liberalisation.

1.2. Impact of regulation on economy.

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

2.1. Goods

2.2. Services

2.3. Transportation

### 3. International Regime

3.1. WTO agreement

3.2. WTO and tariff restrictions

3.3. WTO and non-tariff restrictions

3.4. Investment and transfer of technology

3.5. Quota restriction and anti-dumping

3.6. Permissible regulations

3.7. Quarantine regulation

3.8. Dumping of discarded technology and goods in international market

3.9. Reduction of subsidies and counter measures.

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

4.1. General scheme

4.2. Legislative control

- 4.2.1. Power of control : Central government and RBI
- 4.2.2. Foreign Trade Development and Regulation Act 1992
- 4.2.3. Restrictions under customs law
  - 4.2.3.1. Prohibition and penalties
- 4.3. Export-Import formulation : guiding features
  - 4.3.1. Control under FEMA
  - 4.3.2. Foreign exchange and currency
    - 4.3.2.1. Import of goods
    - 4.3.2.2. Export promotion councils
    - 4.3.2.3. Export oriented units and export processing zones
- 5. Control of Exports
  - 5.1. Quality control
  - 5.2. Regulation on goods
  - 5.3. Conservation of foreign exchange
    - 5.3.1. Foreign exchange management
    - 5.3.2. Currency transfer
    - 5.3.3. Investment in foreign countries
- 6. Exim Policy : Changing Dimensions
  - 6.1. Investment policy : NRIs, FIIs (foreign institutional investors), FDIs
  - 6.2. Joint venture
  - 6.3. Promotion of foreign trade
  - 6.4. Agricultural products
  - 6.5. Textile and cloths
  - 6.6. Jewellery
  - 6.7. Service sector
- 7.. Regulation on Investment

7.1. Borrowing and lending of money and foreign currency

7.2. Securities abroad - issue of

7.3. Immovable property - purchase abroad

7.4. Establishment of business outside

7.5. Issue of derivatives and foreign securities - GDR(global depositories receipts), ADR (American depository receipts) and Uro

7.6. Investment in Indian banks

7.7. Repatriation and surrender of foreign securities

8. Technology transfer

8.1. Restrictive terms in technology transfer agreements

8.2. Automatic approval schemes

Select bibliography

Government of India, Handbook of Import Export Procedures, (Refer to the latest edition)

Government of India Import and Export Policy (1997 -2002)

The Students should consult the relevant volumes of the Annual Survey of Indian Law, Published

by the Indian law Institute, New Delhi.

Foreign Trade Development and Regulation Act 1992 and Rules

Foreign Exchange Management Act 1999

Marine Products Export Development Authority Act 1972

Customs Manual (Latest edition)

Final Treaty of GATT, 1994.

#### **A.004. LAW OF BANKING .**

Objectives of the course

A vitally important economic institution the banking system is deeply influenced by socio-political and economic changes. The emerging changes in India, particularly after the initiation of the

planning process as an instrument of rapid economic development had moulded and affected the banking structure, policies, patterns and practices. A significant development in the banking system is diversification in banks financing. The commercial banks entered 'into the field of wide ranging financial assistance to industry, both large and small scale, requiring the need for social control of the banking system eventually leading to the nationalisation of banks.

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

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

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

## Syllabus

### 1. Introduction

#### 1.1. Nature and development of banking

#### 1.2. History of banking in India and elsewhere -indigenous banking-evolution of banking in India - different kinds of banks and their functions.

#### 1.3. Multi-functional banks - growth and legal issues.

### 2. Law Relating to Banking Companies in India

#### 2.1. Controls by government and its agencies.

##### 2.1.1. On management

##### 2.1.2. On accounts and audit

##### 2.1.3. Lending

##### 2.1.4. Credit policy

##### 2.1.5. Reconstruction and re-organisation

##### 2.1.6. Suspension and winding up

#### 2.2. Contract between banker and customer: their rights and duties

### 3. Social Control over Banking

#### 3.1. Nationalization

#### 3.2. Evaluation: private ownership, nationalisation and disinvestment

#### 3.3. Protection of depositors

#### 3.4. Priority lending

#### 3.5. Promotion of under privileged classes

### 4. Deposit Insurance

#### 4.1 The Deposit Insurance Corporation Act 1961: objects and reasons

##### 4.1.2 Establishment of Capital of DIC

##### 4.1.3 Registration of banking companies insured banks, liability of DIC to depositors

##### 4.1.4 Relations between insured banks, DIC and Reserve Bank of India

### 5. The Central Bank

#### 5.1. Evolution of Central Bank

#### 5.2. Characteristics and functions

#### 5.3. Economic and social objectives

#### 5.4. The Central Bank and the State - as bankers' bank

#### 5.5. The Reserve Bank of India as the Central Bank

##### 5.5.1. Organisational structure

#### 5.6. Functions of the RBI

##### 5.6.1. Regulation of monetary mechanism of the economy

###### 5.6.1.1. Credit control

###### 5.6.1.2. Exchange control

###### 5.6.1.3. Monopoly of currency issue

###### 5.6.1.4. Bank rate policy formulation

#### 5.7. Control of RBI over non-banking companies

##### 5.7.1. Financial companies

### 5.7.2. Non-financial companies

## 6. Relationship of Banker and Customer

### 6.1. Legal character

### 6.2. Contract between banker and customer

### 6.3. Banker's lien

### 6.4. Protection of bankers

### 6.5. Customers

#### 6.5.1. Nature and type of accounts

#### 6.5.2. Special classes of customers - lunatics, minor, partnership, corporations, local authorities

### 6.6. Banking duty to customers

### 6.7. Consumer protection: banking as service

## 7. Negotiable Instruments

### 7.1. Meaning and kinds

### 7.2. Transfer and negotiations

### 7.3. Holder and holder in due course

### 7.4. Presentment and payment

### 7.5. Liabilities of parties

## 8. Lending by Banks

### 8.1. Good lending principles

#### 8.1.1. Lending to poor masses

### 8.2. Securities for advances

#### 8.2.1. Kinds and their merits and demerits

### 8.3. Repayment of loans : rate of interest, protection against penalty

### 8.4. Default and recovery

#### 8.4.1. Debt recovery tribunal

## 9. Recent Trends of Banking System in India

### 9.1. New technology

### 9.2. Information technology

### 9.3. Automation and legal aspects

### 9.4. Automatic teller machine and use of internet

### 9.5. Smart card

### 9.6. Use of expert system

### 9.7. Credit cards

## 10. Reforms in Indian Banking Law

### 10.1. Recommendations of committees: a review

### Select bibliography

Basu, A. Review of Current Banking Theory and Practise (1998) Mac millan

M. Hapgood (ed.), Pagets' Law of Banking (1989) Butterworths, London

R. Goode, Commercial Law, (1995) Penguin, London.

Ross Cranston, Principles of Banking Law (1997) Oxford.

L.C. Goyle, The Law of Banking and Bankers (1995) Eastern

M.L. Tannan, Tannan's Banking Law and Practice in India (1997) India Law House, New Delhi, 2 volumes

K.C. Shekhar, Banking Theory and Practice (1998) UBS Publisher Distributors Ltd. New Delhi.

M. Dasselisse, S. Isaacs and G. Pen, E.C. Banking Law, (1994) Lloyds of London Press, London

V. Conti and Hamaui (eds.), Financial Markets' Liberalization and the Role of Banks', Cambridge University Press, Cambridge, (1993).

J. Dermine (ed.), European Banking in the 1990s' (1993) Blackwell, Oxford.

C. Goodhart, The Central Bank and the Financial System (1995), Macmillan, London

S. Chapman, The Rise of Merchant Banking (1984) Allen Unwin, London

K. Subrahmanyam, Banking Reforms in India (1997) Tata Maigraw Hill, New Delhi.



Subodh Markandeya and Chitra Markandeye, Law Relating to Foreign Trade in India: Being a Commentary on the Foreign Trade, (Development and Regulation) Act 1992, Universal Law Publishing Co. Pvt. Ltd. Delhi.

R.S. Narayana, The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993), Asia Law House, Hyderabad.

M.A. Mir, The Law Relating to Bank Guarantee in India (1992), Metropolitan Book, New Delhi.

Anthony Pierce, Demand Guarantees in International Trade (1993) Sweet & Maxwell,

Ross Cranston (ed.) European Banking Law: The Banker-Customer Relationship (1999) LLP, London

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

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

Janakiraman Committee Report on Securities Operation of Banks and Financial Institution (1993)

Narasimham Committee report on the Financial System (1991)- Second Report (1999)

#### **A.005. LAW OF INSURANCE .**

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

As early as in 1601 one finds an excellent exposition of the insurance idea expressed in these words of an Act of British Parliament "the loss lighteth rather easily, upon many than heavily upon few". The insured person transfers from his own shoulders to the insurers, who, in return for agreeing to assume a potential risk of loss receive a payment known as premium. The insurers rely on the probability that only some of the losses, they insure against will in fact occur within any given period. They calculate, therefore, that they will be left with a profit. The insurer, on the other hand, is better able to risk his capital in trade since he knows that certain events which he cannot control, such as fire, shipwreck, will not cause him to lose his investment.

The insurance idea is an old-institution of transactional trade. The age old form of insurance was the marine insurance. There is nothing like disaster to set men's minds to work. Consequently, in due course of time fire and life insurance, made their appearance. Within the last hundred years the insurance principle is being extended wider. Today one finds insurance cover for accidents, motor vehicles, glass, live stock, crop, burglary and various other disasters.

Insurance is a device not to avert risks, calamities and disasters; but to mitigate their rigours and financial losses. The function of insurance is to spread such loss arising from risks of life over a large number of persons.

The operational framework of insurance idea is provided by the general principles of contract. The insurance policy, being a contract, is subject to all the judicial interpretative techniques. Besides, the insurance idea has a compensatory justice component. This brings it in the arena of the law of tort as well. It is even suggested that a fully grown and developed law of insurance may, if not totally displace, decrease the significance of the law of tort.

This course is designed to acquaint the students with the conceptual and operational parameters of insurance law in the context of the development of the general principles of law and judicial interpretation to inform the students about the use of law for the establishment of "just" order in insurance and to develop the appreciative and evaluative faculties of the students.

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

## Syllabus

### 1. Introduction

1.1. Nature of insurance contract, various kinds of insurance, proposal, policy, parties, consideration, need for utmost good faith, insurable interest, indemnity

1.2. Insurance policy, law of contract and law of torts-future of insurance : need, importance and place of insurance

1.3. Constitutional perspectives- the Entries 24,25,29,30,47 of List 1 Union List; 23, 24, of List III

### 2. General Principles of Law of Insurance

2.1. Definition, nature and history

2.2. The risk - commencement, attachment and duration

2.3. Assignment and alteration

2.4. Settlement of claim and subrogation

2.5. Effect of war upon policies

3. Indian Insurance Law: General

3.1. History and development

3.2. The Insurance Act 1938 and the Insurance Regulatory Authority Act 2000

3.3. Mutual insurance companies and cooperative life insurance societies

3.4. Double Insurance and re-insurance

4. Life Insurance

4.1. Nature and scope

4.2. Event insured against life insurance contract

4.3. Circumstances affecting the risk

4.4. Amounts recoverable under life policy

4.5. Persons entitled to payment

4.6. Settlement of claim and payment of money

5. Marine Insurance

5.1. Nature and Scope

5.2. Classification of marine policies

5.2.1. The Marine Insurance Act, 1963

5.2.2. Insurable interest, insurable value

5.2.3. Marine insurance policy - condition. - express warranties construction of terms of policy

5.2.4. Voyage-deviation

5.2.5. Perils of the sea

5.2.6. Assignment of policy

5.2.7. Partial laws of ship and of freight, salvage, general average, particular charges

5.2.8. Return of premium

6. Insurance Against Accidents

## 6.1. The Fatal Accidents Act, 1855

### 6.1.1. Objects and reasons

### 6.1.2. Assessment of compensation

### 6.1.3. Contributory negligence,

### 6.1.4 Apportionment of compensation and liability

## 6.2. The Personal Injuries (Compensation Insurance) Act 1963

### 6.2.1. Compensation payable under the Act

### 6.2.2. Compensation insurance scheme under the Act-Compulsory insurance

## 7. Property Insurance

### 7.1. Fire insurance

### 7.2. The Emergency Risks (Factories) Insurance

### 7.3. The Emergency Risks (Goods) Insurance

### 7.4. Policies covering risk of explosion

### 7.5. Policies covering accidental loss, damage to property

### 7.6. Policies covering risk of storm and tempest

### 7.7. Glass-plate policies

### 7.8. Burglary and theft policies

### 7.9. Live stock policies

### 7.10. Goods in transit insurance

### 7.11. Agricultural insurance

## 8. Insurance Against Third Party Risks

### 8.1 The Motor Vehicles Act, 1988

#### 8.1.1 Nature and scope

#### 8.1.2 Effect of insolvency or death on claims of insolvency and death of parties, certificate of insurance

#### 8.1.3 Claims tribunal: constitution, functions, application for compensation, procedure, powers and award

## 8.2 Liability Insurance

### 8.2.1 Nature and kinds of such insurance

### 8.2.2 Public liability insurance

### 8.2.3 Professional negligence insurance

## 9. Miscellaneous Insurance Schemes: New Dimensions

### 9.1 Group life insurance

### 9.2 Mediclaim, sickness insurance

## Select bibliography

John Hanson and Christopals Henly, All Risks Property Insurance (1999), LLP Asia, Hongkong.

Peter Mac Donald Eggers and Patric Foss, Good Faith and Insurance Contracts (1998) LLP Asia, Hongkong

Banerjee, Law of Insurance (1994), Asia Law House, Hyderabad.

Mitra B.C, Law Relating to Marine Insurance (1997) Asia Law House, Hyderabad

JCB Gilmar and Mustill, Arnold on the Law of Marine Insurance, (1981), Sweet & Maxwell

Birds, Modern Insurance Law (1997) Sweet & Maxwell

Colinvaux's Law of Insurance (1997), Sweet & Maxwell

O'Mary on Marine Insurance (1993), Sweet & Maxwell.

International Labour Office, Administration Practice of social Insurance (1985)

E.R. Hardy Ivamy, General Principles of insurance Law (1979)

Edwin W. Patterson, Cases and Materials on Law of insurance (1955)

M. N. Sreenivasan Law and the Life Insurance Contract (1914)

## **A.006. CORPORATE FINANCE**

### Objectives of the course

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

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

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

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

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

## Syllabus

### 1. Introduction

#### 1.1. Meaning, importance and scope of corporation finance

#### 1.4. Capital needs - capitalisation - working capital - securities-borrowings-deposits debentures

#### 1.5. Objectives of corporation finance - profit maximisation and wealth maximisation

1.6. Constitutional perspectives - the entries 37, 38, 43, 44, 45, 46, 47, 52, 82, 85, and 86 of List 1 - Union List; entry 24 of List 11 - State List.

## 2. Equity Finance

### 2.1. Share capital

#### 2.1.1. Prospectus - information disclosure

#### 2.1.2. Issue and allotment

#### 2.1.3. Shares without monetary consideration

#### 2.1.4. Non-opting equity shares

## 3. Debt Finance

### 3.1. Debentures

#### 3.1.2. Nature, issue and class

#### 3.1.3. Deposits and acceptance

#### 3.1.4. Creation of charges

#### 3.1.4.5. Fixed and floating charges

#### 3.1.5. Mortgages

#### 3.1.6. Convertible debentures

## 4. Conservation of Corporate Finance

### 4.1. Regulation by disclosure

### 4.2. Control on payment of dividends

### 4.3. Managerial remuneration

### 4.4. Payment of commissions and brokerage

### 4.5. Inter-corporate loans and investments

### 4.6. Pay-back of shares

### 4.7. Other corporate spending

## 5. Protection of creditors

### 5.1. Need for creditor protection

- 5.1.1. Preference in payment
- 5.2. Rights in making company decisions affecting creditor interests
- 5.3. Creditor self-protection
  - 5.3.1. Incorporation of favourable terms in lending contracts
  - 5.3.2. Right to nominate directors
- 5.4. Control over corporate spending
- 6. Protection of Investors
  - 6.1. Individual share holder right
  - 6.2. Corporate membership right
  - 6.3. Derivative actions
  - 6.4. Qualified membership right
  - 6.5. Conversion, consolidation and re-organisation of shares
  - 6.6. Transfer and transmission of securities
  - 6.7. Dematerialisation of securities
- 7. Corporate Fund Raising
  - 7.1. Depositories - IDR(Indian depository receipts), ADR(American depository receipts), GDR(Global depository receipts)
  - 7.2. Public financing institutions - IDBI, ICICI, IFC and SFC
  - 7.3. Mutual fund and other collective investment schemes
  - 7.4. Institutional investments - LIC, UTI and banks
  - 7.5. FDI and NRI investment - Foreign institutional investments (IMF and World bank)
- 8. Administrative Regulation on Corporate Finance
  - 8.1. Inspection of accounts
  - 8.2. SEBI
  - 8.3. Central government control
  - 8.4. Control by registrar of companies



## 8.5. RBI control

### Select bibliography

Alastair Hundson, The Law on Financial Derivatives (1998), Sweet & Maxwell

Eil's Ferran, Company Law and Corporate Finance (1999), Oxford.

Jonathan Charkham, Fair shares: the Future of Shareholder Power and Responsibility (1999), Oxford.

Ramaiya A, Guide to the Companies Act (1998), Vol. I, II and III.

H.A.J. Ford and A.P. Austen, Fords' principle of Corporations Law (1999) Butterworths.

J.H. Farrar and B.M. Hanniyan, Farrar's company Law (1998) Butterworths

Austen R.P., The Law of Public Company Finance (1986) LBC

R.M. Goode, Legal Problems of Credit and Security (1988) Sweet and Maxwell

Altman and Subrahmanyam, Recent Advances in Corporate Finance (1985) LBC

Gilbert Harold, Corporation Finance (1956)

Henry E. Hoagland, Corporation Finance (1947)

Maryin M. Kristein, Corporate Finance (1975)

R.C. Osborn, Corporation Finance (1959)

S.C. Kuchhal Corporation finance : Principles and Problems (6th ed. 1966)

V.G. Kulkarni, Corporate Finance (1961)

Y.D. Kulshreshta, Government Regulation of Financial management of Private Corporate Sector in India (1986)

Journals - Journal of Indian Law Institute, Journal of Business Law, Chartered Secretary, Company

Law Journal, Law and Contemporary Problems.

Statutory Materials - Companies Act and laws relating SEBI, depositories, industrial financing and information technology

### **A.007.CORPORATE TAXATION**

1. Income from business- computation- gross earnings- determination of expenses, depreciation, and admissible allowances-.exemptions
2. Capital gains- basis of liability-computation- transactions not regarded as transfer- special provisions for depreciable assets- computation-exemptions-
3. Aggregation of income-ordinary and special sources- total income- special provisions for business reorganization- LLP- aggregation of losses
4. Tax incentives- contribution to certain funds-political contributions- investor protection funds-
5. Special provisions relating to income of non-profit organizations- - taxing income from venture capital funds and companies- dividend distribution tax- tax on income distributed by mutual funds, insurance companies-
6. Special provisions relating to tax avoidance- disallowing expenses- determining arms length price-advance pricing agreements-sale and buy back of securities- anti-avoidance rule.
7. Maintenance of accounts- audit of accounts- reporting international transactions- methods of accounting- computation of book profits- charge of branch profit tax.
8. Authorities and powers- search, survey, seizure- assessment- remedies- payment, collection and recovery.

#### **SUGGESTED READINGS:**

CORPORATE TAXATION-H.P.RANINA-SNOW WHITE

CORPORATE TAX PLANNING-BHANU PRAKASH AGARWAL- WADWA

CORPORATE ACCOUNTING STANDARDS- TAXMANN

DIRECT TAX CODE( as amended from time to time)

DIRECT TAX- TAXMANN

DIRECT TAX- SINGHANIA

DIRECT TAX- MEHROTHRA AND GOYAL

DIRECT TAX- T.N.MANOCHARAN

DIRECT TAX- AHUJA

## Optional Group C : Criminal Law.

### Paper I

#### C 001- Principles of Criminal Law

This Paper is taught with an aim to understand the general principles of criminal liability and this is studied in a comparative perspective of legal system in UK, USA and India.

#### I

Concepts of Crime – Theoretical perspectives of crime – Elements of Crime – *Actus Reus* – Criminal Act and Omission – *Mens Rea* – Negligence – Transferred Malice – Liability Principles– Strict Liability – Vicarious Liability – Joint Liability – Corporate Liability

#### II

Stages in Commission of a Crime – Intention or Contemplation – Abetment – Preparation – Attempt – Essentials of the Attempt – Impossible Attempt – Attempt and preparation distinguished – Accomplishment – Conspiracy – Principal and Accessories

#### III

General Exceptions of Criminal Liability – Excuses and Justifications – Mistake of Fact – Ignorance of Law – Superior Order Defence – Executive and Judicial Acts – Duress – Coercion – Consent – Necessity – Infancy

#### IV

Exceptions as to Insanity – Drunkenness – Private Defence – Right of Private Defence of Person– Right of Private Defence of Property

#### V

Specific Offence- Offences against persons property- Intellectual and other properties

#### Suggested Readings

Bentham : Principles of Penal Law

Blackstone's : Commentaries

Burdick : The Law of Crime, Vol. I

Friedmann : Law in the Changing Society

Gandhi, B.M : Indian Penal Code (1996)

Gaur, H.S : Penal Law of India, 9th Edn.

Gaur, K.D. : Criminal Law : Cases & Materials (1975)

Hall, Jerome : General Principles of Criminal Law, 2nd Edn.

Halsbury's : Laws of England : 3rd Edn., Vols. X & XI; 4th Edn., Vol. XI

Huda, Shamsul : Principles of Law of Crime in British India

(1902) (Reprint, 1993-Eastern Book Co., Lucknow)

Kane, P.V. : History of Dharmashashtra, Vol. III

Kenny's : Outlines of Criminal Law, 19th Edn.

Mayne, J.D. : Criminal Law of India, 4th Edn.

Nelson : Indian Penal Code Nigam, R.C. : Law of Crimes in India, Vol. I

Rattan Lai : The Law of Crimes (20th Edn.)

Russel : On Crime, 12th Edn., Vol. I

Siddique, Ahmad : Criminology, 4th Edn., 1997

Stephen, James : History of Criminal Law, Vols. I & II and

Digest of Criminal Law, 9th Edn.

## **Paper –II**

### **C 002 OFFENCES AGAINST VULNERABLE GROUPS**

- I.** Offences against Women – Dowry death, Domestic violence, Torture, Abuse – physical, sexual, emotional and neglect, Trafficking, Various enactments for the protection and prevention of offences against women – International Conventions and Treaties.

- II. Offences against Children, Young people and Vulnerable adults – child abuse and violence -sexual, physical, child trafficking, child labour. Various special enactments for protection and prevention of violence against children - International Conventions and Treaties.
- III. Child- Definitions – concept under Indian Constitution and Penal Code, Difference between Delinquency and Criminalty – Causes of Juvenile Delinquency- Methods and Treatment- Role of Police- The Juvenile Justice (Care and Protection of Children) Act, 2000- Implementing Mechanism – Rehabilitation
- IV. Offences against Socially and Economically Disadvantaged People - Dalits, Indigenous people, Scheduled Caste and Scheduled Tribes, Senior citizens, Disabled persons, migrant workers etc. , Caste based honour killings, Violence and torture against senior citizens and disabled persons, offences and atrocities against dalits and Scheduled Caste and Scheduled Tribes. Role of Police and Judiciary – Measures taken by Government- Various enactments in India and International conventions and treaties for protection and prevention of crimes against socially and economically disadvantaged group.
- V. Offences against Minorities - Communal Violence- Cruelty, Role of police and para-military systems in dealing with communal violence- operation of criminal justice system in relation to communal violence.

Suggested Reading:-

- Sheldon and Gluck, *Unravelling Juvenile Delinquency* .
- Vijay Hausane, *Juvenile Justice System*.
- United Nations Convention on the Rights of the Child, 1989.
- United Nations Convention on the Rights of Persons with Disabilities (2006).
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990.
- Convention on the Elimination of All Forms of Discrimination against Women, 1995.
- International Covenant on Civil and Political Rights, 1966.
- International Covenant on Economic, Social and Cultural Rights ,1966.
- International Convention on the Elimination of All Forms of Racial Discrimination, 1992.
- Convention on the Prevention and Punishment of the Crime of Genocide, 1948.

- The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

### **Paper III**

#### **C003 Criminology, Penology And Victimology**

##### **Criminology:**

**I** - Theories of Crime Causation – Differential Association Theory of Crime – Biological, Environmental, Socio-Economic and Psychological factors affecting Crime – Schools of Criminology.

**II** – Different kinds of Criminal – Different types of Crimes – Impact of Religion, Political Parties, Media, Family etc. on Crime – Recidivism.

##### **Penology:**

**III** – Punishment and sentencing – Types of Punishment – Theories of Punishment – Retribution – deterrence – Preventive – Prohibitory – Reformatory – Expiatory – Utilitarian – Alternatives to Punishment Sentencing Policy – Remission – Commutation – Pardoning.

**IV** – Correctional and Rehabilitative Techniques – Classification of Criminals – Prisons – Prison Labour – Open Prison – Parole – Probation – Probation of Offenders Act, 1958 – Indeterminate sentence – Individualization of Punishment.

##### **Victimology:**

**V** – Development of Victimology, status of victim in criminal justice system- Rights of victim- compensation to victim of crime- Statutory Provisions – Role of Judiciary – Rehabilitation of Victims of Crime- UN Declaration on Rights of Victims of Crime and Abuse of power - Malimath Committee Recommendations

### Suggested Readings:

Criminal Procedure and Sentencing –Peter Hungerford Welch

Criminal Law and Criminology – K.D.Gaur

Principled Sentencing : Readings on Theory and Policy – Andrew Ashworth and Julian Roberts

Criminology and Penology – Ahmad Siddique

Principles of Criminology, Criminal Law and Investigation – R.Deb

Probation and Parole : Theory & Practice – Howard Abadinsky

Criminology and Penology – Prof.N.V.Paranjape

Criminal Trial & Justice (Sentencing Process) – Prof.A.Lakshminath , Dr. J. Krishna Kumari

Crime and Criminology – Prafullah Pandhy

## **Paper IV**

### **C004 Comparative Criminal Procedure**

I. Principles of legality- Presumption of innocence – Burden of proof- Protection against self incrimination- *Autrefois acquits* and *Autrefois convict*- Organization of Criminal courts and their jurisdiction- Prosecuting agencies – organization of prosecuting agencies – Withdrawal from prosecution- Police -Adjudicating agencies and their jurisdiction.

II. Pretrial procedures-Arrest and interrogation of accused- Collection of evidence- confession –admissibility of evidence-right against self incrimination- double jeopardy- Role of prosecutors and judicial officers in investigation.

III Trial procedures-Accusatorial and Inquisitorial system-role of prosecutors-and defence counsel –Plea Bargaining – Role of judge- Rights of accused- Rights of arrested person-Sentencing

IV. Preventive measures-Role of executive magistrate- for keeping peace and good behavior-public peace and tranquility

## **Suggested Readings**

Celia Hampton- Criminal Procedure. .

Wilkiris and Cross-Outline of the Law of Evidence

Archbold-Pleading, Evidence and Practice in Criminal Cases

Sarkar- Law of Evidence

K.N.Chandrasekharan Pillai (Ed.)-R.V.Kelkar's Outlines of Criminal Procedure (2010)

Patric Devlin-The Criminal Prosecution in England

American Series of Foreign Penal Codes

Criminal Procedure Code of People's Republic of China

John N. Ferdico- Criminal Procedure (1996),

West Sanders & Young- Criminal Justice{ 1994)

Christina Van Den Wyngart-Criminal Procedure Systems in European Community,

Joel Sambha- Criminal Procedure(1997)

The French Code of Criminal Procedure.

14 th and 41st Reports of Indian Law Commission

## **Paper –V**

### **C 005- Criminal Investigation and Forensic Science**

I-Scope of investigation-procedure-relevancy of FIR- Crime scene- utility of scientific evidence in investigation-establishment of evidence-individual-physical objects-chemical analysis- procedure on completion of investigation



II. Forensic science- Utility in criminal investigation- areas of forensic science- organizational set up of forensic science laboratories in India- Basic Forensic Principles, physical evidence s, crime scene, finger prints- hand writing – Odontology and photographical super imposition

III. Expert evidence-admissibility-evidentiary value-medico legal aspects- role of courts – Basic Principles in cyber forensics – Forensic Imaging – Verification-Data decoding , Recovery and Analysis- Digital investigations.

IV- Recent advances in forensic science-Narco- analysis, polygraph, brain mapping ,lie detector, DNA fingerprinting, Cyber forensics.

### **Suggested Reading-**

1. Sharma B.R. : Forensic Science.
2. Forensic Science in criminal Investigation -Dr.Jaishankar Singh And Amin
3. Fundamentals of Forensic Science by Max M. Houck, Jay Siegel
4. Forensic Science In Criminal Investigation And Trials : Sharma
5. Modern Criminal Investigation: Harry Soderman and John J.O.Conell(Published by Funk & Wagnalls Co.Inc.,New York)
6. Criminal Investigation: Paul L.Kirk,ph.D.(Published by Inter Science Publishers,Inc.,(New York).
7. Criminal Investigation:Cr.Aand Cross.(Published by Sweet & Maxwell Limited , London).
8. Fire arms,Forensic ballistics,Forensic Chemistry and Criminal Jurisprudence : Gour.A.N.
9. Forensic Chemistry and Scientific Criminal Investigation.: Lucas A.
10. Methods of Forensic Science (Vol.I) : Lund Quist.F.

## **Paper VI**

### **C 006 Socio- economic Crimes and Privileged Class Deviance**

#### **I**

Concept of Socio-economic offences – Liability Concepts – Corporate Offences – Narcotic Offences – Offences Relating to Food Adulteration – Cyber Crimes

## II

Concept of Privileged Class Deviance – Types of Privileged Class Deviance – Official Deviance – Professional Deviance – Trade Union Deviance – Police Deviance – Deviance on Electoral Process

## III

Police Deviance – Police Atrocities: Encounter killing and the plea of superior's orders, Structure of legal restraint on police power in India, Unconstitutionality of 'Third Degree' method and use of fatal force by Police – Professional Deviance – Unethical practices by Lawyers, Doctors, and Media Persons.

## IV

Response of Indian Legal Order to the Deviance of Privileged Classes – Vigilance Commission – Public Accounts Committee Ombudsman – Ombudsman – Commissions of Enquiry – Prevention of Corruption Act, 1988.

### **Suggested Readings:**

Upendra Baxi, The Crisis of the Indian Legal System (1982), Vikas Publishing House, New Delhi

Upendra Baxi (ed.), Law and Poverty: Essays (1988)

Upendra Baxi, Liberty and Corruption: The Antulay Case and Beyond (1989)

Surendranath Dwivedi and G.S.Bhargava: Political Corruption in India

A.R.Desai (ed.), Violation of Democratic Rights in India (1986)

A.G.Noormni, Minister's Misconduct (1974)

B.B.Pande. "The Nature and Dimensions of Privileged Class Deviance" in The Other Side of Development 136 (1987, K.S.Shukla ed.)

## **Paper VII**

### **C. 007 Transnational Crimes and Criminal Law**

- I. Development of the concept of Organized Crimes – Transnational Crimes and Transnational Criminal Law - Substantive Transnational Criminal Procedural Mechanism in establishing Jurisdiction -

De territorialisation of nature of Crime -Transnational Dimensions of Crime - Limits of National Crime - Control Efforts.

- II. International efforts to control Transnational Crimes – United Nation Convention against Transnational Organized Crimes – United Nation Convention on Trafficking in Narcotic Drug and Psychotropic Substances ,1988.
- III. Transnational Economic Crimes - Maritime Piracy, Illegal Trafficking in Vehicles , Money Laundering , Credit Card Frauds - Measures to Combat Cyber Crimes - Emerging Transnational Crimes .
- IV. Transnational Organized Crimes - Terrorism , Torture, Trafficking in Persons , Women and Children, Fire arms Smuggling - International Convention and Treaties - Measures to combat Organized Crimes .
- V. International Criminal Law – Special Investigation Tools to combat Transnational Organized Crimes - Initiatives against Transnational crimes -Extradition of Criminals - Prosecution of Transnational crimes - Prospects for Transnational Criminal Justice - Implementation of Transnational Criminal Law .

**Suggested Reading:-**

1. Neil Boister – *An Introduction to Transnational Criminal Law* (Sept 2012, Oxford University Press).
2. Frank FG. Madsen, *Transnational Organised Crime*, (2009, Routledge).
3. David McClean, *Transnational Organized Crime, A Commentary on the UN Conventions and its Protocols*. (2009, Oxford University Press).
4. James Cockayne, *Transnational Organized Crime: Multinational Responses to a Rising Threat* (New York: International Peace Academy, April 2007)
5. Mark Findlay, *The Globalization of Crime* (Cambridge: Cambridge University Press, 1999)

6. Andre' Bossard, *Transnational Crime and Criminal law* (Chicago: Office of Criminal Justice, 1990)
7. John M. Martin and Anne T Romano, *Multinational Crime: Terrorism, Espionage, Drug and Arms Trafficking* (Thousand Oaks, Calif: Sage Publications, 1992)
8. James W.E. Sheptycki, "Against transnational organized crime", in *Critical Reflections on Transnational Organized Crime*, ed. Margaret E. Beare (Toronto: Toronto University Press, 2003)
9. Michael John Garcia, "Immigration Consequences of Criminal Activity".
10. UN Convention against Transnational Organized Crime , 2000
11. UN Convention on Trafficking in Narcotic Drugs and Psychotropic Substances, 1981

## Optional Group D : Administrative Law

### Paper I

#### **D 001 CONSTITUTIONAL FOUNDATIONS OF ADMINISTRATIVE LAW**

1. Evolution of Administrative Law in England – Administrative Law and Constitutional Law – relationship – Constitutionalism meaning and its importance in Administrative Law – Development of Administrative Law in India as part of Constitutional law – Administrative Law and Fundamental Rights – Equality

II. Federalism – Concept and Meaning – Origin and Development – Federal Structure and Division of Powers - Methods of Formation of Federation – Federation –Quasi-federation and Unitary forms of Government – Features – Difference – Indian Constitution as Federation – Distribution of Legislative and Administrative Powers .

- III. Local Administration – Origin and Development – Grama Swaraj – Gandhian Concept – Direct Democracy – Structure and powers of Local Bodies – Legislative, Executive, Judicial and Fiscal Powers of Local Bodies – Welfare and Regulative Powers of Local Bodies – the Constitution 73<sup>rd</sup> and 74<sup>th</sup> Amendment Acts

IV Judicial Review of Legislative Powers under Written Constitution –Origin and Development –US and India – Constituent Power and Judicial Review–Doctrine of Basic Structure – Limited Amendability of the Constitution

IV. .Services under the Union and States and Conditions of Services – Power of the State to lay down Rules for Selection of Servants - Doctrine of Pleasure in the Modern Age – Constitutional Safeguards for Civil Servants – Public Service Commission – Role, and Function – Disciplinary Action against Civil Servants and Natural Justice.

## **Paper2.**

### **D.002: General Principles of administrative Law .**

I. General definitions- reasons for growth of administrative law- nature and scope of administrative law

II. Evolution and significance of administrative law in various systems- from ancient to modern – England, USA, France And India

III. Rule of law-changing dimensions-challenges and possibilities-instrumentalities of rule of law- new horizons of rule of law

IV. Doctrine of separation of powers- common law and continental system- UK, USA, India, France and German.

V. Clarification of administrative action-changing dimensions- scope of administrative law

## **PAPER-3.**

### **D.003 LEGISLATIVE AND QUASI-JUDICIAL POWERS OF ADMINISTRATION**

1. Delegated legislation- general principles- reasons for growth of delegated legislation- USA and India- different forms of delegation- control and safeguards of delegated legislation.

2. Quasi-judicial functions of administration- distinguish between judicial and quasi-judicial functions- reasons for the growth of administrative adjudication.

3. Modes of administrative adjudication- administrative tribunals- functioning of the administrative tribunals- distinguish between administrative tribunals and courts- Article 277- power of High Courts to supervise tribunals -special leave to appeal Article 136-

4. Principles of natural justice- rule against bias-ingredients of fair hearing- rules of procedure and evidence.

5. Expanding horizons of natural justice-fairness in administrative action- reasoned decisions- legitimate expectations.

Paper -4.

#### **D.004.DISCRETIONARY POWERS, MINISTERIAL ACTION AND ADMINISTRATIVE INSTRUCTIONS**

1. Administrative discretion- definition- need for conferment of discretion- nature, scope and limits of discretionary powers

2. Judicial review and discretionary powers- control of discretion at the stage of conferment of powers- fundamental rights and discretion- control of discretion at the stage of exercise of power.

3. Public accountability and control of discretion at the stage of exercise of power- policy as a fetter to discretion- exemplary damages for abuse of discretion.

4. Ministerial action- nature and scope of ministerial action.

5. Administrative instructions- legal character of instructions- enforceability of instructions.

Paper -5.

#### **D.005. JUDICIAL REVIEW OF ADMINISTRATIVE ACTION**

1. General principles of judicial review- courts as the final authority to determine the legality of administrative action- problems and perspectives.

2. Grounds of judicial review- scope of judicial review- jurisdictional error- error of law- violation of the principles of natural justice- violation of public policy.

3. Methods of judicial review- public and private law remedies- exhaustion of alternative remedies- res judicata.

4. concept of locus standi- public interest- judicial activism- latest trends in PIL litigation- merit and demerits of PIL

5. Judicial review by the Supreme Court and High Courts under Articles 226,227, 32 and 136.

Paper 6.

**D.006. POWERS AND LIABILITIES OF PUBLIC AUTHORITIES**

1. Contractual liability position in UK, USA, and France prior to the commencement of the constitution- Constitutional provisions- effects of non-compliance- quasi-contractual liability
2. Tortious liability – position in UK, USA, and France- vicarious liability- contractual liability- sovereign and non- sovereign functions
3. Emerging liabilities- corporate liability- personal accountability- compensatory jurisprudence
4. Governmental privileges- right to information- official secrecy- executive privilege- security of state and control of information
5. Doctrine of promissory estoppel- meaning- traditional view- modern view- estoppels against statute-public interest immunity.

Paper- 7

**D.007. LEGAL DEVICES TO CONTROL MAL ADMINISTRATION AND CORRUPTION**

1. Mal administration- concept-problems- nature and gravity of mal administration
2. Measures for preventing maladministration- ombudsman- lok pal- lok ayuktha- central vigilance commission
3. Prevention of corruption- investigative agencies- CBI- prosecuting agencies-Inquiries by legislative committees- legislative control
4. Financial control- comptroller and auditor General-Auditing and social auditing- anti-corruption measures.
5. Measures to prevent mal administration and corruption in local self-government institutions.

**Select Bibliography : [ common for optional Papers D.001 to D.007.]**

Dicey, Introduction to the Law of the Constitution.

Ivor Jennings, Law and the Constitution

M.P. Jain, Constitutional Law of India

S. A. de Smith, Constitutional and Administrative Law

H. M. Seervai, Constitutional Law of India

D.D. Basu, Commentaries on the Constitution of India

V.N. Sukla's Constitution Law of India

Radhakumud Mookerji, Local Government in Ancient India (1985), Daya Publishing Delhi.

K.C.Davis- Administrative Law

K.C.Davis. Discretionary Justice.

Faulks- Introduction to Administrative law

Garner- Administrative law

M.P.Jain & S.N.Jain- Principles of Administrative Law

De Smith- Judicial review of administrative action

M.P.Jain-Cases and materials on administrative law

Peter & Schuck- Foundations of Administrative Law

Friedman- The state and rule of law

Brown & Garner-French Administrative Law

Schwartz- French Administrative Law



Schuck- Foundations of Administrative Law

Schwartz & Wade- legal control of Government

Davis- Discretionary Justice

Neil Hawke and Neil Papworth- Introduction to Administrative Law

DD Basu- Comparative Administrative Law

Wade- Public law in Britain and India

Brown & Bell- French Administrative Law

Indian Law Institute- Cases and materials of Administrative Law

Indian Law Institute- Administrative tribunals in India

Bejafield- Principles of Australian Administrative Law

Indian Law Institute – Delegated legislation.

Agarwall- The proposed Indian Ombudsman.

Marshall.H.H.- Natural justice

I.P.Massey- Administrative Law

Mishra- Law of bias and malafides

Street- Governmental liability

Yardley- A source book of English Administrative Law

Hewill- Natural Justice

Sugustone and Goudie- Judicial review

Griffith- Public rights and private interests

Hewart- New despotism

A.T.Markose-Judicial control of administrative action in India

S.P.Sathe- Administrative Law

Rama Jois- Service under the state

Mathur- Government servants: appointment, promotion and disciplinary action.

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Code No:

Name.....

Register No.....

FIRST SEMESTER LL.M EXAMINATION 2013  
( FROM 2013 ADMISSION ONWARDS- SEMESTER SCHEME)

Paper :

Time : 3 HOURS

Maximum Marks : 60

Answer any SIX questions. Each question carries 10 Marks.

All answers should supported by relevant statutory provisions, case laws and quotations

- 1.
- 2
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