

SOLAPUR UNIVERSITY  
SOLAPUR

SYLLABUS OF THE  
**Third and Fourth Semester of Three Year LL.B. Course and Seventh and Eighth  
Semester of the Five Year Integrated B.A., LL.B. Degree Course**

**(Introduced from the academic Year 2010-2011)**

<b>Sr. No</b>	<b>Paper No</b>	<b>Subject</b>
1	I	JURISPRUDENCE (Legal Method, Indian Legal System and basic theory of Law)
2	II	Family Law-II
3	III	Property Law
4	IV	Labour and Industrial Law Paper -II
5	V	Professional Ethics and Professional Accounting System (Clinical Course)
6	VI	Alternate Dispute Resolution (Clinical Course)
7	VII	Constitutional Law- II
8	VIII	(OPTIONAL PAPER): A) or B) A) Interpretation of Statutes and Principles of Legislation B) Banking Law
9	IX	OPTIONAL PAPER: A) or B) A) Penology and Victimology B) Gender Justice and Feminist Jurisprudence
10	X	OPTIONAL PAPER: A) or B) A) Insurance Law B) Trade Mark and Design

**PAPER I  
JURISPRUDENCE**

**(Legal Method, Indian Legal System and basic theory of Law)**

**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. The fact is that the basic nature and purpose of law should be clear to every student. A course in jurisprudence should, primarily, induct the students into realm of questions concerning law so that he is able to live with their perplexity or complexity and is driven to seek out answer 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.

**SEMESTER – III & VII**

**1 Introduction**

1.1 Meaning of the term ‘Jurisprudence’

1.2 Norms and the normative system

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 systems with other normative systems

1.2.3 Nature and definition of law

**2 Schools of Jurisprudence and the basic theories of Law**

2.1 Analytical Positivism

2.2 Natural Law.

2.3 Historical School

2.4 Sociological School

2.5 Economic interpretation of Law

2.6 Realism

**3 Sources of Law and Methods of Law Making**

3.1 Customs

3.2 Precedents : Concepts of *Stare Decisis*

3.2.1 *Ratio Decidendi*

3.2.2 Methods of Determining of *Stare Decisis*

3.3 Legislation

3.3.1 Statutes by Legislation and Codes as Statutes

3.4 Juristic writings

**4 Indian Legal System**

4.1 Ancient Legal System: Concept of Dharma

4.2 The Modern Legal System: The Indian Constitution- a social document, Judiciary, Legal aid for poor, PIL Social Action groups, Compensatory Jurisprudence Social Justice

## 5 Purpose of Law

5.1 Justice, Meaning and kinds (Civil, Criminal)

5.2 Power of Supreme Court of India to do Complete Justice in case of Article 142

## SEMESTER – IV & VIII

### 1 Legal Rights: the concept

1.1 Rights: Kinds

1.2 Right duty correlation

### 2 Persons

2.1 Nature of personality

2.2 Status of the unborn, minor, lunatic drunken and dead persons

2.3 Corporate Personality

2.4 Dimensions of the modern legal personality: Legal personality of non- human beings

### 3 Possession : the Concept

3.1 Kinds of Possession

### 4 Ownership: the Concept

4.1 Kinds of ownership

4.2 Difference between Possession and Ownership

### 5 Title

### 6 Liability

6.1 Condition for imposing Liability

6.1.1 Wrongful act

6.1.2 *Damnum sine injuria*

6.1.3 Causation

6.1.4 *Mens rea*

6.1.5 Intention

6.1.6 Malice

6.1.7 Negligence and recklessness

6.1.8 Strict liability

6.1.9 Vicarious liability

### 7 Obligation: Nature and Kinds

7.1 Sources of obligation

### 8 Procedure

8.1 Substantive and procedural laws: Difference

8.2 Evidence: Nature and Kinds

### Select Bibliography:-

1. Bodenheimer Jurisprudence: *The Philosophy and Method of law* [1996] Universal, Delhi.
2. Fitzgerald, (ed) *Salmond on Jurisprudence* [1999] Tripathi Bombay.
3. W. Friedman, *Legal Theory* [1999] Universal, Delhi.
4. V. D. Mahajan, *Jurisprudence and Legal Theory* [1996- re-print] Eastern Lucknow.
5. M.D.A. Freeman (ed.) *Lloyd's Introduction to Jurisprudence* [1994] Sweet and Maxwell.
6. Paton G.W. *Jurisprudence* [1972] Oxford ELBS
7. H.L.A. Hart *The concepts of Law* [1970] Oxford ELBS

8. Roscoe Pound, *Introduction to the Philosophy of Law* [1998-re-print] Universal Delhi.
9. Dias, *Jurisprudence* [1994 First Indian re-print] Adithya Books, New Delhi.
10. Dhyani S.N. *Jurisprudence: A Study of Indian Legal Theory* [1985], Metropolitan, New Delhi.
11. Dhyani S. N. *Fundamentals of Jurisprudence, The Indian Approach*
12. Dr. S. R. Myneni *Legal Research Methodology*

## **PAPER II FAMILY LAW- II**

### **Objectives of the Course**

The Course Structure is designed mainly with three objectives in view. One is to provide adequate theological perspective so that the basic concepts relating to family are expounded in their social being. The next objective is to give an overview of some of the current problems arising out of the traditional inequalities writ large in the various family concepts. The third objective to any law not merely as a separate system of personal laws based upon religions but as the one thing 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.

### SEMESTER – III & VII

#### **1 Alimony and Maintenance**

- 1.1 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
- 1.2 Alimony and maintenance as an independent remedy: a review under different personal laws- need for reforming the law
- 1.3 Maintenance of divorced Muslim women under the Muslim Women [Protection of Rights on Divorce] Act 1986: a critical review

#### **2 Child and the Family**

- 2.1 Legitimacy
- 2.2 Adoption
- 2.3 Custody, Maintenance and education
- 2.4 Guardianship and parental rights- welfare of the child principle

### SEMESTER – IV & VIII

#### **1 Family and its changing patterns**

- 1.1 New emerging trends
  - 1.1.1 Attenuation of family ties
  - 1.1.2 Working women and their impact on spousal relationship: composition of family, status and role of women
  - 1.1.3 Processes of Social changes in India: Westernization, Secularization, Universalization, Modernization, Industrialization and Urbanization

#### **2 Establishment of Family Courts:-**

- 2.1 Constitution, Power and functions
- 2.2 Administration of gender justice

#### **3 Uniform Civil Code- need for**

- 3.1 Religious Pluralism and its implications
- 3.2 Connotations of the directive contained in Article 44 of the Constitution
- 3.3 Impediments to the formulation of the Uniform Civil Code
- 3.4 The idea of Optional Uniform Civil Code

**Select Bibliography:-**

1. Paras Diwan, *Law of Intestate and Testamentary Succession* [1998] Universal Delhi.
2. Basu N.D. *Law of Succession* [2000] Universal Delhi.
3. Kusum, *Marriage and Divorce Law Manual* [2000]
4. Machanda S.C. *Law and Practice of Divorce in India* [2000]
5. P.V. Kane, *History of Dharmasastras* Vol. 2 pt. 1 at 624-632 [1974]
6. A.Sivaramayyas, *Inequalities and the Law*[1985]
7. K.C. Daiya “*Population Control through family Planning in India*” *Indian Journal of Legal Studies*, 85 [1979]
8. J.D.M. Derrett, *Hindu Law: Past and Present.*
9. J. D. M Derrett, *Death of Marriage Law.*
10. A.A. Fyzee, *Outline of Muhammadan Law*, [1998]
11. Alladi Kuppaswami,[ed.] *Mayne’s Hindu Law and Usage*, [1986]
12. J.D.M. Derrett, *A Critique of Modern Hindu Law.*[1970]
13. Paras Diwan, *Hindu Law* [1985]
14. S.T. Desai [ed.] *Mulla’s Principles of Hindu Law*, [1998] Butterworth’s India.
15. Paras Diwan, *Family Law: Law of Marriage and Divorce in India*,[1984]
16. A.M. Bhattachargee, *Muslim Law and the Constitution* [1994] Eastern Law House, Kolkata.
17. A.M. Bhattachargee, *Hindu Law and the Constitution* [1994] Eastern Law House, Kolkata
18. Paras Diwan, *Law of Adoption, Ministry, Guardianship and Custody* [2000] Universal

**PAPER III  
PROPERTY LAW**

**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. The syllabus includes aspects relating to intellectual property which are important in the context of development.

Consequent upon the shortage of lands in urban areas, the majority of citizens of urban areas of the State cannot think in terms of working houses on individual basis. Though there is an ever- growing tendency to construct multi storied flats, apartments and the like on ownership basis, persons purchasing flats, tenements, or apartments do not have a marketable title thereto and cannot obtain any loan by mortgaging such flats, tenements, etc.

Consequently, tenements constructed by Housing Boards for example cannot be sold to the tenants who cannot raise any loan on the security of such tenements, with the result that an enormous amount of capital is locked up, which can be utilized for new constructions to meet the increasing demand for housing. It was considered expedient that each apartment should for all purpose constitute a heritable and transferable immovable property and so The Maharashtra Apartment Ownership Act, 1970 was passed by the Maharashtra State Legislature.

SEMESTER- III & VII

**1 Jurisprudential Controls of Property**

- 1.1. Concept and meaning of property – new property – Government 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 a man - property relationship, finder of lost goods

## **2 Law relating to Transfer of Property**

- 2.1. General Principles of transfer of property
- 2.2. Sales
- 2.3. Mortgages
  - 2.3.1. Under the provision of the Transfer of Property Act, 1882
  - 2.3.2. To a land mortgage bank, land development bank, powers and functions
- 2.4. Charges
- 2.5. Leases
- 2.6. Exchanges
- 2.7. Gifts
- 2.8. Actionable claims

## **3 Law Relating to certain Intangible Properties**

- 3.1. Goodwill
- 3.2. Trademarks
- 3.3. Patents and designs
- 3.4. Copyright
- 3.5. Video piracy
- 3.6. Software

### SEMESTER - IV & VIII

## **1 Easements**

- 1.1. Nature, characteristics and extinction
- 1.2. Creation of easements
- 1.3. Riparian rights
- 1.4. Licenses

## **2 The Maharashtra Apartments Ownership Act, 1970**

- 2.1. Status of Apartments
- 2.2. Ownership of Apartments
- 2.3. Common area and facilities
- 2.4. Prohibited Work in Apartment Property
- 2.5. Encumbrances against Apartments
- 2.6. Common Profits and Expenses
- 2.7. Contents of Declaration
- 2.8. Contents of Deeds of Apartments
- 2.9. Registration of Declarations, Deeds of Apartments and Copies of floor Plans
- 2.10. Removal of Property from Provisions of Act
- 2.11. Bye-Laws
- 2.12. Separate Movements for Tax Purposes
- 2.13. Joint and Several Liability of vendor etc, for unpaid common expenses
- 2.14. Insurance
- 2.15. Disposition of Property, destruction or damage
- 2.16. Action
- 2.17. Stamp duty, registration fee and court –fees
- 2.18. The Maharashtra Apartment Ownership Rules, 1972

### **Select Bibliography:-**

1. Mulla, *Transfer of Property Act*, [1999] Universal Delhi.
2. Subbarao, *Transfer of Property Act* [1994] C. Subbiah Chetty Madras.
3. Sivaramayya, *The equalities and the Law* [1997] Eastern Book Co. Lucknow.
4. P.C. Sen, *The General Principles of Hindu Jurisprudence* [1984 re-print] Allahabad Law Agency.
5. V.P. Sarathy, *Transfer of Property* [1995] Eastern Lucknow.

6. S.D.Dighe, *Law and Practice of Ownership Flats and Apartments in Maharashtra* [1995] Hind Law Publication Pune
7. Amin B.K., and Shastri C.J. V.M. Shukla – *The Law of Easement*, Eastern Book Company Lucknow.
8. C.B. Upadhyaya, *Law of Easements*, Malhotra Publishing House Allahabad.

**PAPER IV  
LABOUR AND INDUSTRIAL LAW- II**

**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 and state reaction 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.

SEMESTER- III & VII

**1 Industrial Jurisprudence**

- 1.1. Labour Policy in India
- 1.2. Industrial Revolution in India
- 1.3. Labour problems and role of trade union
- 1.4. Industrial Peace and Industrial Harmony through collective bargaining
- 1.5. Industrial Relations
- 1.6. Principles of Labour Legislation
- 1.7. Social Justice
- 1.8. Social Equity
- 1.9. Social Security
- 1.10. Growth of Labour Legislation in India
- 1.11. Principles of Industrial Adjudication

**2 The Industrial Disputes Act, 1947**

- 2.1. Scope and object
- 2.2. Definitions
  - 2.2.1. Appropriate Government
  - 2.2.2. Award-Workman-Wages
  - 2.2.3. Industry, Amended Definition of Industry
  - 2.2.4. Industrial Dispute
  - 2.2.5. Lay-off
  - 2.2.6. Lock out
  - 2.2.7. Public Utility Service
  - 2.2.8. Retrenchment
  - 2.2.9. Strike
- 2.3. Dismissal etc. of an individual workman when to be deemed to be an industrial dispute
- 2.4. Redressal Machinery

- 2.4.1. Works Committee
- 2.4.2. Conciliation officer
- 2.4.3. Labour Court
- 2.4.4. Tribunals
- 2.4.5. National Tribunals
- 2.4.6. Qualifications and Disqualifications for the presiding officers of labour courts, tribunals and National Tribunals
- 2.5. Notice of Change
  - 2.5.1. Notice of change and Schedule IV
  - 2.5.2. Power of Government to exempt
- 2.6. Reference of Disputes to Courts or Tribunals
  - 2.6.1. Reference of Disputes to Courts or Tribunals
  - 2.6.2. Scope of reference under section 10
  - 2.6.3. Tribunal's Jurisdiction
- 2.7. Procedure, Power and Duties of Authorities
  - 2.7.1. Procedure in conciliation proceeding, Labour Courts and Tribunals
  - 2.7.2. Powers of Labour courts, Tribunals and National Tribunals to give appropriate relief
  - 2.7.3. Award and its publication
  - 2.7.4. Payment of full wages to workman for pending proceeding in Higher Courts
  - 2.7.5. Validity of Settlements
- 2.8. Strikes and Lock-out
  - 2.8.1. Prohibition of Strikes and Lock-outs in public utility services
  - 2.8.2. General prohibition of Strikes and Lock-outs
  - 2.8.3. Illegal strikes and Lock-outs
- 2.9. Lay-off Retrenchment and Closure
  - 2.9.1. Application of section 25C to 25E
  - 2.9.2. Definition of continuous service
  - 2.9.3. Right of workman for Lay-off Compensation
  - 2.9.4. Workmen not entitled for compensation in certain cases
  - 2.9.5. Procedure for retrenchment
  - 2.9.6. Conditions precedent for retrenchment
  - 2.9.7. Re-employment of retrenchment workmen
  - 2.9.8. Transfer of undertaking
  - 2.9.9. Compensation in case of closure of undertaking
- 2.10. Special Provisions relating to Lay-off Retrenchment and Closure
  - 2.10.1. Application of Chapter V-B
  - 2.10.2. Penalties for Lay-off, retrenchment, and closure without permission
- 2.11. Penalties
  - 2.11.1. Penalty for Illegal strike and Lock-out
  - 2.11.2. Penalty for breach of Settlement or award
- 2.12. Miscellaneous
  - 2.12.1. Protected workman
  - 2.12.2. Recovery of money due from an employer
  - 2.12.3. Condition of service etc. to remain unchanged
- 3 The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971**
  - 3.1 Authorities under the Act
  - 3.2 Recognition of Unions
  - 3.3 Obligations and Rights of Recognised Unions
  - 3.4 Rights of Unrecognised Unions
  - 3.5 Illegal Strikes and Lock-outs
  - 3.6 Unfair Labour Practices
  - 3.7 Power of Court

## **1 Employees' Compensation Act, 1923**

- 1.1 Definitions
  - 1.1.1. Commissioner, Compensation. Dependent employer, Managing Agent, Partial disablement, Total disablement Wages, Employee
- 1.2 When Employer is liable to pay Compensation
- 1.3 When Employer is not liable to pay Compensation
- 1.4 Arising out of and in the course of employment
- 1.5 Notional Extension of employer's premises
- 1.6 Amount of Compensation
- 1.7 Method of calculating wages
- 1.8 Distribution of compensation
- 1.9 Notice and Claims of the accidents
- 1.10 Medical examination
- 1.11 Contracting
- 1.12 Contracting out

## **2 Minimum Wages Act, 1948**

- 2.1. Object of the Act
- 2.2. Constitutional Validity
- 2.3. Definitions-Appropriate government, Employer, scheduled employment, wages, employee
- 2.4. Minimum wages, fair wages, living wages.
- 2.5. Fixation of minimum rates of wages-procedure
- 2.6. Advisory Board
  - 2.6.1 Central Advisory Board
  - 2.6.2 Composition of Committees
- 2.7. Fixing hours of normal working days
- 2.8. Overtime
- 2.9. Minimum time rate wages of piece work
- 2.10. Maintenance of Registers and records
- 2.11. Claims
- 2.12. Single application in respect of number of employees
- 2.13. Power of central government and appropriate government to make rules

## **3 The Factories Act, 1948**

- 3.1. Interpretation-Hazardous process. Manufacturing process. Worker, Factory, Occupier
- 3.2. Powers of Inspectors
- 3.3. **Health**
  - 3.3.1. Cleanliness
  - 3.3.2. Disposal of waste and effluents
  - 3.3.3. Ventilation and temperature
  - 3.3.4. Dust and Fume
  - 3.3.5. Artificial humidification
  - 3.3.6. Over-crowding
  - 3.3.7. Lighting
  - 3.3.8. Drinking water
  - 3.3.9. Latrines and Urinals
  - 3.3.10. Spittoons
- 3.4. **Safety**
  - 3.4.1. Fencing of Machinery
  - 3.4.2. Employment of Young persons on dangerous machines
  - 3.4.3. Prohibition of employment of women and children near cotton openers
  - 3.4.4. Excessive weights

- 3.4.5. Protection to eye
- 3.4.6. Precautions against dangerous fumes, gases, in case of fire
- 3.4.7. Safety of Building and Machinery-Maintenance of Buildings
- 3.4.8. Safety officers

### **3.5. Provisions relating to hazardous process**

- 3.5.1. Specific responsibility of the occupier
- 3.5.2. Workers participation in safety management

### **3.6. Welfare**

- 3.6.1. Facilities for washing, storing and drying clothing, seating
- 3.6.2. Canteens
- 3.6.3. Rest rooms, Shelters and Lunch rooms
- 3.6.4. Crèches

### **3.7. Working hours of adults**

- 3.7.1. Weekly hours, daily hours,
- 3.7.2. Weekly holidays
- 3.7.3. Compensatory holidays
- 3.7.4. Intervals for rest
- 3.7.5. Night Shifts
- 3.7.6. Extra wages for over time and restriction on double employment
- 3.7.7. Notice of period of work for adults
- 3.7.8. Register of adult workers

### **3.8. Employment of Young persons**

- 3.8.1. Prohibition of employment of young children
- 3.8.2. Non-adults workers to carry tokens
- 3.8.3. Certificate of fitness
- 3.8.4. Working hours for children
- 3.8.5. Notice of periods of work for children
- 3.8.6. Register of Child workers

### **3.9. Annual leave with wages**

- 3.9.1. Wages during leave period
- 3.9.2. Mode of recovery of unpaid wages

## **4 The Employees State insurance Act, 1948**

### **4.1. Definitions**

- 4.1.1 Dependent, employment injury, employee, employment, Factories, Immediate employer, Disablement (permanent partial, permanent total disablement) Principal employer, Temporary disablement, wages

### **4.2. Contributions**

- 4.2.1 All employees to be insured
- 4.2.2 Principal employer to pay contribution in the first instance recovery of contribution from immediate employer
- 4.2.3 Method of payment of contribution
- 4.2.4 Function and duties of inspectors

### **4.3. Benefits**

- 4.3.1 Sickness benefit
- 4.3.2 Maternity Benefit
- 4.3.3 Disablement Benefit
- 4.3.4 Dependents Benefit
- 4.3.5 Medical Benefit

### **4.4. Occupational disease**

### **4.5. Determination of question of disablement**

### **4.6. Employer not to dismiss or punish employee during period of sickness**

## 4.7. Power of State and Central government to make rules

**Select Bibliography**

1. John Bowers and Simon Honeyball. *Text book on Labour Law (1996)*, Blackstone, London
2. Srivastava K.D., *Commentaries on Payment of Wages Act 1936 (1998)*, Eastern, Lucknow
3. Srivastava K.D., *Commentaries on Minimum Wages Act 1948 (1995)*. Eastern, Lucknow
4. Rao. S.B... *Law and Practice on Minimum Wages (1999)*, Law Publishing House, Allahabad
5. Seth. D.D. *Commentaries on Industrial Disputes Act 1947 (1998)*, Law Publishing House, Allahabad.
6. Srivastava K.D. *Disciplinary; Action against Industrial Employees and its Remedies (1990)* Eastern, Lucknow.
7. Srivastava K.D., *Commentaries on Factories Act 1948 (2000)*. Eastern, Lucknow
8. R.C. Saxena. *Labour Problems and Social Welfare Chapters 1, 5 and 6.* (1974)
9. V. V. Giri *Labour Problems in Indian Industry Chs. 1 and 15,* (1972)
10. Indian Law Institute, *Labour law and labour Relations (1987)* (1982) Cochin University Law' Review-, vol.6 pp. 153-210 *Report of the National Commission on Labour. Ch. 14-17, 22, 23 and 24*
11. O.P. Malhotra. *The Law of Industrial Disputes (1998)*, Universal, Delhi
12. S.C. Srivastava. *Social Security and Labour Laws Pts 5 and 6 (1985)*. Universal Delhi
13. S.C. Srivastava. *Commentary on the Factories Act 1948 (1999)*, Universal, Delhi
14. S.N. Mishra., *Labour and Industrial Laws*, Central Law Agency, Allahabad
15. Madhavan Pillai. *Labour and Industrial Laws*, Central Law Agency. Allahabad
16. Goswami V.G. *Labour and Industrial Laws*, Central Law Agency, Allahabad

**PAPER V****PROFESSIONAL ETHICS AND PROFESSIONAL ACCOUNTING SYSTEM  
(CLINICAL COURSE)**

## SEMESTER- III &amp; VII

- 1 Nature of Legal Profession and salient features of Advocates Act, 1961**
- 2 Lawyers Duties to**
  - 2.1.1 His Client
  - 2.1.2 The Court
  - 2.1.3 The Opponent Counsel
  - 2.1.4 The Colleagues
  - 2.1.5 The Public

## SEMESTER- IV &amp; VIII

1. Contempt Law and Practice
2. Bar Council Code of Ethics
3. 10 Selected Opinions of Disciplinary Committee of B.C.I., New Delhi

**10 SELECTED OPINIONS:**

1. B.C.I. TR Case No.27/1988, Vol.16 (3 & 4) 1989, I.B.R., Y.V.R. (Complainant) V/s.M.K.N. (Respondent)
2. B.C.I. TR Case No.24/1986, Vol.16 (3 & 4) 1989, I.B.R.C.L. (Complainant) V/s.N.T.S. (Respondent)
3. D.C.Appeal No.6/1988, Vol.16 (3 & 4) 1989, I.B.R., J.E. (Appellant) V/s.Smt. A. (Respondent)
4. D.C.Appeal No.28/1986, Vol.15 (3 & 4) 1988, I.B.R., J. (Appellant) V/s.Smt. A. (Respondent)
5. D.C.Appeal No.35/1987, Vol.16 (3 & 4) 1989, I.B.R., N.M. (Appellant) V/s. V.D. (Respondent)
6. D.C.Appeal No.13/1975 (Mah.) Vol.5 (1-3) 1976, Journal of Bar Council of India, A (Appellant) V/s. Bar Council of Maharashtra, (Respondent)
7. B.C.I., TR. Case No.17/86 Vol.15 (3 & 4), 1988, I.B.R., M. (Petitioner/ Complainant) V/s Bar Council of Maharashtra, (Respondent)
8. B.C.I., TR Case No.63/1983, Vol.15 (3 & 4), 1988, I.B.R., B (Complainant) V/s. R. (Respondent)
9. D.C.Appeal No.21 of 1985, Vol.15 (3 & 4), 1988, I.B.R., G. (Appellant) V/s. T. (Respondent)
10. B.C.I., TR. Case No.61/1983 Vol.14 (2), 1987, I.B.R., D. (Complainant) V/s B. (Respondent)

**4. Major Judgments of Supreme Court on the subject:**

**MAJOR JUDGMENTS**

- 1 Pralhad Saran Gupta V/s Bar Council of India & another, AIR 1997,SC, 1338
- 2 Hikmat Ali Khan V/s Ishwar Prasad, AIR, 1997,SC, 864
- 3 V.P. Kumarvelu V/s B.C.I., A.I.R. 1997, SC 1014
- 4 P.D. Gupta V/s Ram Murthy, AIR, 1988, SC, 283
- 5 In Re.V.C. Mishra, AIR 1995, SC 2348
- 6 Supreme Court Bar Association V/s Union of India, AIR, 1988 SC 1895
- 7 U.P.Sales Tax Service Association V/s Taxation Bar Association, Agra AIR 1996, SC 98
- 8 John D'souza V/s Edward Ani, AIR, 1994, SC 975
- 9 Dalal, D.S. V/s State Bank of India, AIR, 1993, CRLJ, 1478
- 10 Mr. Roma Banerji V/s Ushapati Banerji, AIR 1958, CRLJ, 1478

The above course will be taught in association with practicing lawyers. The senior member of Bar may be invited to give lectures on professional ethics.

**The paper will comprise of**

1 **Written Examination:** 80 marks (40 marks Semester -III & Semester –VII and 40 Marks Semester - IV & Semester -VIII)

2) **Viva Voce:** 20 Marks (Semester - IV for Three Year Course Semester -VIII for Five Year Law Course)

A Student should maintain a record book in this regard. His proficiency in the subject will be evaluated in the *viva-voce* examination. A team of one Internal and one External Examiner will conduct *viva voce* Examination.

### **Bibliography-**

1. *Professional Ethics of the Bar* by C.L.Anand.
2. *General Principles of Legal Ethics* by C.L.Anand
3. *Law of Contempt* by Narayana P.S. Asia Law House Hyderabad.

## **PAPER VI ALTERNATE DISPUTE RESOLUTION ( CLINICAL COURSE)**

### **Objectives of the Course**

Traditional justice delivery system is gradually losing its efficacy due to ever increasing pendency of Cases requiring other mechanism. The settlement of disputes through the Alternate Dispute Resolution is considered as one of the effective, cheap and time saving method in modern 21<sup>st</sup> century. The system of settlement of disputes through Arbitration has been in existence in India since 1940. However the Indian Government enacted the Arbitration and Conciliation Act 1996 on the basis of UNCITRAL model on Arbitration. This Act provides Alternate Dispute Resolution including Arbitration, Conciliation and International Commercial Arbitration. This paper will be taught through the class instruction, Simulation exercises and case studies conducted by senior Legal Practitioners.

This paper consists of two parts. Part-A & Part- B. Each part will carry 50 marks and treated as separate head of passing. Part-A consists of theoretical (written) examination. Part-B consists of Simulation exercises dealing with Arbitration and Conciliation with its procedure and practice.

### **SEMESTER-III & VII Part-A**

#### **1 Arbitration**

- 1.1 Meaning and Historical Perspective
- 1.2 General Principles governing Arbitration
- 1.3 Types of Arbitration
- 1.4 Rules of Guidance in Arbitration
- 1.5 Practice and Procedure
- 1.6 Arbitration agreement, Tribunal and Award
- 1.7 Appeal and Revision

#### **2 Negotiation**

- 2.1. Meaning and Importance
- 2.2. Practice and Procedure
- 2.3. Principles governing Negotiation

2.4. Bipartite Negotiation

### **3 Conciliation**

3.1. Meaning and Importance of Conciliation

3.2. Appointment of Conciliator

3.3. Conciliator to act as a facilitator

3.4. Independence and Impartiality

3.5. Procedural Techniques

3.6. Comparison of Arbitration and Conciliation

3.7. UNCITRAL Conciliation Rules

### **4 International Arbitration**

4.1 Meaning of International Commercial Arbitration

4.2 Foreign Arbitral Awards

4.2.1 New York Convention awards

4.2.2 Geneva Convention awards

4.3 Procedure for enforcement of foreign Arbitral Awards

### **5 Lok Adalat**

5.1. History and Importance of Lok-adalat

5.2. Cases taken up under Lok-adalat

5.3. Legal Services Authorities Act, 1987

5.4. Permanent Lok Adalat

## SEMESTER – IV & VIII

### Part-B

#### **Extensive Programme- Simulation Exercises**

a) Arbitration and Negotiation Skills:

Each student has to attend at least two simulation exercises and should

Maintain record of the same

b) Conciliation and International arbitration Skills:

Each student has to attend at least two simulation exercises and should maintain

record of the same

#### **Break-up of 50 marks**

1) 20 marks for two exercises under Arbitration and Negotiation Skills

2) 20 marks for two exercises under Conciliation and International arbitration Skills

3) 10 marks will be for *VIVA-VOCE* examination

#### **Select Bibliography**

1. B.P. Saraf and M. Jhunjhunwala, *Law of Arbitration and Conciliation (2000)*, Snow white, Mumbai
2. Gerald R. William (ed.), *The New Arbitration and Conciliation Law of India Council of Arbitration (1998)*, New Delhi

3. A.K. Bansal, *Law of International Commercial Arbitration (1999)*, Universal, Delhi
4. P.C. Rao & William Sheffield, *Alternative Disputes Resolution- What it is and How it works? (1997)* Universal, Delhi
5. G.K. Kwatra, *The Arbitration and Conciliation Law of India (2000)*, Universal, Delhi
6. Basu. N.D. *Law of Arbitration and Conciliation (9<sup>th</sup> edition reprint 2000)*, Universal, Delhi
7. Johari, *Commentary on Arbitration and Conciliation Act 1996 (1999)* Universal, Delhi
8. Markanda. P.C. *Law relation to Arbitration and Conciliation (1998)* Universal, Delhi

## PAPER VII

### CONSTITUTIONAL LAW – II

#### **Objectives 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 predictions. 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 passu* the concept of secularism and federalism engraved in the Constitution are, and are to be, interpreted progressively.

### SEMESTER – III & VII

#### **1. The Parliament**

- 1.1. Functions of Parliament
- 1.2. Composition
- 1.3. Duration of Houses
- 1.4. Sessions of Parliament

- 1.5. Qualification and Disqualification for Members
- 1.6. Speaker and Deputy Speaker; Chairman and Deputy Chairman
- 1.7. Powers, Privileges and Immunities of Parliament and its Members
- 1.8. Legislative Procedure
  - 1.8.1. Ordinary Bill
  - 1.8.2. Money Bill
  - 1.8.3. Financial Bill
  - 1.8.4. Joint Sitting of Both Houses
  - 1.8.5. Financial Legislation
- 1.9. Position of the Council of States as compared to the House of the People

## **2. The State Legislature**

- 2.1. Creation and abolition of the Legislative Council
- 2.2. Legislative Assembly and Legislative Council
  - 2.2.1. Composition, Duration
  - 2.2.2. Qualification and Disqualification for Membership
- 2.3. Legislative Procedure
- 2.4. Legislative Council compared with Council of States

## **3. The Supreme Court**

- 3.1. Constitution of the Supreme Court
- 3.2. Judges
  - 3.2.1. Appointment, Qualification
  - 3.2.2. Tenure, Impeachment
  - 3.2.3. Independence of the Judges
- 3.3. Multifarious Role of the Supreme Court
- 3.4. Jurisdiction
  - 3.4.1. Original
  - 3.4.2. Appellate
  - 3.4.3. Special Leave to Appeal
  - 3.4.4. Advisory
  - 3.4.5. Writ

## **4. High Court**

- 4.1. Constitution of the High Court
- 4.2. Judges
  - 4.2.1. Appointment, Qualification and Removal
  - 4.2.2. Independence of the Judges
  - 4.2.3. Transfer
- 4.3. Jurisdiction
  - 4.3.1. Original

4.3.2. Appellate

4.3.3. Writ

4.4. Power of Superintendence

**5. Subordinate Courts**

**6. Comptroller and Auditor General of India**

6.1. Appointment, Removal

6.2. Duties and Powers

6.3. Conditions of Service

**7. The Union Territories**

**8. The Panchayats**

**9. The Municipalities**

**SEMESTER – IV & VIII**

**1. Nature of the Federal System**

1.1. Essential Features of Federal Polity

1.2. Indian Federalism: Peculiar Features

**2. Relations between the Union and the States**

2.1. Distribution of Legislative Powers

2.2. Administrative Relations

2.3. Distribution of Revenues between Union and the States, other Financial provisions and Borrowing by Government of India and States

**3. Emergency Provisions**

3.1. National Emergency under Article 352

3.2. Failure of Constitutional Machinery in States

3.3. Financial Emergency

3.4. Effects of proclamations of various kinds of Emergencies

**4. Amendment of the Constitution**

4.1. Procedure for Amendment

4.2. Amendability of Fundamental Rights

4.3. 'Basic Structure' doctrine

**5. Freedom of Trade, Commerce and Intercourse**

5.1. Parliament's Power to regulate trade and commerce

5.2. State's Power to regulate trade and commerce

**6. Services under the Union and the States**

6.1. Recruitment and conditions of service of persons serving the Union or a State

- 6.2. Tenure of office of persons serving the Union or a State
- 6.3. Dismissal, Removal and reduction in rank of civil servants
- 6.4. All India Services
- 6.5. Public Service Commission
  - 6.5.1. Public Service Commissions for the Union and the States
  - 6.5.2. Appointment and Terms of Office of Members
  - 6.5.3. Independence of Public Service Commissions
  - 6.5.4. Functions of Public Service Commissions
  - 6.5.5. Report of Public Service Commissions

## **7. Elections**

- 7.1. Election Commission
- 7.2. Functions of Election Commission
- 7.3. Adult Suffrage
- 7.4. Bar to interfere by Courts in electoral matters

## **8. Special Provisions relating to certain classes**

- 8.1. Scheduled Castes and Scheduled Tribes
- 8.2. Anglo-Indians
- 8.3. Backward Classes

## **9. Miscellaneous**

- 9.1. Right to Property
- 9.2. Tribunals
- 9.3. Suits and Proceedings by or against the Government of India and the Government of the State

## **SELECT BIBLIOGRAPHY:**

1. T. K. Tope : *Constitution of India*
2. G. Austin, *History Democratic Constitution: The Indian Experience* (2000) Oxford
3. D.D. Basu, *Shorter Constitution of India* (1996), Prentice Hall of India, Delhi
4. *Constituent Assembly Debates* Vol. 1 to 12 (1989)
5. H.M. Seervai, *Constitution of India* Vol. 1-3 (1992) Tripathi, Bombay
6. M.P. Singh (ed) V.N. Shukla, *Constitutional Law of India* (2000) Oxford
7. G. Austin, *Indian Constitution: Corner Stone of a Nation.*(1972)
8. M. Galanter. *Competing Equalities - Law and the Backward Classes in India* (1984), Oxford
9. B. Sivaramayya, *Inequalities and the Law* (1984) Eastern, Lucknow.
10. S.C. Kashyap, *Human Rights and Parliament* (1978) Metropolitan, New Delhi

**PAPER VIII**  
**INTERPRETATION OF STATUTES AND PRINCIPLES OF LEGISLATION**  
**(OPTIONAL PAPER-A)**

**Objectives of the course**

Legislation is the major source of law of the modern era. Legislatures enact laws after 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?

SEMESTER – III & VII

**1 Principles of Legislation**

- 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**

- 2.1. Meaning of the term ‘Statutes’
- 2.2. Commencement, operation and repeal of statutes
- 2.3. Purpose of the interpretation of statutes

**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, exception, provisions 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**

- 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. *Ejusdem generis*
- 4.2.3. *Reddendo singula singulis*

## SEMESTER- IV & VIII

### **1 Presumptions in Statutory interpretation**

- 1.1. Statutes are valid
- 1.2. Statutes are territorial in operation
- 1.3. Presumption as to jurisdiction
- 1.4. Presumption against what is inconvenient or absurd
- 1.5. Presumption against intending injustice
- 1.6. Presumption against impairing obligations or permitting advantage from one's own wrong
- 1.7. Prospective operation of statutes

### **2 Maxims of Statutory Interpretation**

- 2.1 *Delegatus non potest delegare*
- 2.2 *Expressio unius exclusio alterius*
- 2.3 *Generalia specialibus non derogant*
- 2.4 *In pari delicto potior est conditio possidentis*
- 2.5 *Utres valet potior quam pareat*
- 2.6 *Expressum facit cessare tacitum*
- 2.7 *In bonam partem*

### **3 Interpretation with reference to the subject matter and purpose**

- 3.1 Restrictive and beneficial construction
  - 3.1.1 Taxing statutes
  - 3.1.2 Penal statutes
  - 3.1.3 Welfare legislation
- 3.2 Interpretation of substantive and adjectival statutes
- 3.3 Interpretation of directory and mandatory provisions
- 3.4 Interpretation of enabling statutes
- 3.5 Interpretation of codifying and consolidating statutes
- 3.6 Interpretation of statutes conferring rights
- 3.7 Interpretation of statutes conferring powers

### **4 Principles of Constitutional Interpretation**

- 4.1 Harmonious construction
- 4.2 Doctrine of pith and substance
- 4.3 Colourable legislation
- 4.4 Ancillary powers
- 4.5 "Occupied field"
- 4.6 Residuary power
- 4.7 Doctrine of repugnancy

### **Select Bibliography**

1. G.P.Singh, *Principles of Statutory Interpretation*, (7<sup>th</sup> Edition) 1999, Wadhwa, Nagpur.
2. P.St.Langan (Ed.), *Maxwell on The Interpretation of Statutes* (1976) N.M.Tripathi, Bombay
3. K.Shanmukham, *N.S.Bindras's Interpretations of statutes*, (1997) The Law Book Co. Allahabad.

4. V.Sarathi, *Interpretations of Statutes*, (1984) Eastern, Lucknow
5. M.P.Jain, *Constitutional Law of India*, (1994) Wadhwa & Co.
6. M.P.Singh, (Ed.) *V.N.Shukla's Constitution of India*, (1994) Eastern, Lucknow.
7. U.Baxi, *Introduction to Justice K.K.Mathew's, Democracy Equality and Freedom* (1978) Eastern, Lucknow

**PAPER VIII  
BANKING LAW  
(OPTIONAL PAPER-B)**

**Objectives of the Course**

The modern society functions, contrary to the old barter system, on monetary transaction. 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 tendered 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.

**SEMESTER-III & VII**

**1. Introduction.**

- 1.1. Nature Definition of Banking
- 1.2. Evolution of Banking in India- Different Kinds of Banks
- 1.3. Commercial banks: Functions
  - 1.3.1 Essential Functions
  - 1.3.2 Agency Services
  - 1.3.3 General Utility services
  - 1.3.4 International trading service
  - 1.3.5 Information services
  - 1.3.6 Emergence of multifunctional dimensions
- 1.4. Systems of Banking: Unit banking, Branch Banking, Group Banking and Chain Banking

**2. Law relating to Banking Companies in India**

- 2.1. Control by government and its agencies
  - 2.1.1 Need for – elimination of systematic risk, avoidance money laundering, consumer protection, promotion of fair competition on management
  - 2.1.2 On account and audit
  - 2.1.3 On money lending
  - 2.1.4 Re-organization and re-construction
  - 2.1.5 On suspension and winding-up
- 2.2. Control by Ombudsman
- 2.3. Reserve Bank of India

**3. Contract between Banker and Customer: Their Rights and Duties**

- 3.1. Customers : Meaning
- 3.2. Legal Character of Banker –Customer relationship
- 3.3. Rights and obligations of Banks
  - 3.3.1 Right of Set-off
  - 3.3.2 Banker's Lien
  - 3.3.3 Right to charge interest and commission
  - 3.3.4 Obligation to honour Customers' cheques

- 3.3.5 Duty of confidentiality
- 3.3.6 Garnishee Orders
- 3.4. Accounts of customers
  - 3.4.1 Current Accounts
  - 3.4.2 Deposit Accounts
  - 3.4.3 Joint Accounts
  - 3.4.4 Trust Accounts
- 3.5. Special Types of customers: Lunatics, Minors, Agents, administrators and Executors, partnership firms and companies
- 3.6. Consumer protection: Banking as Service

#### **4. Control over Banking**

- 4.1. Nationalization
- 4.2. Evolution of Central Banks
- 4.3. Characteristics and Functions of Central Banks
- 4.4. Central bank as banker and adviser of the state
- 4.5. Central bank as banker's bank

#### **5. The Reserve Bank of India as Central Bank in India**

- 5.1. Objective and organizational structures
- 5.2. Functions
- 5.3. Regulations of the monetary system
- 5.4. Monopoly of note issue
- 5.5. Credit control
- 5.6. Determination of Bank rate policy
- 5.7. Open market operations
- 5.8. Banker to Government
- 5.9. Control over non-banking financial institutions
- 5.10. Economic and statistical research
- 5.11. Staff training
- 5.12. Control and supervision of other banks

### **SEMESTER- IV & VIII**

#### **1. Deposit insurance**

- 1.1. The Deposit Insurance Corporation Act, 1961: objects and reasons
  - 1.1.1 Establishment of Capital of DIC
  - 1.1.2 Registration of banking companies insured banks liability of DIC to depositors
  - 1.1.3 Relations between insured banks, DIC and Reserve Bank of India

#### **2. Negotiable Instruments**

- 2.1. Meaning and kinds
- 2.2. Transfer and negotiations
- 2.3. Holder and holder in due course
- 2.4. Presentment and payment
- 2.5. Liabilities of parties

#### **3. Lending by banks**

- 3.1. Principles of good lending
- 3.2. Securities of bank advances
  - 3.2.1 Pledge, Mortgage, Charge
  - 3.2.2 Goods or Documents of title to goods
  - 3.2.3 Life Insurance policies as security
  - 3.2.4 Debentures as security
- 3.3. Repayment.- Interest : Rule against penalties
- 3.4. Default and Recovery
  - 3.4.1. Recovery of debts due to Banks and Financial Institutions Act, 1993

### 3.4.2. Establishment of debt recovery tribunals -constitution and functioning

#### 4. Recent Trends of banking system in India

- 4.1. New Technology
- 4.2. Information Technology
- 4.3. Automatic Teller Machine and Use of Internet
- 4.4. Automation and Legal Aspects
- 4.5. Smart Card
- 4.6. Credit Cards

#### 5. Reforms in Indian Banking Law

- 5.1. Recommendations of committees: a review
  - 5.1.1 Janakiraman Committee Report on Securities Operation of Banks and Financial Institution(1993)
  - 5.1.2 Narasimham Committee report on the Financial system(1991 & 1999)

#### Select Bibliography:

1. Basu, of *A Review Current Banking Theory and Practice (1998)* MACMillan.
2. Ross Cranston, *Principles of Banking Law (1997)* Oxford
3. M.L.Goyale, *The Law of Banking and Bankers (1995)* Eastern Law.
4. M.L.Tannen, *Tannen's Banking Law And Practice In India,(2000)*, India Law House New Delhi.
5. S.N.Gupta, *The Banking Law in Theory and Practice(1999)* Universal, New Delhi.
6. G.S.N.Tripathi (ed),*Sethi's Commentaries On Banking Regulation Act-1949 and Allied Banking Laws (2000)* Law Publishers Allahabad.
7. S.N.Gupta,*Banks and the Consumer Protection Law,(2000)* Universal New Delhi.
8. Mukharjee T.K. *Banking Law and Practice,(1999)*,Universal, New Delhi.
9. *Janakiraman Committee Report on Securities Operation of Banks and Financial Institution (1993)*
10. *Narasimham Committee report on the Financial system (1991) and Second report (1999)*
11. K.C.Shekhar, *Banking Theory and practice (1998)* UBS Publisher Distributors Ltd., New Delhi.
12. K.Subrahmanyam, *Banking Reforms In India (1997)* Tata Macgraw Hill, New Delhi.
13. M.A.Mir, *The Law Relating to Bank Guarantee in India (1992)* Metropolitan Book.New Delhi.
14. R.S.Narayana, *The recovery of Debts due to Banks and Financial Institutions Act,1993(51of 1993)*, Asia Law House Hyderabad.

## PAPER IX

### PENOLOGY AND VICTIMOLOGY

#### (OPTIONAL PAPER-A)

#### Objectives of the Course

Penology comprises the processes devised and adopted for the punishment, prevention of crime and the treatment of the criminals. Punishment is to be inflicted on the criminals so as to reform them and to make their integration into society easier. This Course offers a specialist understanding of criminal policies including theories of punishment, their supposed philosophical and sociological justifications and discretion in the sentencing process.

Interest in victims has increased today. The newly developed interest in the criminal - victim relationship indicates that the understanding of crime is reaching a new phase. It also shows the decline of the sole responsibility of the criminal. There is growing recognition that criminal justice should consider the dynamics of crime and treat the criminals and victim in the same light. The part played by the victim in the origin of crime is the central issue in victimology. Criminal justice has many dimensions beyond conviction and sentence. The victim must not be forgotten but must be restored to the extent possible.

### SEMESTER – III & VII

#### **1 Introductory**

- 1.1. Definition of Penology
- 1.2. Scope of Penology

#### **2. General Approaches to Crime Control**

#### **3. Punishment of Offenders**

- 3.1. Definition of Punishment
- 3.2. Theories of Punishment
- 3.3. Some discarded mode of Punishment
- 3.4. Types of Sentences
- 3.5. Search for the substitute of punishment

#### **4. Capital Punishment**

- 4.1. Constitutional validity of Capital Punishment
- 4.2. Arguments in favour of Capital Punishment
- 4.3. Arguments in favour of abolishing Capital Punishment
- 4.4. Modes of Execution
- 4.5. Delay in Execution of Capital Punishment

#### **5. The Sentencing Process**

- 5.1. Mitigating factors; Aggravating factors
- 5.2. Hearing the accused on question of sentence
- 5.3. Minimum Sentence
- 5.4. Externment – Whether a sentence?
- 5.5. Innovations in sentencing the offender's e.g. indeterminate sentence etc.

### SEMESTER – IV & VIII

#### **1. Prison System**

- 1.1. History of Prison System
- 1.2. Indian Prison System
- 1.3. Classification of Prisoners
- 1.4. Constitutional imperatives and prison reforms
- 1.5. Open Prisons
- 1.6. Prison Labour

1.7. Rights of the Prisoner

1.8. Appraisal of Imprisonment as a mode of Punishment

## **2. Probation**

2.1. Origin, Development and Scope of Probation

2.2. Principles of Probation

2.3. The place of Probation in the Penal Policy

2.4. The Judicial attitude

## **3. Parole**

3.1. Nature of Parole

3.2. Historical background of Parole

3.3. Principles of Parole

3.4. Parole and Probation compared

## **4. Juvenile Justice**

4.1. Meaning of Juvenile Delinquency

4.2. Prevention of Juvenile Delinquency

4.3. Treatment of Juvenile Delinquency

4.4. Distinctive characteristics of Juvenile Court

## **5. Police and the Criminal Justice**

5.1. The Police system in India

5.2. Methods of Police Investigation

5.3. Third Degree method

5.4. Corruption in Police

5.5. Liability of Police for custodial violence

5.6. Modernization and reforms in police system

## **6. Victimology**

6.1. Concept of Victimology

6.2. Role and responsibility of victim in crime causation

6.3. Compensation to victim

6.4. Restitution, Reparation and Rehabilitation of victim

6.5. 'Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power' – United Nations Charter of 1985

6.6. Criminals as victims

6.7. Women and Children as victims

## **Select Bibliography**

- 1 Katherine S. Williams, *Text Book of Criminology* [1997], Blackstone, London
- 2 Loveland, *The Frontiers of Criminality* [1995], Sweet and Maxwell
- 3 Martin Wasik, *Emmins on Sentencing* [1998], Blackstone, London
- 4 Hall, J. *Law, Social Science & Criminal Theory* [1982]
- 5 Manheim, H. *Comparative Criminology : A Text Book* [1965]
- 6 Ross H. [Lawrence ed.] *Law and Deviance* [1981]
- 7 Sutherland E. and Cressay, *Principles of Criminology* [1978]

- 8 Walker N. *Crime and Criminology a Critical Introduction* [1987]
- 9 S. Rao *Crime in our Society*, [1983]
- 10 J.M. Sethna, *Society and the criminal* [1980]
- 11 A. Siddique, *Criminology: Problems and Perspectives* [1997]
- 12 E. Sutherland, *White Collar Crime* [1949]
- 13 S. Kaldate, *Society, Delinquent and juvenile courts* [1982]
- 14 W.C. Reckless, *The Prevention of Juvenile Delinquency* [1972]
- 15 D.C. Pandey, *Habitual Offenders and the law* [1983]
- 16 D. Abrahamsen, David : *Crime and the Human Mind* [1979]
- 17 Concord John P. : *Crime and its correction : An international survey of attitudes and practices.*
- 18 Krishna Iyer Report on Female Prisoners [1986]
- 19 Mulla Committee Report [1983]
- 20 P. Rajgopal, *Violence and Response : A Critique of Indian Criminal justice system* [1983]
- 21 N.V. Paranjape- *Criminology and penology* [2000]
- 22 J.P.S. Sirohi- *Criminology and penology* [1999].

**PAPER IX**  
**GENDER JUSTICE AND FEMINIST JURISPRUDENCE**  
**(OPTIONAL PAPER – B)**

**OBJECTIVES OF THE COURSE.**

The need to study gender justice as a special subject is because the constitutional guarantees have not achieved the necessary results. The Constitution guarantees equality of status and opportunity and no discrimination *inter alia* on ground of sex. These fundamental rights did not preclude having special provisions for women.

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 in to the mainstream.

Reality after all these years showed that the trickle down theory of development had not affected the large majority of women.

Equal opportunity guaranteed under the Constitution had in the unorganized sector and who were deprived of all the benefits given to women workers under the various labour laws. No discrimination had meant that only 994 women held senior management/administrative posts as against 15,993 in similar jobs. In all India Services women constituted only 5.8% .

By the 6<sup>th</sup> plan it had been realized that special efforts needed to be made to integrate the women into the development process. The Plan therefore for the first time had a chapter devoted to women and development.

The course will concentrate on gender perspectives and study how the legal provisions continue the considerable bias and help in the continuance of the patriarchal values, which have been a part of our society.

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

**SEMESTER – III & VII**

1. Women in Pre-Independence India.
  - 1.1. Social and legal inequality.
  - 1.2. Social Reform movement in India.
  - 1.3. Karachi Congress- Fundamental Rights Resolution, Equality of sexes.
2. International Conventions.
  - 2.1. Article of Universal Declaration of Human Rights.
  - 2.2. The 1952 Convention on Political Rights of Women.

- 2.3. The 1979 Convention on the abolition of all Forms of Discrimination against women.
3. Women in Post-Independence India.
  - 3.1. Preamble of the Constitution – Equality provisions in Fundamental Rights and Directive Principles of State Policy.
  - 3.2. Negative Aspects of the Constitution- Exploitation of Sex not mentioned in Article -23.
  - 3.3. Different personal laws-unequal position of Women.
  - 3.4. Uniform Civil Code towards gender justice.
  - 3.5. Indian tradition and family ideology: growth of feminism.
4. Sex Inequality in Inheritance Rights.
  - 4.1. Continuance of Feudal Institution of Joint family-women's inheritance position.
  - 4.2. Hindu Law- Right of inheritance by birth for sons/not for daughter.
  - 4.3. Muslim Law.
  - 4.4. Matrimonial Property.
  - 4.5. Movement towards uniform Civil Code.
5. Guardianship.
  - 5.1. Right of women to adopt a child.
  - 5.2. Problems of women guardianing.

#### SEMESTER – IV & VIII

6. Divorce.
  - 6.1. Christian Law-discriminatory provision.
  - 6.2. Muslim Law –Inheritance and divorce.
7. Criminal Law.
  - 7.1. Adultery.
  - 7.2. Rape and Custodial Rape.
  - 7.3. Dowry Death.
  - 7.4. Cruelty to married women.
  - 7.5. Domestic Violence.
  - 7.6. Female Infanticide.
8. Social Legislation.
  - 8.1. Dowry Prohibition.
  - 8.2. Preventions of Immoral Traffic.
  - 8.3. Marriage Registration.
9. Women and Employment.
  - 9.1. Labour force.
  - 9.2. Laws to protect women.
  - 9.3. Non-implementation of protective labour legislation
    - 9.3.1. Maternity Benefits Act.
    - 9.3.2. Factories Act.
    - 9.3.3. Equal Remuneration Act.
  - 9.4. Exploitation and harassment in workplaces.
10. Protection and enforcement agencies.
  - 10.1. Courts.
  - 10.2. Family Courts.
  - 10.3. Human Rights Commission
  - 10.4. Commission for women.
  - 10.5. Non-Governmental Organization.

#### **SUGGESTED READINGS.**

1. Sivaramayya, B, Matrimonial property Law in India(1998), Oxford.
2. Prtricia Smith(Ed), Feminist Jursprudenfe (1993) Oxford.

3. 42<sup>nd</sup> Report Law Commission Dissenting Note Anna Chandy on provision of adultery p-366.
4. Towards Equility – Report of the committee on the Status of Women. (Govt. of India ) Chapters IV & Section IV: General Conclusions & Recommendations
5. Lotika Sarkar, The Law Commission of India(1988)
6. Sathe, S.P.Towards Gender Justice (1993),Research Centre for Women’s studies.
7. Flavia Agnes,State,Gender and the Rhetric of Law reform (1985)  
Research Centre of Women’s Studies,SNDT Women’s University Bombay.
8. Law Commission of India, One Hundred and fifty –Fifth Report on the Indian penal Code,1860(1997)
9. G.B.Reddy’s Women and The Law.(2001) Gogia Law Agency. Hyderabad.
- 10.Dr.S.R.Myneni.Women and Law (2005) Asia Law Hyderabad.
- 11.S.K.Kuba’s work status of Women in International Law.
- 12.Archan Chaturvedi (Ed) Muslim Women and Law. (2004) Commonwealth Publishers. New Delhi.
- 13.Bhatnagars Muslim Women & Their Rights (2002) Ashoka Law House, New Delhi.
- 14.Manjula Batra. Women and Law.(2001) Allahabad Law Agency.

**PAPER X  
INSURANCE LAW  
(OPTIONAL-A)**

**Objectives of the Course**

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.

**SEMESTER - III & VII**

**1. Introduction**

- 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 Regulation Authority - role and functions

**2. General Principles of law of Insurance**

- 2.2 Contract of Insurance - classification of contract of insurance nature of various insurance contracts, parties thereto
- 2.3 Principle of good faith non-disclosure - misrepresentation in insurance contract
- 2.4 Insurable interest
- 2.5 The risk
- 2.6 The policy, classification of policies its form and contents, its commencement duration, cancellation, alteration, rectification, renewal, assignment, construction
- 2.7 Conditions of the policy
- 2.8 Alteration of the risk
- 2.9 Assignment of the subject matter

### **3. Life Insurance**

- 3.1 Nature and scope of life insurance, definition, kinds of life insurance, the policy and formation of a life insurance contract
- 3.2 Event insured against life insurance contract
- 3.3 Circumstances affecting the risk
- 3.4 Amounts recoverable under life policy
- 3.5 Persons entitled to payment
- 3.6 Settlement of claim and payment of money

## SEMESTER - IV & VIII

### **1. Marine Insurance**

- 1.1 Nature and scope
- 1.2 Classification of marine policies
  - 1.2.1. The marine Insurance Act, 1963
  - 1.2.2. Insurable interest, insurable value
  - 1.2.3. Marine insurance policy – condition - express warranties construction of terms of policy
  - 1.2.4. Voyage – deviation
  - 1.2.5. Perils of the sea
  - 1.2.6. Partial loss of ship and of freight, salvage, general average, particular charges
  - 1.2.7. Measure of indemnity, total valuation, liability to third parties

### **2. Insurance Against Third party Risks**

- 2.1. The Motor Vehicles Act, 1988 (Chapter VIII)

- 2.1.1. Nature and scope, persons governed, definition 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
- 2.1.2. Effect of insolvency or death on claims, insolvency and death of parties, certificate of insurance
- 2.1.3. Condition to be satisfied
- 2.1.4. Claims tribunal, constitution, functions, application for compensation - who can apply? - Procedure and powers of claims tribunal- its award.
- 2.1.5. Co-operative insurance (Motor Vehicle Rules)

### **3. Social Insurance in India**

- 3.1. Important elements in social insurance, its need
- 3.2. Commercial Insurance and social insurance
- 3.3. Workmen's compensation - Scope, risks covered, industrial accidents, occupational diseases, cash benefits, incapacity, amount of compensation, nature of injuries, dependents, schedule
- 3.4. Sickness insurance, *Adarkar* scheme, *Stack and Rao* scheme for wage earners and others, risks covered, maturity and other benefits
- 3.5. Old age, premature death and invalidity insurance or pension insurance, public provident fund, *Jeevandhara* policy
- 3.6. Unemployment insurance
- 3.7. Social insurance for people like seamen, circus workers and agricultural workers

### **4. Public Liability Insurance**

- 4.1. The scheme
- 4.2. Authorities

### **5. The emerging legislative trends**

#### **Select Bibliography**

- 1. Singh, Brij Anand, *New Insurance Law* (2000) Union Book Publishers, Allahabad.
- 2. Ivamy, *Case Book on Insurance Law* (1984), Butterworth's
- 3. Ivamy, *General Principles of Insurance Laws* (1993), Butterworth's
- 4. John Birds, *Modern Insurance Law* (1988), Sweet and Maxwell
- 5. Sreenivasan. M.N. *Principles of Insurance Law* (1997), Ramaniya Publishers, Bangalore.

## **Objectives of the course**

In early times, in the absence of an effective media, the ownership of goods was announced by a visible mark. It was considered as proprietary or Possessive mark. A trademark is understood as a symbol or label to enable to sell their goods or services. The essential worth of a Trade Marks is ascribed to as vehicle for the creation and retention of custom by its use as it indicates the origin of goods and services. The Trade mark was formally designated as an Industrial Property. In view of the emergence of International Law on Trade Marks the Indian Government enacted a comprehensive Statute. The Trade Marks Act, 1999 dealing with Registration and imposing of penalties for any falsely applying Trade Marks.

In modern times at the time of purchase of goods or articles many people are attracted and influenced by a design, which has an artistic merit and sense. The Producers of an article are also hunt for attractive design, which is likely to increase the sales. The designs Act, 2000 in India Governs the Copy rights in Industrial Designs. The Study of both Acts helps exploring new perspectives in the realm of Intellectual Property Right in India.

## **SEMESTER- III & VII**

### **1. International Law of Trade Marks**

1.1 TRIPS Agreement of the WTO and Trade Marks

1.2 Paris Convention for the Protection of Industrial Property 1967

1.3 Madrid Agreement Concerning the International Registration of Marks 1979

### **2. National Law of Trade Marks**

2.1 History and origin of Trade Marks

2.2 Object, Evolution and meaning of Trade Marks

2.3 Functioning of Trade Marks

### **3. The Trade Marks Act, 1999**

#### **3.1 Statutory definition**

3.1.1 Trade Marks

3.1.2 Associated Trade Marks

3.1.3 Certification Trade Marks

3.1.4 Collective Marks

3.1.5 Well Known Trade Marks

#### **3.2 Registration of Trade Marks**

3.2.1 Condition for Registration

3.2.2 Procedure and Duration

3.2.3 Restoration of Registration

3.2.4 Powers and functions of Registrar

3.2.5 Effects of Registration

#### **3.3 Assignment and Transmission**

#### **3.4 Use of Trade Marks and Register uses**

**3.5 Rectification and correction of the Register****3.6 Special Provision for textile goods****3.7 Offences, Penalties and Procedure**

## SEMESTER- IV &amp; VIII

**1. Law of Passing off**

- 1.1. Classification of Formation of Passing off
- 1.2. Modern Classification of Passing off
- 1.3. Distinction between infringement and Passing off
- 1.4. Defences in Passing off actions
- 1.5. Relief available in Passing off actions

**2. Industrial Designs**

- 2.1. International Law of Industrial Designs
  - 2.1.1. TRIPS Agreement of the WTO
  - 2.1.2. Paris Convention for the Protection of Industrial Designs 1967
  - 2.1.3. Hague agreement of Industrial Deposit of Industrial Designs 1960
  - 2.1.4. Lacarno Agreement Establishing an International Classification for Industrial Designs 1968

**3. The Designs Act, 2000**

- 3.1. Definition of Designs
- 3.2. Registration of Designs
- 3.3. Infringement of Copy right in a Design
- 3.4. Industrial Designs and International Exhibition
- 3.5. Powers and Duties of Controller
- 3.6. Evidence and Agency
- 3.7. Powers of Central Government

**Bibliography**

- 1. Morris and Quest : *Design- the Modern Law and Practice* 1987 Butter worth
- 2. Russel-Clarke *on Copy Rights in Industrial Designs* 1974 Sweet and Maxwell
- 3. P. Narayana *Law of Copyrights and Industrial Designs* 2002 Eastern Law House
- 4. P. Narayanan *Law of Trade Marks and Passing off* 200, Eastern Law House
- 5. Kerly *on Trade Marks and Trade Names* 2001 Sweet and Maxwell
- 6. Christopher Wadlow : *The law of passing off* 1995 Sweet and Maxwell
- 7. Drysdale and Silverleaf: *Passing off* 1995 Butter worth