

SVKM's
JITENDRA CHAUHAN COLLEGE OF LAW

SYLLABUS

First Year (Three Years) (Sem. I) LL.B. Degree Course

LABOUR LAWS

Industrial Disputes Act 1947	40 marks
Collective Bargaining	10 marks
Industrial Employment (Standing Orders) Act 1946	15 marks
Employees Compensation Act, 1932	15 marks
MRTU & PULP Act 1971	20 marks

CONTRACT – I

(GENERAL PRINCIPLES OF CONTRACT AND SPECIFIC RELIEF ACT 1963)

General Principles of Contract, Indian Contract Act 1872 (Sections 1 – 75)

Government as a Contracting Party

Constitutional provisions – government power to contract – procedural requirements – kinds of government contracts – their usual clauses – performance of such contracts – settlements of disputes and remedies.

Standard Form Contracts

Nature, advantages – unilateral character, principles of protection against the possibility of exploitation – judicial approach to such contracts – exemption clauses – clash between two standard form contracts.

Multi-national Agreement

Specific Relief Act

TORTS AND CONSUMER PROTECTION LAWS

(Tort 70marks Consumer Protection Law 30marks)

Introduction to Law of Torts

Definition, Nature, Scope and Objects

- a wrongful act – violation of duty imposed by law, duty which is owed to people generally (in rem) – damnum sine injuria and injuria sine damnum.
- Tort distinguished from crime and breach of contract
- The concept of unliquidated damages
- Changing scope of law of torts: expanding character of duties owed to the people generally due to complexities of modern society
- Objects – prescribing standards of human conduct, redressal of wrongs by payment of compensation, proscribing unlawful conduct by injunction.

Principles of Liability in Torts

- Fault:
- Wrongful intent
- Negligence
- Liability without fault
- Statutory liability:
- Place of motive in torts

Justification in Tort

- Volenti non fit injuria
- Necessity, private and public
- Plaintiff's default
- Act of God
- Inevitable accident
- Private defence
- Statutory authority

- Judicial and quasi-judicial acts
- Parental and quasi-parental authority

Extinguishments of liability in certain situations

- Actio personalis moritur cum persona – exceptions
- Waiver and acquiescence
- Release
- Accord and satisfaction
- Limitation

Doctrine of sovereign immunity and its relevance in India.

Vicarious Liability

- Basis, scope and justification
- Express authorization
- Ratification
- Abetment
- Special Relationships:
- Master and servant – arising out of and in the course of employment – who is master? – the control test – who is servant? – borrowed servant – independent contractor and servant, distinguished
- Principal and agent
- Corporation and principal officer

Torts against persons and personal relations

- Assault, battery, mayhem
- False imprisonment
- Defamation – libel, slander including law relating to privileges
- Marital relations, domestic relations, parental relations, master and servant relations
- Malicious prosecution
- Shortened expectation of life
- Nervous shock

Wrongs affecting property

- Trespass to land, trespass ab initio, dispossession
- Movable property – trespass to goods, detinue, conversion
- Torts against business interests – injurious falsehood, misstatements, passing off

Negligence

- Basic concepts
- Theories of negligence
- Standards of care, duty to take care, carelessness, inadvertence
- Doctrine of contributory negligence
- Res ipsa loquitur and its importance in contemporary law
- Liability due to negligence: different professional
- Liability of common carrier for negligence
- Product liability due to negligence: liability of manufacturers and business houses for their products

Nuisance

- Definition, essentials and types
- Acts which constitute nuisance – obstructions of highways, pollution of air, water, noise, and interference with light and air.

Absolute / Strict liability

- The rule in Rylands v. Fletcher
- Liability for harm caused by inherently dangerous industries

Legal remedies

- Legal remedies:

- Award of damages – simple, special, punitive
- Remoteness of damage – foresee ability and directness
- Injunction
- Specific restitution of property
- Extra-legal remedies – self-help, re-entry on land, re-capture of goods, distress damage feasant and abatement of nuisance.

Consumer movements: historical perspectives

- Common law protection: contract and torts
- Consumerism in India: food adulteration, drugs and cosmetics – essential commodities

Consumer, the concept

- General Perspectives
- Statutory and government services: to be included or not?
- Definition and scope: the Consumer Protection Act 1986 (CPA)
- Who is not a consumer?

Unfair Trade Practices

- Misleading and false advertising
- Unsafe and hazardous products
- Disparaging competitors
- Business ethics and business self-regulation
- Falsification of trade marks

Consumer of goods

- Meaning of defects in goods
- Standards of purity, quality, quantity and potency
- Statutes: food and drugs, engineering and electrical goods

Supply of essential commodities

- Prescribing standards of quality – BIS and Agmark

Consumer Safety

- Starting, distribution and handling of unsafe and hazardous products
- Insecticides and pesticides and other poisonous substances

Service

- Deficiency – meaning
- Professional services
- Medical services
- How to determine negligence
- Violation of statute
- Denial of medical service: violation of human rights
- Lawyering services: duty-towards-court and duty-to-client dilemma, break of confidentiality – negligence and misconduct.
- Public Utilities
- Supply of electricity
- Telecommunication and postal services
- Housing
- Banking

Commercial services

- Hiring
- Financing
- Agency Services

Enforcement of consumer rights

- Consumer for a under CPA ; jurisdiction, powers and functions
- Execution of orders
- Judicial review
- PIL
- Class action
- Remedies
- Administrative remedies

**LEGAL LANGUAGE INCLUDING LEGAL WRITING &
GENERAL ENGLISH**

- | | |
|--|----------|
| 1) Grammar Usage | 15 marks |
| Brief Revision of rules of grammar & punctuation. | |
| 2) Comprehension, and Composition and Communication Skills | 20 marks |
| 3) LEGAL MAXIMS | 15 marks |

SALUS POPULI EST SUPREMA LEX

Regard for the public welfare is the highest law.

REX NON POTEST PECCARE

The king can do no wrong

AUDI ALTERAM PARTEM

No man shall be condemned unheard

NEMO DEBET ESSE JUDEX IN PROPRIA SUA CAUSA

No man can be judge in his own cause

DE MINIMIS NON CURAT LEX

The law does not concern itself about trifles

**QUOD AB INITIO NON VALET IN TRACTU TEMPORIS NON
CONVALESCIT**

That which was originally void does not by lapse of time become valid.

UBI JUS IBI REMEDIUM

There is not wrong without a remedy

IN JURE NON REMOTA CAUSA SED PROXIMA SPECTATUR

In law the immediate, not the remote, cause of any event is regarded

ACTUS DEI NEMINI FACIT INIURIAM

The law holds no man responsible for the act of God.

IGNORANTIA FACTI EXCUSAT–IGNORANTIA JURIS NON EXCUSAT

Ignorance of fact excuse – ignorance of law does not excuse

VOLENTI NON FIT INIURIA

Damage suffered by consent is not a cause of action

NULLUS COMMODUM CAPERE POTEST DE INIURIA SUA PROPRIA

No man can take advantage of his own wrong

RES IPSA LOQUITUR

The thing speaks for itself

ACTUS NON FACIT REUM NISI MENS SIT REA

The intent and the act must both concur to constitute the crime

NEMO DEBET BIS VEXARI PRO UNA ET EADEM CAUSA

It is a rule of law that a man shall not be twice vexed for one and the same cause

CESSANTE RATIONE LEGIS CESSAT IPSA LEX

The reason of the law ceasing, the law itself ceases

ACTA EXTERIORA INDICANT INTERIORA SECRETA

Acts indicate the intention

DOMUS SUA CUIQUE EST TUTISSIMUM REFUGIUM

Every man's house in his castle

NEMO EST HAERES VIVENTIS

No one can be heir during the life of his ancestor

LEGES POSTERIORES PRIORIBUS CONTRARIAS ABROGANT

Later laws repeal earlier laws inconsistent therewith

NOVA CONSTITUTIO FUTURIS FORMAM IMPONERE DEBET, NON PRAETERITIS

A new law ought to be prospective not retrospective, in its operation

NOSCITUR A SOCIIS

The meaning of doubtful word may be ascertained by reference to the meaning of words associated with it

EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS

The express mention of one thing implies the exclusion of another

NEMO DAT QUOD NON HABET

No one gives what he does not possess

CAVEAT EMPTOR

Let purchaser beware

RESPONDEAT SUPERIOR

Let the principal be held responsible

VIGILANTIBUS, NON DORMIENTIBUS, IUS SUBVENIUNT

The law assist those who are vigilant, not those who sleep over their rights

ACTIO PERSONALIS MORITUR CUM PERSONA

A personal right of action dies with the person

NEMO TENETUR SEIPSUM ACCUSARE

No man can be compelled to criminate himself

Law – Custom – Justice – Right – Duty –Wrong - Civil Wrong - Criminal Wrong Remedy - Fact-Person – Offence – Person – State – Plaintiff – Complaint – Suit -Affidavit Judgment – Appeal – Review –Revision – Reference – Writ - Stay order - Injunction Adjournment Cause of Action – Issue – Charge - Bail Ex Parte – Discharge – Acquittal – Conviction - Legal heirs - Legal Representative - Power of Attorney - International Law – Arbitration – Jurisdiction - Amicus Curiae.

5) Legislative Materials 10 marks

Brief introduction to the various parts of an Act – Intent (aims & objects) short title – Long title – Date of Assent – Section Subsection – marginal note – date of commencement – schedule or Table.

Exposure to Current Indian Statutes – AIR Manual Civil Court Manual – Criminal Court Manual – Maharashtra Local Acts – Gazette of India – Maharashtra State Gazette.

The above may be taught with reference to the following Acts.

1. Maternity Benefit Act 1961
2. Medical Termination of Preg. Act 1971
3. Protection of Human Rights Act

6) Judicial Material 10 marks
Introduction to precedent – Ratio

The following cases for study (Facts – Issues – Arguments – decision)

1. M.C. Mehta V/s. Union of Indian AIR 1987 SC 965
2. Vishaka & ors. V/s. State of Rajasthan & Ors. AIR 1997 SC 3011
3. Dilip K. Basu V/s. State of West Bengal 1997 AIR SOW 233

7) Official Reports – Specified Law Reports 10 marks

Exposure to official Reports and Private Reports – Supreme Court Reports – Indian Law Reports – All India Reporter – All India High Court cases –Judgement Today Bombay Law Reporter – Bombay cases Reporter – Maharashtra Law Journal, Supreme Court cases – Criminal Law Journal – Labour & Industrial cases – Company cases – Madras Law Journal – All Maharashtra Law Reporter Marriage & Divorce cases – Consumer. All England Law Reporter.

8) Journals, Periodicals & Law Magazines & Abbreviation 5 marks

Exposure to Lawyers collective insight – One India One People – Journal of the Indian Law Institute – India Bar Review – The Indian Advocate, Journal of the Bar Council of India – India Quarterly – Modern Law Review – Law Quarterly Review.

9) Citations & References 5 marks

Importance of citations

Understanding a given citation

Citations in respect of official Reports & specified Law reports – (listed earlier)

Standard References in respect of the various Laws & Acts taught at LL.B. and Legal Dictionaries.

10) Search of case Law 5 marks

First Year (Three Years) (Sem. II) LL.B. degree course
LAW OF CRIMES

A. CRIMINAL JURISPRUDENCE

1. Administration of Justice
 - What is administration of justice
 - Necessity for administration of justice
 - Historical background to administration of justice
 - Difference between civil and criminal justice

2. Elements of Criminal Liability
 - Nature of Criminal Liability
 - Mens rea and its importance
 - Intention
 - Knowledge
 - Negligence
 - Doctrine of Mens Rea under the I.P.C.
 - Exceptions of Mens Rea
 - Vicarious liability in crimes
 - Actus reus
 - Act and omission
 - Injury to another

3. Stages of Crime
 - Intention
 - Preparation
 - Attempt
 - Commission of Crime

4. Theories of Punishment
 - Deterrent
 - Preventive
 - Retributive
 - Reformatory
 - Compensation

5. Kinds of Punishment
 - Death Sentence
 - Social Reference of Capital Punishment
 - Alternative to Capital Punishment
 - Imprisonment
 - Simple
 - Rigorous
 - For Life
 - Solitary Confinement
 - Forfeiture of Property
 - Fine
 - Sentencing Discretion

B. INDIAN PENAL CODE 1860

CONSTITUTIONAL LAW

1. Historical and Constitutional developments between 1858-1947 Framing of Indian Constitution.
Nature and Features
A broad over-view of the constitution of India, 1950.
Historical genesis of Indian Constitution should be part of the syllabus particularly the transfer of power in 1857, introduction of bicameralism, federalism by 1935 Act, freedom struggle, Indian Independence Act, 1947 and the drafting of our constitution.
2. Fundamental Rights and judicial activism
Equality and Social Justice (Arts.14-18 & Part IV & Part XVI)
Secularism and religious freedoms
Life, Liberty other rights and freedoms
3. Directive Principles and Fundamental Duties (Parts IV, IV A)
4. Indian Federalism – idea of federalism – Indian federal features – strong centre – co-operative spirit– centre relations - Special status to J & K (Parts XI, XII, XIII, XIV, XXI)
5. Indian Parliament – Nature, Composition, powers and privileges and state legislatures.
6. Cabinet form of govt.
Parliamentary form at the Centre and states – head of State – Council of Ministers – Attorney General and Advocate generals
7. Indian Judiciary: Supreme Court and High Courts, composition, powers and Judicial Independence – subordinate courts
8. Law making under Indian Constitution
Kinds of bills, passing of bills, Ordinances Citizenship Act 1955, Representation of peoples Act 1951, comptroller and Auditor Generals Act, 1971. Legislation made in pursuance of the constitution like the (1) Bonded Labour Abolition Act (2) Civil Rights Protection, Act, 1955, (3) Scheduled castes and Scheduled Tribes (Prevention of atrocities)
Act 1989 should be duly referred to.
Considering the vastness and the never-ending growth of constitutional law it is felt that topic wise discussion will be more suited. Topics in the syllabus and discussion in the classroom should be inspiring enough to compel students to study the entire constitution on their own.
9. Emergency (Part XVIII)
Kinds, Legal requirements, Legal effects
10. Amendment and the basic structure doctrine (Part XX)
11. Services under Indian Constitution (Part IV)
Services under Union / State – All Indian Services, Doctrine of pleasure and exceptions
12. Democracy and Election Commission of India (Part XV)
13. Introduce the following
 1. Civil Rights Protection Act, 1955

2. Citizenship : Part II
3. Parts IX,IX A,X Panchayats, Municipalities and Scheduled & Tribal Areas
4. Part XIV A Tribunals (Covered in administrative Law, Semester III)
5. Part XVII official language
6. Part XIX Miscellaneous

FAMILY LAW – I

- | | | |
|----|--|----------|
| A) | Mohammedan Law | 35 marks |
| | 1) Sources | |
| | 2) Schools | |
| | 3) Shariat Act, 1937 | |
| | 4) Marriage | |
| | 5) Dower | |
| | 6) Divorce | |
| | 7) Maintenance | |
| | 8) Legitimacy & Parentage | |
| | 9) Guardianship | |
| B) | Indian Divorces Act & Christian Marriage Act | 15 marks |
| C) | Indian Succession Act (Sec. 1-166 only) | 35 marks |
| D) | Parsi Marriage and Divorce Act | 15 marks |

ENVIRONMENTAL LAWS

- 1) Concept of environment and pollution or introduction to problem of Environmental protection.
 - (i) Environment
 - (ii) Meaning and contents
 - (iii) Pollution
 - (iv) Meaning
 - (v) Kinds of Pollution
 - (vi) Causes of pollution
 - (vii) Effects of pollution
- 2) Constitutional provisions regarding environmental protection including
 - (i) Directive principles
 - (ii) Fundamental rights and duties
 - (iii) Right to clean and healthy environment
 - (iv) Right to education
 - (v) Right to information
 - (vi)
- 3) Environmental protection under the general Laws:
Nuisance, Penal Code, Procedural Code
- 4) General introduction the enforcing agencies and remedies :
 - (i) Courts
 - (ii) Tribunals
 - (iii)
- 5) Polluter Pays principle :-
Public liability insurance
- 6) Precautionary Principle
- 7) Sustainable development

- 8) Water Pollution Act 1974 and Air Pollution Acts 1981
 - (i) Meaning and Air Standards
 - (ii) Culprits and victims
 - (iii) Procedures for sampling
 - (iv) Formation of Boards and their functions or Protection agencies: their powers and functions
 - (v) Offences and penalties
 - (vi) Judicial approach
- 9) Noise Pollution
- 10) Environmental Protection Act 1986
- 11) Bio Medical waste
- 12) Hazardous waste
- 13) Environment impact assessment
- 14) Coastal zone management
- 15) Environmental audit and eco mark
- 16) Disaster emergency preparedness
- 17) Town and country planning
- 18) Forest
 - (i) Greenery conservation laws
 - (ii) Forest conservation
 - (iii) Conservation agencies
- 19) Wild life Protection Act 1972
 - (i) Sanctuaries and national parks
 - (ii) Licensing of zoos and parks
 - (iii) State monopoly in the sale of wild life and wild life
 - (iv) Offences against wild life
- 20) International Regime
 - (i) Stockholm conference
 - (ii) Green house effect and ozone depletion
 - (iii) Rio conference
 - (iv) U.N. declaration on right to development

Practical Training – I

- (i) Professional Ethics**
- (ii) Advocacy for Lawyers**
- (iii) Bar Bench relations.**
- (iv) The Contempt Law and Practice**
- (v) Selected opinions of the Disciplinary Committee of Bar Councils and Major Judgement of the Supreme Court on the subject.**

Second Year (3 Year) (Sem. III) LL.B. degree course

ADMINISTRATIVE LAW

1. Evolutions, Nature and Scope of Administrative Law

- 1.1. Form a Laissez - faire to a social welfare state
 - 1.1.1. State as regulator of private interest
 - 1.1.2. State as provider of services
 - 1.1.3. Other functions of modern state: relief, welfare
- 1.2. Evolution of administration as the fourth branch of government necessity for delegation of powers on administration.
- 1.3. Evolution of agencies and procedures for settlement of disputers between individual and administration.
 - 1.3.1. Regulatory agencies on the United States
 - 1.3.2. Conseil d'Etat
 - 1.3.3. Tribunalization in England and India
- 1.4. Definition and scope of administrative law
- 1.5. Relationship between constitutional law and administrative law
- 1.6. Separation of powers
- 1.7. Rule of law

2. Civil Service in India

- 2.1. Nature and organization of civil service: from colonial relics to democratic aspiration
- 2.2. Powers and functions
- 2.3. Accountability and responsiveness: problems and perspectives
- 2.4. Administrative deviance – corruption, nepotism, mal-administration.

3. Legislative Powers of Administration

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

4. Judicial Powers of Administration

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

- 4.10 Institutional decisions
- 4.11 Administrative appeals

5. Judicial Control of Administrative Action

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

6. Administrative discretion

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

7. Liability for Wrongs (Tortious and Contractual)

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

8. Corporations and Public Undertakings

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

9. Informal Methods of Settlement of Disputes and Grievance Redressal Procedures

- 9.1.1 Conciliation and mediation through social action groups
- 9.1.2 Use of media, lobbying and public participation
- 9.1.3 Public inquiries and commissions of inquiry
- 9.1.4 Ombudsman : Lok Pal, Lok Ayukta
- 9.1.5 Vigilance Commission
- 9.1.6 Congressional and Parliamentary Committees

FAMILY LAW - II

1. Marriage and Kinship

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

2. Customary practices and State regulation

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

3. Conversion and its effect on family

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

4. Joint Family

- 4.1. Mitakshara joint family
- 4.2. Mitakshara coparcenary-formation and incidents
- 4.3. Property under Mitakshara law-separate property and coparcenary property.
- 4.4. Dayabhaga coparcenary-formation and incidents
- 4.5. Property under Dayabhaga law.
- 4.6. Karta of the joint family-his position, powers, privileges and obligations.
- 4.7. Alienation of property-separate and coparcenary
- 4.8. Debta-doctrines of pious obligations and antecedent debt.
- 4.9. Partition and re-union.
- 4.10. Joint Hindu family as a social security institution and impact of Hindu Gains of Learning Act and various tax laws on it.
- 4.11. Matrilineal joint family.

5. Inheritance

- 5.1. Hindus
 - 5.1.1. Historical perspective of traditional Hindu law as a background to the study of Hindu succession Act 1956.
 - 5.1.2. Succession to property of a Hindu male dying intestate under the provisions of Hindu Succession Act 1956.
 - 5.1.3. Devolution of interest in Mitakshara coparcenary with reference to the provisions of Hindu Succession Act 1956.

- 5.1.4 Succession to property of Hindu female dying intestate under the Hindu Succession Act 1956.
- 5.1.5 Disqualification relating to succession
- 5.1.6 General rules of succession
- 5.1.7 Marumakkattayam and Aliyasantana laws governing people living in Thiruvananthapuram, Cochin and other districts of Malabar and South Kanara.
- 5.2. General rules of succession and exclusion from succession.
- 5.2.1 Classification of heirs under Hanafi and Ithna Ashria schools and their shares and distribution of property.”
- 5.3. Christians, Parsis and Jews

6. Matrimonial Remedies

- 6.1. Non-judicial resolution of marital conflicts.
 - a. Customary dissolution of marriage-unilateral divorce, divorce by mutual consent and other modes of dissolution,
- 6.2 Judicial resolution of marital conflicts: the family court
- 6.3 Nullity of marriage
- 6.4 Option of puberty – Condition of Valid Marriage – Section 5 of Hindu Marriage Act wherein conditions of valid marriage are given.
- 6.5 Restitution of conjugal rights
- 6.6 Judicial separation
- 6.7 Desertion a ground for matrimonial relief
- 6.8 Cruelty: a ground for matrimonial relief
- 6.9 Adultery: a ground for matrimonial relief
- 6.10 Other grounds for matrimonial relief
- 6.11 Bar to matrimonial relief:
 - 6.11.1. Doctrine of strict proof
 - 6.11.2. Taking advantage of one’s own wrong or disability
 - 6.11.3. Accessory
 - 6.11.4. Connivance
 - 6.11.5. Collusion
 - 6.11.6. Condonation
 - 6.11.7. Improper or unnecessary delay
 - 6.11.8. Residuary clause-no other legal ground exists for refusing the matrimonial relief.

7. Alimony and maintenance

- 7.1.1 Alimony and maintenance as an independent remedy: a review under different personal laws – need for reforming the law.
- 7.1.2 Alimony and maintenance as an ancillary relief.

8. Child and the Family

- 8.1 Legitimacy
- 8.2 Adoption
- 8.3 Custody, maintenance and education
- 8.4 Guardianship and parental rights – welfare of the child principle.

9 Family and its changing pattern – (looked from Socio-Economic view Point)

- 9.1. New emerging trends:
 - 9.1.1 Attenuation of family ties
 - 9.1.2 Working women and their impact on spousal relationship: composition of family, status and role of women.
 - 9.1.3 New property concepts, such as skill and job as new forms of property.
- 9.2. Factors affecting the family: demographic, environmental, religious and legislative.
- 9.3. Processes of social change in India: sanskritization, westernization, secularization, universalization, parochialization, modernization, industrialization and urbanization.

10. Settlement of spousal property

10.1 Need for development of law

11. Establishment of family Courts

11.1 Constitution, power and functions

11.2 Administration of gender justice

12 Uniform Civil Code

12.1 Religious pluralism and its implications.

12.2 Connotations of the directive contained in Article 44 of the Constitution.

12.3 Impediments to the formulation of the Uniform Civil Code

12.4 The idea of Optional Uniform Civil Code.

TRANSFER OF PROPERTY ACT AND EASEMENT ACT

- | | |
|--|--------------|
| 1. Jurisprudential Controls of Property and
Law relating to Transfer of Property Act 1882 | ... 85 Marks |
| 2. Easement Act 1882 | ... 15 Marks |

Syllabus

1. Jurisprudential Controls of Property

1.1. Concept and meaning of property.

1.2. Kinds of property – movable and immovable property – tangible and intangible property – intellectual property – copyright-patents and designs- trademarks– geographical indications.

2. Law Relating to Transfer of Property Act.

- 2.1 General principles of transfer of property
- 2.2. Specific transfers
 - 2.2.1 Sales
 - 2.2.2. Mortgages
- 2.3. Charges
- 2.4. Leases
- 2.5. Exchange
- 2.6. Gifts
- 2.7. Actionable claims

3. Easement Act.

- 4.1. Nature, characteristics and extinction
- 4.2. Creation of easements
- 4.3. Riparian rights
- 4.4. Licenses

COMPANY LAW

1. Meaning of Corporation

1.1 Theories of corporate personal

1.2 Creation and extinction of corporations.

2. Forms of Corporate and Non-Corporate Organisation

2.1.1 Corporations, partnerships and other associations of persons, state corporations, Small scale, co-operative, corporate and joint sectors.

- 2.1.2 Kinds of Companies - Public Companies – Private Companies-nature and advantages – Government Companies Holding and Subsidiary Companies.

3. Law relating to companies- public and private-companies (Company Act 2013)

- 3.1 Need of company for development – formation of company-registration and incorporation.
- 3.2 Memorandum of association – various clauses-alteration therein-doctrine of ultra virus.
- 3.3 Articles of association – binding force – alteration – its relation with memorandum of association – doctrine of constructive notice and indoor management – exceptions.
- 3.3.1. Prospectus – issue – contents – liability for misstatements – statement in lieu of prospectus – self prospectus.
- 3.4 Promoters – position – duties and liabilities
- 3.4.1. Shares – general principles of allotment-statutory restrictions – share certificate – its objects and effects- transfer of shares – restrictions on transfer-procedure for transfer – refusal of transfer – role of public finance institutions – relationship between transferor and transferee – issue of shares at premium and discount – depository receipts – dematerialized shares (DEMAT) – Buy-back shares.
- 3.4.2. Shareholder – who can be and who cannot be a shareholder – modes of becoming a shareholder – calls on shares – forfeiture and surrender of shares – lien on shares.
- 3.4.3. Share capital – kinds – alteration and reduction of share capital – further issue of capital – conversion of loans and debentures into capital- duties of courts to protect the interests of creditors and share holders
- 3.5. Directors – position – appointment – qualifications- vacation of office – removal – resignation – powers and duties of directors- loans – remuneration of directors- role of nominee directors – managing directors – other managerial personnel – compensation for loss of office.
- 3.5.1. Meetings – kinds – procedure – voting
- 3.5.2. Dividends - Meaning – payment – capitalization – profit
- 3.6 Audit and accounts
- 3.7 Borrowing powers – effect of unauthorised borrowing – charges and mortgages -loans to other companies- investments- contracts by companies
- 3.8 Debentures – meaning – fixed and floating charge-kinds of debentures-share-holder and debenture holder- remedies of debenture holders
- 3.9 Majority powers – Protection of minority rights
- 3.10 Prevention of oppression and mismanagement - who can apply ? – Powers of the company, the court and the central government
- 3.11 Investigation – powers
- 3.12 Reconstruction and amalgamation
- 3.13 Winding up – types – by court – reasons – grounds – who can apply – procedure- powers of liquidator-powers of court - liability of past

members-payment of liabilities – preferential payment, unclaimed dividends – winding up of unregistered company, Defunct Company. – consequences of winding up order – voluntary winding up by members and creditors – winding up subject to supervision of courts.

4. Law and Multinational Companies

4.1 International norms for control.

4.2 National law FEMA (Foreign Exchange Management Act, 1999) controls joint – ventures – investment of India – repatriation of project.

4.3 Collaboration agreements for technology transfer.

5. Corporate Liability

Latest Editions of Books

5.1 Legal liability of companies – civil and criminal

5.2 Remedies against companies – civil, criminal and tortuous – Specific Relief Act, writs liability under special statutes.

All Latest Amendments at the commencement of academic year must be taught.

Second Year (3 Year) (Sem. IV) LL.B. degree course
JURISPRUDENCE

1. Introduction

- 1.1 Meaning of the term jurisprudence
- 1.2 Norma and the normative system
 - 1.2.1. Different types of nominee system such as of games, languages, religious orders, unions, clubs and customary practice.
 - 1.2.2 Legal system as a normative order similarities and differences of the legal system with order normative system.
- 1.3. Nature and definition of law

2. Schools of Jurisprudence

- 2.1 Analytical positivism
- 2.2 Natural law
- 2.3 Historical school
- 2.4 Sociological school
- 2.5 Economic interpretation of law
- 2.6 The Modern PIL, social justice, compensatory jurisprudence
- 2.7 The Bharat jurisprudence
- 2.8 The Ancient : the concept of 'Dharma'

3. Purpose of Law

- 3.1 Justice
 - 3.1.1 Meaning and kinds
 - 3.1.2 Justice and law approaches of different schools
 - 3.1.3 Power of the Supreme Court of India to do complete justice in a case. Article 147.
 - 3.1.4 Critical studies
 - 3.1.5 Feminist jurisprudence

4. Sources of Law

- 4.1. Legislation
- 4.2 Precedents: concept of state decosos
- 4.3 Customs
- 4.4 juristic writings

5. Legal Rights: the concept

- 5.1 Rights kinds
- 5.2 Right duty correlation

6. Persons

- 6.1 Nature of personality
- 6.2 Status of the unborn, minor, lunatic drunk and deal persons
- 6.3 Corporate personality
- 6.4 Dimensions of the modern legal personality Legal personality of non-human beings.

7. Possession: the concept

- 7.1 kinds of possession

8. Ownership: the concept

- 8.1 kinds of ownership

8.2 Difference between possession and ownership

9. Title

10. Property : the concept

CONTRACT - II

Indian Contract Act (section 124 to section 238) (40 Marks)

Indian Partnership Act 1932 (30 Marks)

Sale of Goods Act 1930 (30 Marks)

LAND LAWS

(Central Legislation on Land Laws will be allocated 20 Marks, whereas State Legislation allocated 80 marks.).

(i) **Central Legislation**, inter alia to include:

(ii) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(iii) Indian Registration Act, 1908

(iv) Environment Protection Act, 1986.

1. **State Legislation**, inter alia to include:

(i) Maharashtra Land Revenue Code 1966.

(ii) Bombay Tenancy & Agricultural Lands Act, 1948

(iii) Maharashtra Regional Down Planning Act, 1969.s

(iv) Maharashtra Housing Area Development Authority Act, 1976.

(v) Development Control Regulations, 1991 for Mumbai.

(vi) Maharashtra Agricultural Land Ceiling Act, 1961.

(vii) Bombay Stamp Act.

2. **ULC Act**

(i) Definitions

(ii) Ceiling Limit – S/4,

(iii) Power to Exempt & Schemes – S/20 to 22

Land Acquisition Act

(i) Definitions

(ii) Acquisition – S/4 to 17.

(iii) Reference to Court – S/18 to 28 A.

Indian Registration Act.

(i) Compulsory Regn. Of Documents - S/17

(ii) Optional Regn. Of Documents - S/18

(iii) Time for Regn. Of Documents - S/23

(iv) Delay in Regn. Of Documents - S/25

(v) Time from which Regd. Document operates - S/47

(vi) Effect of Non-Regn. Of documents required to be registered - S/49.

Environment Protection Act, 1986

- (i) S/3 – and concept of CRZ – Coastal Regulation Zone.

Maharashtra Land Revenue Code, 1966.

- (i) Use of Land – S/41 to 54A,
- (ii) Record of Rights S/147 to 167.
- (iii) Appeals, Revision & Review – S/246 – 259,
- (iv) Special Provisions for Land Revenue in the City of Bombay – S/260 to 307.

Bombay Tenancy & Agricultural Lands Act, 1948

- (i) Definitions
- (ii) Restriction on Transfer of Agricultural Lands – S/63 to 66.

Maharashtra Regional & Town Planning Act, 1909.

- (i) Definitions
- (ii) Control of Development - S/43 to 51
- (iii) Unauthorised Development - S/52 to 58
- (iv) Land Acquisition - S/125 to 129

Maharashtra Housing & Area Development Act, 1976.

- (ii) Definitions
- (iii) Repairs & Reconstruction of Dilapidated buildings – S/74 to 103.
- (iv) Acquisition of Cessed Properties – Chapter VIII A

Development Control Regulations, 1991 (Mumbai)

- (ii) Concept F.S.I. (Floor Space Index)
- (iii) Concept of T.D.R. (Transfer of Development Rights)

Optional Papers

Criminology and Correctional Administration

1. Dimensions of Crime in India

- 1.1 Nature and orient of crime in India
 - 1.1.1 General approaches to come control
- 1.3. Crimes of the powerful
 - 1.3.1. Organised of the smuggling traffic in narcotics
 - 1.3.2. White collar crime : corruption in public life
 - 1.3.3. Socio-Economic crime adulteration of foods and drugs: fraudulent trade practice
 - 1.3.4. Crimes in the profession – medical, legal, engineering.
 - 1.3.5. Commonality by agencies of the state
- 1.4. Perpetrators o ordinary crime
 - 1.4.1. The situations criminal
 - 1.4.2. The chronic Tender
 - 1.4.3. Criminality or women
 - 1.4.4. Young offenders
 - 1.4.5. Criminal gangs
 - 1.4.6. Cyber Crimes

2. Causes of Criminal Behaviour

- 2.1 Nature of the problem : some unscientific theories
- 2.2 The constitutional School of Criminology-Lombroso and others (heredity and mental retardation as causes of crime)
- 2.3 Sociological theories Anomies
- 2.4 Modern sociological theories – Sutherland’s differential association theory. Reckless social vulnerable theory
- 2.5 Economic theories and their relevance
- 2.6 Environment home and community influences, urban and rural crimes.
- 2.7 The ghetto, broken homes, the effect of motion picture T.V. and video, press narcotics and alcohol.
- 2.8 Caste and community tensions caste wars and communal riots – their causes demoralising effects, atrocities against scheduled cadres.
- 2.9 Emotional disturbance and other psychological factors
- 2.9.1 Multiple causation approach to crime

3. Police and the Criminal Justice

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

4. Punishment of Offenders

- 4.1. Some discarded modes of punishment
- 4.1.1. Corporal punishment : whipping and flogging : mutilation and branding
- 4.1.2 Transportation
- 4.1.3 Public execution
- 4.2 Punishments under the Indian criminal law
- 4.2.1. Capital Punishment
- 4.2.2. Imprisonment
- 4.2.3. Fine
- 4.2.4 Cancellation or withdrawal of licences
- 4.3 The prison system
- 4.3.1 Administrative organization of prisons
- 4.3.2 Mode of recruitment and training
- 4.3.3 The Jail Manual
- 4.3.4. Powers of prison officials
- 4.3.5 Prisoners classification – male, female : juvenile and adult : under trial and convicted prisoners
- 4.3.6 Constitutional imperatives and prison reforms
- 4.3.7 Prison management: prisoner’s right and security compulsions.
- 4.3.8 Open prisons
- 4.3.9 Prison labour
- 4.3.10 Violation of prison code and its consequences.

4.4. Appraisal of imprisonment as a mode of punishment

5. Victimology

5.1 Demographic characteristics of the victims

5.2 Compensation to the victims

5.3 Rehabilitation

6. Treatment or Correction of Offenders

6.1 The need for reformation and rehabilitation of offenders undergoing punishment/imprisonment.

6.2 Classification of offenders through modern diagnostic Techniques

6.3 The role of psychoanalysts and social workers in the prison

6.4 Vocational and religious education and apprenticeship programmes for the offenders.

6.5 Group counselling and re-socialisation programmes

6.6 Prisoners' organizations for self-government.

6.7 Participation of inmates in community services

6.8 An appraisal of reformative techniques

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

7. Re-socialisation processes

7.1 Parole

7.1.1 Nature of parole

7.1.2. Authority for granting parole

7.1.3. Supervision of parolees

7.1.4. Parole and conditional release

7.2 Release of the offender

7.2.1 Problems of the released offender

7.2.2 Attitudes of the community towards released offender

7.2.3. Prisoner and societies and other voluntary organizations

7.2.4 Governmental action

7.2.5 An appraisal

2. TAXATION LAW

1. Principles of Taxation, Direct taxes & Indirect Taxes and constitutional powers to levy tax
Articles 265-289 and Articles 246A (10 Marks)
2. Income Tax Act, 1961 (40 Marks)
3. Goods & Services Tax Council (Article 279A)
 - Central GST Act, 2017 chapters 1 - 6 & schedules (20 Marks)
 - Integrated GST Act, 2017 chapters 1 - 6 & schedules
4. Maharashtra GST Act, 2017 chapters 1 – 6 & schedules
5. Maharashtra Value Added Tax Act, 2002 (30 Marks)
6. Maharashtra State Tax on Professions, Trade, Calling & Employment Act, 1975

3. BANKRUPTCY LAWS

1. Introductory

- 1.1. The concept: inability to pay debt
- 1.2. Comparative perspectives
 - 1.2.1. England: Insolvency Act, Bankruptcy Act
 - 1.2.2. United States of America
- 1.1. India: concurrent jurisdiction the central and state legislation.

2. Insolvency jurisdiction

- 2.1. Courts
- 2.2. Powers of court

3. Acts of Insolvency

- 3.1. Transfer of property to a third person for benefit of creditors generally
- 3.2. Transfer with intent to defeat creditors
- 3.3. Fraudulent preferences in transfer of property
- 3.4. Absconding with intent to defeat the creditors
- 3.5. Sale of property in execution of decree of court
- 3.6. Adjudication of insolvent
- 3.7. Notice to creditors about suspension of payment of debt.
- 3.8. Imprisonment in execution of a decree of a court
- 3.9. Notice by creditor.

4. Insolvency petition

- 4.1. By creditor
- 4.2. By debtor
- 4.3. Contents of the petition
- 4.4. Admission
- 4.5. Procedure

5. Appointment of interim receiver

6. Interim proceedings against the debtor

7. Duties of Debtors

8. Release of debtor

- 9. Procedure at hearing**
- 10. Dismissal of petition filed by a creditor**
- 11. Order of adjudication**
 - 11.1 Effect
 - 11.2 Publication of order
- 12. Proceedings, consequent on order of adjudication**
 - 12.1 Protection order from arrest or detension
 - 12.2 Power to arrest after adjudication per attempt abscond
 - 12.3 Schedule of creditors
 - 12.4 Burden of creditors to prove the debt.
- 13. Annulment of adjudication**
 - 13.1 Power annul
 - 13.2 Effect
 - 13.3 Failure to apply for discharge
- 14. Post adjudicatory scheme for satisfaction of the debt**
- 15. Discharge of debtor**
- 16. Effect of insolvency on antecedent transaction**
 - 16.1 On rights of creditor under execution
 - 16.2 Duties of court executing decree on the property taken in execution
 - 16.3 Avoidance of voluntary transfer
 - 16.4 Avoidance of preference
- 17. Realization or property**
 - 17.1 Appointment of receiver
 - 17.2 Duties and powers
 - 17.3 Appeal against receiver
- 18. Distribution of property**
 - 18.1 Priority of debts
 - 18.2 Dividends
- 19. Offences by debtors**
- 20. Disqualification of insolvent**
- 21. Appeal**
- 22. Indigent persons**
 - 22.1 Suit by indigent persons
- 23. Chapter XI (Bankruptcy Law of USA)**

5. PRACTICAL TRAINING - II

- i) Public Interest Litigation
- ii) Legal Services Authorities Act 1987
- iii) Legal Aid Services
- iv) Para Legal Training and Legal Literacy
- v) Visit to Law General Office and Solicitor's firm
- vi) Case Comment

This course carrying 100 marks will have to be designed and evaluated according to local conditions by the Colleges in consultation with the Universities and State Bar Councils. It can be taught partly through class room instructions including simulation exercises and partly through extension programmes like Lok Adalat, Legal aid Camp, Legal Literacy and Para Legal Training. The course should also contain lessons on Negotiations and Counselling, use of computer in legal work, legal research in support of Public

Interest Litigation, writing of case comments, editing of Law Journals and Law office management. The marks may be appropriately divided to the different programmes that each University might evolve for introduction in the colleges under its control.

Third Year (3 Years) (Sem. V) LL.B. Degree course

CIVIL PROCEDURE CODE AND LIMITATION ACT

Civil Procedure Code	(85 Marks)
Indian Limitation Act	(15 Marks)

CRIMINAL PROCEDURE CODE, JUVENILE JUSTICE ACT

AND PROBATION OF OFFENDERS ACT

Criminal Procedure Code 1973	(70 Marks)
Juvenile Justice Care and Protection of Children Act 2000	(15 Marks)
Probation of Offenders Act 1958	(15 Marks)

INTERPRETATION OF STATUTES

- I.** 1) Meaning of the term statute.
2) Commencement, operation and repeal of statutes.
3) Purpose of interpretation of statutes.
- II. Aids to interpretation (Internal Aids).**
- 1) Title
 - 2) Preamble
 - 3) Headings and marginal notes.
 - 4) Sections and sub sections.
 - 5) Punctuation marks.
 - 6) Illustrations, inceptions, provision and saving clauses.
 - 7) Schedules.
 - 8) Non obstante Clause.

External Aids:

- 1) Dictionaries
- 2) Translations
- 3) R Travaux preparation
- 4) Statutes in para
- 5) Contempronea expositus
- 6) Debates, inquiry commission reports and law commission reports.

III. Rules of Statutory Interpretation:

- 1) Primary rules.
- 2) Literal rule
- 3) Golden rule.
- 4) Mischief rule.
- 5) Rule of harmonious construction.
- 6) Secondary rule.
- 7) Noscitor a solics.

- 8) Ejusdem generis
- 9) Reddendo Singula Singulis

IV. Presumptions in Statutory interpretation:

Statutes are valid.
 Statutes are territorial in operation.
 Presumption as to jurisdiction.
 Presumption as to what is inconvenient or absurd
 Presumption against intending injustice
 Presumption against impairing obligation
 of permitting advantage from once own wrong.
 Prospective operation of statutes.

V. Maxims of statutory interpretation

Delegatus non - protest delegate.
 Expressio Unius, Exclusio alterius.
 In pari delecto potior est conditio possidentis.
 Ulterius valet potior est conditio possidentis.
 Expressum facit ussure tactittum.
 Generalis specialibus non derogant.
 In bonam partem.

VI. Interpretation with reference to the subject matter and the purpose.

- 1) Restrictive and beneficial construction.
- 2) Taxing structures.
- 3) Penal statutes.
- 4) Welfare legislation.
- 5) Interpretation of directory and mandatory provisions
- 6) Interpretation of substantive and adjunctival statutes.
- 7) Interpretation of enabling statutes.
- 8) Interpretation of statutes conferring rights
- 9) Interpretation of statutes conferring powers.

VII. Principles of constitutional interpretation:

- 1) Harmonious construction.
- 2) Doctrine of pith and substance.
- 3) Colourable legislation.
- 4) Ancillary Powers.
- 5) Occupied field.
- 6) Residuary power.
- 7) Doctrine of prospective overruling.
- 8) Doctrine of repugnancy.+
- 9) Doctrine of eclipse.

VIII. General Clauses Act:

PUBLIC INTERNATIONAL LAW AND HUMAN RIGHTS

This paper is divided into three sections.

- 1. Human Rights.....30 marks
- 2. Public International Law..... 30 marks
- 3. Human Rights In International Law.....40 marks.

Human Rights:

National view on the basis of the Indian constitution and judicial expositions.

Human Rights and Child Abuse

Human Rights and Women

Human Rights and Workers

Human Rights and accused Convicts and Prisoners.

Human Rights and Environment

Public International Law:

- 1) Introduction
- 2) Custom
- 3) Treaties
- 4) State territories
- 5) Recognition of states and government.
- 6) Law and practice of treaties.
- 7) The law of Sea.

Human Rights In International Law:

Theoretical Foundation, human rights and International law.

Basic principles

Sovereign equality of states, non intervention, non use of force,

Peaceful settlement of dispute

Individuals as subjects of international law.

Treatment of aliens.

Historical development of human rights

Human rights in Indian tradition and western tradition

U.N. and human rights.

Covenant on political and civil rights (1948)

Covenant on Economic, Social, and cultural rights.

ILO and other conventions and protocols dealing with human rights.

International HR commission.

Mandates to state

Right to development.

Role to regional organizations:

- European convention on human rights
- American convention of human rights.

Protection agencies and mechanism:

- 1) International commission of human rights.
- 2) Amnesty international law
- 3) NGO s in India only.
- 4) European commission of human rights,
- 5) U.N. declaration of human rights
- 6) International labour organization.
- 7) UNESCO.
- 8) UNISEF.

Impact and implementation of international human rights norms in India.

Human rights norms reflected in fundamental rights in the constitution.

Directive principles, Legislative and administrative implementation of International human rights.

Implementation of human rights norms through judicial process.

Enforcement of human rights:

Role of courts; the Supreme Court, the high court and the other courts.
Statutory Commission- Human rights, Women's minority and backward class.

3rd Year (Three Year) (Sem. VI)LL.B. Degree Course

ALTERNATE DISPUTE RESOLUTION SYSTEM

Arbitration: meaning, scope and types

- Distinctions
- 1940 law and 1996 law: UNICITRAL model law
- Arbitration and Conciliation
- Arbitration and expert determination
- Extent of judicial intervention
- International commercial arbitration

Arbitration agreement

- Essentials
- Kinds
- Who can enter into arbitration agreement
- Validity
- Reference to arbitration
- Interim measures by court

Arbitration Tribunal

- Appointment
- Challenge
- Jurisdiction of arbitral tribunal
- Powers
- Grounds of challenge
- Procedure
- Court assistance

Award

- Rules of guidance
- Form and content
- Correction and interpretation
- Grounds of setting aside an award
- Can misconduct be a ground?
- Incapacity of a party, invalidity of arbitration agreement
- Want of proper notice and hearing
- Beyond the scope of reference
- Contravention of composition and procedure
- Breach of confidentiality
- Impartiality of the arbitrator
- Bar of limitation, res judicata
- Consent of parties
- Enforcement

Appeal and revision

Enforcement of foreign awards

- New York convention awards
- Geneva Convention awards

Conciliation

- Distinction between 'Conciliation', 'Negotiation', 'mediation' and 'arbitration'
- Appointment
- Statements to conciliator
- Interaction between conciliator and parties
- Communication
- Duty of parties to cooperate
- Suggestions by parties
- Confidentiality
- Resort to judicial proceedings
- Costs

Rule-making power

- High Court
- Central Government
- Legal Service Authorities Act; Scope

Lok Adalats

LAW OF EVIDENCE

Indian Evidence Act 1872

Optional papers

1) BANKING LAWS AND NEGOTIABLE INSTRUMENTS ACT

Reserve Bank of India Act 1934)
Banking Regulation Act 1944) (50 Marks)
Bankers' Book of Evidence Act 1891)

- Recovery of Debts Due to Banks and Financial Institutions Act, 1993
- Establishment of debt recovery tribunals – constitution and functioning
- Role of SEBI in Controlling Financial Institutions

Negotiable Instruments Act 1881 (50 Marks)

2) LAW OF INSURANCE

Introduction

- Definition, nature and history of insurance
- Concept of Insurance and law of contract and law of torts; future of insurance in globalized economy
- History and development of insurance in India
- Insurance Regulatory Authority – role and functions

General principles of law of insurance

- Contract of insurance – classification of contract of insurance, nature of various insurance contracts, parties thereto
- Principle of good faith-non-disclosure-misrepresentation in insurance contract
- Insurable interest
- The risk
- The policy – classification of policies-its form and contents, its commencement, duration, cancellation, alteration, rectification, renewal, assignment, construction
- Conditions of the policy
- Alteration of the risk

- Assignment of the subject matter

Life Insurance

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

Marine Insurance

- Nature and scope
- Classification of marine policies
- The Marine Insurance Act 1963
- Insurable interest, insurable value
- Marine insurance policy – conditions – express warranties construction of terms of policy
- Voyage – deviation
- Perils of the sea
- Partial loss of ship and of freight, salvage general average, particular charges
- Measure of indemnity, total valuation, liability to third parties

Fire insurance

Insurance Against Third Party Risks

- The Motor Vehicles Act, 1988 (Chapter VIII)
- Nature and scope, persons governed, definitions of ‘use’, ‘drives’, ‘motor vehicle’, requirements of policy, statutory contract between insurer and drive rights of third parties, limitations of third party’s rights, duty to inform third party
- Claims tribunal, constitution, functions, application for compensation – who can apply? – Procedure and powers of claims tribunal-its award

Social Insurance in India

- Important elements in social insurance, its need
- Commercial insurance and social insurance
- Sickness insurance, Adarkar scheme, Stack and Rao scheme for wage earners and others, risks covered, maturity and other benefits
- Old age, premature death and invalidity insurance or pension insurance, public provident fund, Jeevandhara policy
- Unemployment insurance
- Social insurance for people like seamen, circus workers and agricultural workers

Public Liability Insurance

- The scheme
- Authorities

The emerging legislative trends

3) INTELLECTUAL PROPERTY LAW

Introductory

- The meaning of Intellectual property
- Competing rationales of the legal regimes for the protection of intellectual property
- The main forms of intellectual property: copyright, trademarks, patents, designs
- The competing rationales for protection of rights in:
 - Copyright
 - Trademarks
 - Patents
 - Designs
 - Trade secrets
 - Other new forms such as plant varieties and geographical indications
- Introduction to the leading international instruments concerning intellectual property rights: the Berne Convention, Rome Convention, Universal Copyright Convention, TRIPs Paris Convention
- International Organization relating to IPRS – WIPO, WTO

Select aspects of the law of Copyright in India

- Historical evolution of the Copyright Act 1957
- Meaning of Copyright
- Copyright in literary, dramatic and musical works
- Copyright in sound records and cinematographic films
- Copyright in computer programmes
- Ownership of copyright
- Assignment of copyright
- Author's special rights
- Notion of infringement
- Criteria of infringement
- Infringement of copyright by films of literary and dramatic works
- Importation and infringement
- Fair use provisions
- Piracy in internet
- Aspects of copyright justice
- Remedies, especially, the possibility of Anton pillar injunctive relief in India

Intellectual Property in Trade Marks

- The rationale of protection of Trade marks as (a) an aspect of commercial and (b) of consumer rights
- Definition and concept of Trade marks
- Registration
- Distinction between Trade mark and property mark
- The doctrine of honest Current User
- The doctrine of deceptive similarity
- Protection of well-known marks
- Passing off and infringement
- Criteria of infringement
- Standards of proof in passing off action
- Remedies

Patents

- Patent Act 1970
- Concept of Patent
- Historical view of patents law in India
- Patentable inventions with special reference to biotechnology products entailing creation of new forms of life
- Patent protection for computer programmes

- Process of obtaining a patent: application, examination, opposition and sealing of patents: general introduction
- Procedure for filing patents: Patent Co-operation Treaty
- Some grounds for Opposition
- The problem of limited locus standi to oppose, specially in relation to inventions having potential of ecological and mass disasters
- Wrongfully obtaining the invention
- Prior publication or anticipation
- Obviousness and the lack of inventive step
- Insufficient description
- Rights and obligations of a patentee
- Patents as chose in action
- Duration of patents ; law and policy considerations
- Use and exercise rights
- Right to secrecy
- The notion of 'abuse' of patent rights
- Compulsory license
- Remedies
- Infringement
- Criteria of infringement
- onus of proof
- Modes of Infringement; the Doctrine of Colourable Variation
- Defences in suits of Infringement
- Injunctions and related remedies

4) CONFLICT OF LAWS

Introductory

- What and why of conflict of laws: its function, bases like comity, convenience and justice
- Difference between Public and Private International law
- Development and history- England and India – a comparative sketch with reference to USA and other countries
- Modern theories:
Statutory, territorial, international, local law and justice
- Stage in a Private International law case
- Choice of Jurisdiction
- Choice of law (lex cause)
- Recognition and enforcement of foreign judgments / awards

Choice of Jurisdiction (First stage)

- Meaning, bases of jurisdiction, limitations like effectiveness principles – Relevant C.P.C. provisions regarding jurisdiction – ss 15-20, 83, 84, and 86
- Kinds of jurisdiction
- Actions in personam –contract and tort
- Actions in rem – such as matrimonial causes and probate
- Admiralty action – S VI the Admiralty Courts Act
- Actions under assumed discretionary jurisdiction (inherent jurisdiction) (Indian Context: ss. 10 and 151 of C.P.C.

Choice of Law-Lex Causae (Second Stage)

- Classification / characterization / categorization – allocation of juridical category to the foreign element case
- Necessity for classification – different legal concepts with different content – matters like domicile, talaq and dower in different legal systems

- Various theories – leading cases
- Connecting factor – what is connection factor : lex fori to determine Selection of lex causae through connecting factor
- Application of lex causae – three meanings of Lex Causae – Renvoi: partial and total (Foreign court theory) – critical analysis of Renvoi – Indian position

Limitations on application or exclusion of foreign law

- When foreign law is excluded: grounds – Public Policy, Revenue Laws and Penal Law

Concept of Domicile

- General principles / fundamental Principles
- Elements – intention and residence
- Kinds
- Domicile of Origin
- Domicile of Choice
- Domicile of dependence: married women's position in English and Indian laws
- Domicile of corporation

Status

- What is Status?
- Incidents
- What law governs status
- Universality of status

Marriage

- Marriage as a contract and also status how different from other contracts (social personal contract)
- Kinds of Marriage
- How in India, marriage as a concept moved from partially polygamous towards monogamous type and total sacrament to secularization to some extent
- Questions of format and essential validity
- Formal validity by lex loci celebrations
- Essential / material / intrinsic validity
- Capacity to marriage
- Consent
- Not within prohibited degrees
- Not previously married
- Physical incapacity
- Of proper age
- Essential validity usually governed by lex domicili
- English cases
- Indian position clarified in cases

Matrimonial Causes

- Concept of matrimonial cause (Relief) – English and Indian positions
- Available Reliefs
- Divorce, Nullity, judicial separation
- Restitution of Conjugal Rights (in English law)
- Restitution of Conjugal Rights has no place now
- Choice of Jurisdiction and Choice of Law to be examined

Legitimacy and Legitimation

- What is legitimacy

- What law governs legitimacy
- Validity of marriage
- Legitimation
- What it is
- How affected
- Legitimation and Succession

Adoption

- Purpose of adoption
- Common law
- Indian law
- Hindu law
- Recognition of foreign adoption

Custody and Guardianship

- Purpose
- Adoption and succession

Contracts

- Contract – a leading relationship in private international law system
- Validity of contracts
- Capacity to contract – Main four theories Lex Loci, Lex Domicilii, Lex situs and proper law
- Formal validity – lex loci contractus governs
- Essential validity – proper law is usually accepted as governing
- Discharge of contract – Lex loci solutions governing
- Doctrine of “proper law” of contract subjective and objective Theories

Torts

- Traditional theories
- Ideas of tort of recent importance in private International Law such as drugs, environments, transport and satellite communication

Recognition and Enforcement of Foreign Judgments

- Need recognizing foreign judgments
- Limitations in recognising and enforcement
- Section 13,14 and 444 of C.P.C. and S. 41 of the Indian Evidence Act

5) LAW RELATING TO WOMEN & CHILDREN

International concerns and conventions

- specify conventions

Women in India

- Pre-Independence period
- Social and legal inequality
- Social Reform Movement in India
- Karachi Congress – Fundamental Rights Resolution, Equality of Sexes

Women in post-Independence India

- Preamble of the Constitution: equality provisions in Fundamental Rights and Directive Principles of State Policy
- Personal laws – unequal position of women
- Uniform Civil Code towards gender justice

Sex Inequality in Inheritance Rights

- Feudal institution of joint family – women's inheritance position
- Hindu Law
- Muslim Law
- Matrimonial property
- Movement towards Uniform Civil Code

Guardianship

- Right of women to adopt a child
- Problems of women guardianing

Divorce

- Indian Divorce Act
- Christian Law
- Muslim Law
-

Criminal Law

- Adultery
- Rape

Social Legislation

- Laws relating to Dowry, A moral traffic, Female Foeticide, Sati, A moral representation etc.

Women and Employment

- Labour force
- Protective Laws
- Exploitation and harassment in workplaces

Protection and enforcement agencies

- Courts
- Family Courts
- Commission for women
- NGOs

Social Constitutional and International Legal Status of Child

- Magnitude of the problem
- Special status of child – national policies
- Constitutional concern – Article 15(3), Article 24 and Article 45
- International concern and endeavour for the welfare of the children
- Minimum Age conventions
- Child rights conventions
- U.N. Declaration of the rights of the child, 1924, 1959

Problems of conception, birth and nourishment and health of the child

- Legal status of child in work
- Tortious liability against injuries to unborn children
- Coparcenary and property rights of the unborn children
- Law relating to maternity benefit and relief
- Lack of legal protection of children of impoverished parentage

State responsibility for the education of children

- Evaluation of the efforts of the State towards the provision of education to children
- Pre-primary and nursery education – elementary education
- Contributions by International Organizations for elementary education – UNESCO, UNICEF

Legal Control of Child Labour

- Regulation of the employment ; protection of the health and well-being
- International conventions and recommendations of the ILO
- Recommendations of the National Commission of Labour
- Legislation relating to factories, plantation labour, mines, merchant shipping, motor-transport workers, apprentices, shop & establishments and child labour

Family Relations and Child

- The status of a child in matters of marriage, legitimacy, guardianship, adoption, maintenance and custody
- Provisions in the statutes relating to Hindu marriages, restraint on child marriage, guardians and wards, Hindu minority and guardianship, Hindu adoptions and maintenance and in the Indian Evidence Act 1872

Child and Contractual Liability

- Minors Agreements
- Testimony of children
- Suits by and against minors

Child and Criminal Liability

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

Law and Offences Against Child

- Protection of neglected children
- Institutions for the protection of neglected children
- Juvenile Justice Act 2000
- Juvenile delinquency; law and offences against child
- Contribution by parents; licensing
- Protection of girls from immoral traffic
- Prevention of vagrancy and beggary

Discrimination Against Female Children

- Amniocentesis
- Deferred infanticide through based nutritional discrimination
- Termination of pregnancy

6) LAW AND MEDICINE

- Right to Health under the Constitution of India
- The varieties of Medical Professions in India
- Self-Regulation through Codes of Conduct
- The Doctrine of “Informed Consent”
- Experimentation on Foetuses and Children

- Experimentation on People in Custody, including Psychiatric Custody
- The Doctors – Patient Relationship
- Confidentiality and Privilege
- Patient’s right of full disclosure of course of therapy including side effects of drugs
- Medical Malpractice
- Medical Profession and the Consumer Protection Act.
- Law Relating to Medico-Legal Cases, with special reference to:
 - Road Accidents
 - Sexual Assaults and
 - Mass Disaster (e.g. Bhopal)
- Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954 (section 1 to 6 only)
- The Transplantation of Human Organs Act, 1994 (Section 1 to 12 only)
- The Prenatal Diagnostic Techniques (Regulations and Prevention of Misuse) Act, 1954 (Section 1 to 6 only)

PRACTICAL TRAINING - III

Drafting, Pleading and Conveyancing

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

NOTE:

a) Drafting:

General principles of drafting and relevant substantive rules shall be taught.

b) Pleading:

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

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

c) Conveyancing

(i) Sale Deed (ii) Mortgage Deeds (iii) Lease Deed
(iv) Gift Deed (v) Promissory Note (vi) Power of Attorney (vii) Will

PRACTICAL TRAINING - IV

MOOT COURT, PRE TRIAL PREPARATION AND PARTICIPATION IN TRIAL PROCEDURES

This paper will have three components of 30 marks each and a viva of 10 marks.

a) Moot Court

(30 marks)

Every student will do at least three moot court in a year with 10 marks for each the moot court work will be on assigned problems and it will be evaluated for 5 marks for written submission and 5 marks for oral advocacy.

b) Observance of Trial in two cases, one civil and one criminal

(30 marks)

Students will attend two trials. They will maintain a record and enter in various steps observed during their attendance on different days in the court assignment. This scheme will carry 30 marks.

c) Interviewing techniques and Pre trial preparations

(30 marks)

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

d) The fourth component of this paper will be viva voce examination on all the above three aspects. This will carry 10 marks.