Dr. A.P.J. Abdul Kalam University, Indore(M.P.)

DEPARTMENT OF LAW

Programme Title: LL.M. (Two-Year)

(w.e.f. July 2024 Onwards)

Objectives:

The broad objectives of the LL.M. Criminal Law and Business Law,

2 Year's Programme are as follows:

1. To offer a platform to scholar for gaining critical thinking ability from the perspective of suitability for law and law related services and professions including Academics.
2. To provide the scholars a platform for sound knowledge and understanding of substantive and procedural law.
3. To imbibe in scholars a reasonable level of Analysis and Reasoning Skills, Legal Problem-Solving approach and written and oral communication in legal context.
4. To make the scholars aware about Exercise of professional and Ethical responsibilities.

Eligibility:

Bachelor degree in Law with at least 55% marks in aggregate or an equivalent grade for General / OBC candidates, and 50% marks in aggregate or an equivalent grade for SC/ST category candidates from a recognized University / Institute.

Candidates who have appeared in final year degree examination can also apply. Admission will be finalized if the result is declared before August 14 in the admission year and the candidate secures minimum required % of marks as mentioned above.

Age Limit: No Age Limit

Admission Procedure:

The admissions will be done as per merit in the entrance test conducted by the university.

Seats: 100 (reservation as per state Govt. rules).

Duration: Four Semesters (Two Years).

Fee: As prescribed by university from time to time

General Norms for LL.M. Curriculum

The students shall have to do the dissertation, the practical, all the four core courses and papers from a single optional group.

The Course design shall be :

Semester	Compulsory / Core	Optional	Total	Marks
First	2 + 1 (Term Paper/Internship)	2	5	500
Second	1+1 (Term Paper/Internship)	2	4	400
Third	1+1 (Practical)	2	4	400
Fourth	Dissertation	(Equivalent to 2 courses) 2	2	200
			Total	**1500**

1. Every Paper shall carry 100 marks.
2. Dissertation carrying 200 marks shall be evaluated internally and externally with 150 marks for the written work and with 50 marks for presentation and viva-voce

LL.M. Syllabus

Compulsory Papers

01 LAW AND SOCIAL TRANSFORMATION IN INDIA

Objectives of the Course

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

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

Syllabus

1. Law and social change

1.1 Law as an instrument of social change.

1.2 Law as the product of traditions and culture. Criticism and evaluation in the light of colonisation and the introduction of common law system and institutions in India and its impact on further development of law and legal institutions in India.

2. Religion and the law

2.1. Religion as a divisive factor.

2.2. Secularism as a solution to the problem.

2.3. Reform of the law on secular lines: Problems.

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

2.5. Religious minorities and the law.

3. Language and the law

3.1. Language as a divisive factor: formation of linguistic states.

3.2. Constitutional guarantees to linguistic minorities.

3.3. Language policy and the Constitution: Official language; multi-language system.

3.4. Non-discrimination on the ground of language.

4. Community and the law

4.1. Caste as a divisive factor

4.2. Non-discrimination on the ground of caste.

4.3. Acceptance of caste as a factor to undo past injustices.

4.4. Protective discrimination: Scheduled castes, tribes and backward classes.

4.5. Reservation; Statutory Commissions., Statutory provisions.

5. Regionalism and the law

5.1. Regionalism as a divisive factor.

5.2. Concept of India as one unit.

5.3. Right of movement, residence and business; impermissibility of state or regional barriers.

5.4. Equality in matters of employment: the slogan "Sons of the soil" and its practice.

5.5. Admission to educational institutions: preference to residents of a state.

6. Women and the law

6.1. Crimes against women.

6.2. Gender injustice and its various forms.

6.3. Women's Commission.

6.4. Empowerment of women: Constitutional and other legal provisions.

7. Children and the law

7.1. Child labour.

7.2. Sexual exploitation.

7.3. Adoption and related problems.

7.4. Children and education.

8. Modernisation and the law

8.1. Modernisation as a value: Constitutional perspectives reflected in the fundamental duties.

8.2. Modernisation of social institutions through law.

8.2.1. Reform of family law

8.2.2. Agrarian reform - Industrialisation of agriculture.

8.2.3. Industrial reform: Free enterprise v. State regulation - Industrialisation v.

environmental protection.

8.3. Reform of court processes.

8.3.1. Criminal law: Plea bargaining; compounding and payment of compensation to victims.

8.3.2. Civil law: (ADR) Confrontation v. consensus; mediation and conciliation; Lok adalats.

8.3.3. Prison reforms.

8.4. Democratic decentralisation and local self-government.

9. Alternative approaches to law

9.1. The jurisprudence of Sarvodaya--- Gandhiji, Vinoba Bhave; Jayaprakash Narayan--- Surrender of dacoits; concept of grama nyayalayas.

9.2. Socialist thought on law and justice: An enquiry through constitutional debates on the right to property.

9.3. Indian Marxist critique of law and justice.

9.4. Naxalite movement: causes and cure.

Select Bibliography

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

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

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

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

Manushi, A Journal About Women and Society.

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

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

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

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

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

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

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

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

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

002 INDIAN CONSTITUTIONAL LAW: THE NEW CHALLENGES.

Objectives of the Course

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

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

Syllabus

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

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

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

4. Empowerment of women.

5. Freedom of press and challenges of new scientific development

   5.1. Freedom of speech and right to broadcast and telecast.

   5.2. Right to strikes, hartal and bandh.

6. Emerging regime of new rights and remedies

   6.1. Reading Directive Principles and Fundamental Duties into Fundamental Rights

   6.11. Compensation jurisprudence

   6. 1.2. Right to education

   6.1.2.1. Commercialisation of education and its impact.

6.1.2.2. Brain drain by foreign education market.

7. Right of minorities to establish and administer educational institutions and statecontrol.

8. Secularism and religious fanaticism.

9. Separation of powers: stresses and strain

9.1. Judicial activism and judicial restraint.

9.2. PIL: implementation.

9.3. Judicial independence.

9.3.1. Appointment, transfer and removal of judges.

9.4. Accountability: executive and judiciary.

9.5. Tribunals

10. Democratic process

10.1. Nexus of politics with criminals and the business.

10.2. Election

10.3. Election commission: status.

10.4. Electoral Reforms

10.5. Coalition government, 'stability, durability, corrupt practice'

10.6. Grass root democracy.

Select bibliography

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

03 JUDICIAL PROCESS

Objectives of the Course

A lawyer, whether academic or professional, is expected to be competent to analyse and evaluate the legal process from a broader juristic perspective. Hence a compulsory paper on Judicial Process is essential in the LL.M curriculum. The objective of this paper is to study the nature of judicial process as an instrument of social ordering. It is intended to highlight the role of court as policy maker, participant in the power process and as an instrument of social change. This paper further intends to expose the intricacies of judicial creativity and the judicial tools and techniques employed in the process. Since the ultimate aim of any legal process or system is pursuit of justice, a systematic study of the concept of justice and its various theoretical foundations is required. This paper, therefore, intends to familiarise the students with various theories, different aspects and alternative ways, of attaining justice.

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

Syllabus

1. Nature of judicial process

    1.1. Judicial process as an instrument of social ordering

    1.2. Judicial process and creativity in law - common law model - Legal Reasoning and growth of law - change and stability.

    1.3. The tools and techniques of judicial creativity and precedent.

    1.4. Legal development and creativity through legal reasoning under statutory and codified systems.

2. Special Dimensions of Judicial Process in Constitutional Adjudications.

    2.1. Notions of judicial review

    2.2. ' Role' in constitutional adjudication - various theories of judicial role.

    2.3. Tools and techniques in policy-making and creativity in constitutional adjudication.

    2.4. Varieties of judicial and juristic activism

    2.5. Problems of accountability and judicial law-making.

3. Judicial Process in India

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

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

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

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

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

4. The Concepts of Justice

4.1. The concept of justice or Dharma in Indian thought

4.2. Dharma as the foundation of legal ordering in Indian thought.

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

4.4. Various theoretical bases of justice: the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

5. Relation between Law and Justice

5.1. Equivalence Theories - Justice as nothing more than the positive law of the stronger class

5.2. Dependency theories - For its realisation justice depends on law, but justice is not the same as law.

5.3. The independence of justice theories - means to end relationship of law and justice- The relationship in the context of the Indian constitutional ordering.

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

Select Bibliography

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

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

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

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

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

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

J..Stone, Legal System and Lawyers' Reasonings (1999), Universal, Delhi

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

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

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

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

004 LEGAL EDUCATION AND RESEARCH METHODOLOGY

Objectives of the Course

A post-graduate student of law should get an insight into the objectives of legal education. He should have an exposure to programmes like organisation of seminars, publication of law journals and holding of legal aid clinics. Law is taught in different ways in different countries. The LL.M course, being intended also to produce lawyers with better competence and expertise, it is imperative that the student should familiarise himself with the different systems of legal education. The lecture method both at LL.Blevel and LL.M level has many demerits. The existing lacunae can be eliminated by following other methods of learning such as case methods, problem method, discussion method, seminar method and a combination of all these methods. The student has to be exposed to these methods so as to develop his skills. Growth of legal science in India depends on the nature and career of legal research. The syllabus is designed to develop also skills in research and writing in a systematic manner.

Syllabus

1. Objectives of Legal Education

2. Lecture Method of Teaching - Merits and demerits

3. The Problem Method

4. Discussion method and its suitability at postgraduate level teaching

5. The Seminar Method of teaching

6. Examination system and problems in evaluation - external and internal assessment.

7. Student participation in law school programmes - Organisation of Seminars, publicationof journal and assessment of teachers

8. Clinical legal education - legal aid, legal literacy, legal survey and law reform

9. Research Methods

    9.1. Socio Legal Research

    9.2. Doctrinal and non-doctrinal

    9.3. Relevance of empirical research

    9.4. Induction and deduction

10. Identification of Problem of research

    10.1. What is a research problem?

    10.2. Survey of available literature and bibliographical research.

    10.2.1. Legislative materials including subordinate legislation, notification and policy statements

10.2.2. Decisional materials including foreign decisions; methods of discovering the "rule of the case" tracing the history of important cases and ensuring that these have not been over-ruled; discovering judicial conflict in the area pertaining to the research problem and the reasons thereof.

10.2.3. Juristic writings - a survey of juristic literature relevant to select problems in India and foreign periodicals.

10.2.4. Compilation of list of reports or special studies conducted relevant to the problem.

11. Preparation of the Research Design

11.1. Formulation of the Research problem

11.2. Devising tools and techniques for collection of data : Methodology

11.2.1. Methods for the collection of statutory and case materials and juristic literature

11.2.2. Use of historical and comparative research materials

11.2.3. Use of observation studies

11.2.4. Use of questionnaires/interview

11.2.5. Use of case studies

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

11.2.7. Use of scaling techniques

11.2.8. Jurimetrics

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

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

11.5. Analysis of data

Bibliography

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

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

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

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

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

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

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

Payne, The Art of Asking Questions (1965)

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

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

Havard Law Review Association, Uniform System of Citations.

ILI Publication, Legal Research and Methodology.

05 DISSERTATION

Optional Groups

Group-A CRIMINAL LAW

Programme Structure (2022-23):

First Semester

S.No.	Title
1.	LAW AND SOCIAL TRANSFORMATION IN INDIA
2.	INDIAN CONSTITUTIONAL LAW: THE NEW CHALLENGES.
3.	COMPARATIVE CRIMINAL PROCEDURE
4.	PENOLOGY: TREATMENT OF OFFENDERS
5.	TERM PAPER / INTERNSHIP /COMPREHENSIVE VIVA VOCE

Second Semester

S.No.	Title
1.	JUDICIAL PROCESS
2.	PRIVILEGED CLASS DEVIANCE
3.	DRUG ADDICTION, CRIMINAL JUSTICE AND HUMAN RIGHTS
4.	TERM PAPER/INTERNSHIP/COMPREHENSIVE VIVA VOCE

Third Semester

S.No.	Title
1.	LEGAL EDUCATION AND RESEARCH METHODOLOGY
2.	JUVENILE DELINQUENCY
3.	COLLECTIVE VIOLENCE AND CRIMINAL JUSTICE SYSTEM
4.	PRACTICAL EXAMINATION/ COMPREHENSIVE VIVA VOCE

Fourth Semester

S.No.	Title
1.	PROPOSAL WRITING AND PRESENTATION
	FINAL DISSERTATION/PROJECT
	COMPREHENSIVE VIVA VOCE

A.06. COMPARATIVE CRIMINAL PROCEDURE

Objectives of the Course

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

Syllabus

1. Organisation of Courts and Prosecuting Agencies
   1.1. Hierarchy of criminal courts and their jurisdiction
   1.2. Nyaya Panchayats in India
   1.3. Panchayats in tribal areas
   1.4. Organisation of prosecuting agencies for prosecuting criminals
   1.5. Prosecutors and the police
   1.6. Withdrawal of prosecution.
2. Pre-trial Procedures
   2.1. Arrest and questioning of the accused
   2.2. The rights of the accused
   2.3. The evidentiary value of statements / articles seized / collected by the police
   2.4. Right to counsel
   2.5. Roles of the prosecutor and the judicial officer in investigation.
3. Trial Procedures
   3.1. The accusatory system of trial and the inquisitorial system
   3.2. Role of the judge, the prosecutor and defence attorney in the trial
   3.3. Admissibility and inadmissibility of evidence
   3.4. Expert evidence
   3.5. Appeal of the court in awarding appropriate punishment.
   3.6. Plea bargaining
4. Correction and Aftercare services
   4.1. Institutional correction of the offenders
   4.2. General comparison - After - care services in India and France
   4.3. The role of the court in correctional programmes in India.
5. Preventive Measures in India
   5.1. Provisions in the Criminal Procedure Code
   5.2. Special enactments
6. Public Interest Litigation
   6.1. Directions for criminal prosecution.

Select bibliography

Celia Hamptom, Criminal Procedure

Wilkins and Cross, Outline of the Law of Evidence

Archbold, Pleading, Evidence and Practice in Criminal Cases

Sarkar, Law of EvidenceK.N.Chandrasekharan Pillai(ed.),

R.V. Kelkar's Outlines of Criminal Procedure (2000), Eastern,Lucknow.

Patric Devlin, The Criminal Prosecution in England

American Series of Foreign Penal Codes Criminal Procedure Code of People's Republic of China.John N. Ferdico, Criminal Procedure (1996), West

Sanders & Young, Criminal Justice (1994)

Christina Van Den Wyngart, Criminal Procedure Systems in European Community Joel Samaha,Criminal Procedure (1997), West

Criminal Procedure Code,1973

The French Code of Criminal Procedure,

14th and 41st Reports of Indian Law Commission.

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

A 07 PENOLOGY: TREATMENT OF OFFENDERS

Objectives of the Course

This course offers a specialist understanding of criminal policies including theories of punishment, their supposed philosophical and sociological justifications and the problematic of discretion in the sentencing experience of the 'developing' societies, a focus normally absent in law curricula so far.The expert work of the U.N. Committee on Crime Prevention and Treatment of Offenders will be availed of in this course. Especially, at each stage, the three 'D's will be explored as offering arrange of alternatives: decriminalisation, dependization, deinstitutionalization. Broadly, the course will concern itself with:

a) Theories of Punishment
b) Approaches to Sentencing
c) Alternatives to Imprisonment
d) The State of Institutional Incarceration in India: Jails and other custodial institutions
e) The problematic of Capital Punishment
f) Penology in relation to privileged class deviance
g) Penology in relation to marginalized deviance or criminality
h) The distinctive Indian (historical and contemporary) approaches to penology

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

Syllabus

1. Introductory
   1.1. Definition of Penology
2. Theories of Punishment
   2.1. Retribution
   2.2. Utilitarian prevention: Deterrence
   2.3. Utilitarian: Intimidation
   2.4. Behavioural prevention: Incapacitation
   2.5. Behavioural prevention: Rehabilitation - Expiation
   2.6. Classical Hindu and Islamic approaches to punishment.
3. The Problematic of Capital Punishment
   3.1. Constitutionality of Capital Punishment
   3.2. Judicial Attitudes Towards Capital Punishment in India - An inquiry through thestatute law and case law.
   3.3. Law Reform Proposals
4. Approaches to Sentencing
   4.1. Alternatives to Imprisonment
   4.2. Probation
   4.3. Corrective labour
   4.4. Fines
   4.5. Collective fines

4.6. Reparation by the offender/by the court

5. Sentencing
   5.1. Principal types of sentences in the Penal Code and special laws
   5.2. Sentencing in white collar crime
   5.3. Pre-sentence hearing
   5.4. Sentencing for habitual offender
   5.5. Summary punishment
   5.6. Plea-bargaining
6. Imprisonment
   6.1. The state of India's jails today
   6.2. The disciplinary regime of Indian prisons
   6.3. Classification of prisoners
   6.4. Rights of prisoner and duties of custodial staff.
   6.5. Deviance by custodial staff
   6.6. Open prisons
   6.7. Judicial surveillance - basis - development reforms

Select Bibliography

S. Chhabbra, The Quantum of Punishment in Criminal Law (1970),

H.L.A. Hart, Punishment and Responsibility (1968)

Herbert L. Packer, The Limits of Criminal Sanction (1968)

Alf Ross, On Guilt, Responsibility and Punishment (1975)

A. Siddique, Criminology (1984) Eastern, Lucknow.

Law Commission of India, Forty-Second Report Ch. 3 (1971)

K.S. Shukla, "Sociology of Deviant Behaviour" in 3 ICSSR Survey of Sociology and SocialAnthropology 1969-179 (1986)

Tapas Kumar Banerjee, Background to Indian Criminal Law (1990), R.Company & Co., Calcutta.

A. 08.PRIVILEGED CLASS DEVIANCE

Objectives of the Course

This course focuses on the "Criminality of the "Privileged classes". The definition of "privileged classes" in a society like India should not pose major problem at all; the expression nearly includes wielders of all forms of state and social (including religious) power. Accordingly, the course focusses on the relation between privilege power and deviant behaviour. The traditional approaches which highlight "white-collar offences", "socio-economic offences" or "crimes of the powerful" deal mainly with the deviance of the economically resourceful. The dimension of deviance associated with bureaucracy, the new rich (nouveau riche), religious leaders and organizations, professional classes and the higher bourgeoisie are not fully captured here.In designing teaching materials for this course, current developments in deviance, as reflected in newspapers/journals, law reports, and legislative proceedings should be highlighted. It should be stressed that the objectives of the course include:

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

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

Syllabus

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

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

2. Official Deviance
    2.1. Conception of official deviance - permissible limit of discretionary powers.
    2.2. The Chambal valley dacoit Vinoba Mission and Jai Prakash Narain Mission – in1959 and 1971
    2.3. The Chagla Commission Report on LIC-Mundhra Affair
    2.4. The Das Commission Report on Pratap Singh Kairon
    2.5. The Grover Commission Report on Dev Raj Urs
    2.6. The Maruti Commission Report
    2.7. The lbakkar-Natarajan Commission Report on Fairfax.
3. Police Deviance
    3.1. Structures of 1egal restraint on police powers in India
    3.2. Unconstitutionality of "third-degree" methods and use of fatal force by police
    3.3. "Encounter" killings
    3.4. Police atrocities
    3.5. The plea of superior orders
    3.6. Rape and related forms of gender-based aggression by police and para-military forces
    3.7. Reform suggestions especially by the National Police Commissions
4. Professional Deviance
    4.1. Unethical practices at the Indian bar
    4.2. The Lentin Commission Report
    4.3. The Press Council on unprofessional and unethical journalism
    4.4. Medical malpractice
5. Response of Indian Legal Order to the Deviance of Privileged Classes
    5.1. Vigilance Commission
    5.2. Public Accounts Committee
    5.3. Ombudsman
    5.4. Commissions of Enquiry
    5.5. Prevention of Corruption Act, 1947
    5.6. The Antulay Case

Select Bibliography

Upendra Baxi, The Crisis of the Indian Legal System (1982) Vikas Publishing House, New Delhi.
Upendra Baxi (ed.), Law and Poverty: Essays (1988)
Upendra Baxi, Liberty and Corruption: The Antulay Case and Beyond (1989)
SurendranathDwevedi and G.S. Bbargava, Political Corruption in India (1967)
A.R. Desai (ed.) Violation of democratic Rights in India (1986)
A.G. Noorani, Minister's Misconduct (1974)
B.B. Pande, 'The Nature and Dimensions of Privileged Class Deviance" in The Other Side of Development 136 (1987; K.S. Shukla ed.).
Indira Rotherm und, "Patterns of Trade Union Leadership in Dhanbad Coal fields" 23 J.I.L.I 522(1981)

A 09.DRUG ADDICTION, CRIMINAL JUSTICE AND HUMAN RIGHTS

Objectives of the Course

Almost all the major dilemmas of criminal policy surface rather acutely in combating drug addiction and trafficking through the legal order. The issue of interaction between drug abuse and criminality is quite complex. At least three important questions have been recently identified as crucial for comparative research. First, to what extent drug dependence contributes to criminal behaviour? Second, in what ways do criminal behaviour patterns determine drug abuse? Third, are there any common factors which contribute to the determination of both drug abuse and criminal behaviour? Apart from these causal issues, there is the broad questions of the social costs-benefits of criminalization of addictive behaviour. Should drug-taking remain in the category of "crime without victims?" Or should it be viewed as posing an ever-growing threat to human resource development and be subjected to state control, over individual choices as to survival and life-styles? The problems here are not merely ideological or theoretical. User of drugs for personal, nontherapeutic purposes may well be linked with international trafficking in psychotropic substance. It has even been suggested that encouragement of drug-dependency may have, in addition to motivation of high profits, politically subversive aspects. Assuming that both addiction and trafficking have to be regulated, what penal polices should be appropriate? What human rights costs in the administration of criminal justice should be considered acceptable? The international response to these questions is indicated by the Single Convention on Narcotic Drugs, 1961, adopted in New York, 30 March 1961 and as amended by 1972 Protocolin Geneva, 25 March, 1972 and the Convention on Psychotropic substances, adopted in Vienna,21 February 1971. India has recently adopted the basic principles of these conventions in the Narcotic Drugs and Psychotropic Substances Act, 1986Broadly, penal policy dilemmas here relate to: (a) management of sanctions relating to production, distribution and illicit commerce in Narcotic Substances and, (b) ways of prevention of abuse of drugs, including speedy diagnosis, treatment, correction, aftercare, rehabilitation, and realization of persons affected. Important problems of method in studying the impact of regulation need evaluated at every stage.

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

Syllabus

1. Introductory

1.1. Basic conceptions

1.1.1. Drugs ' narcotics" "psychotropic substances"

1.1.2. 'Dependence," "addiction"

1.1.3. "Crimes without victims

1.1.4. "Trafficking" in "drugs"

1.1.5. "Primary drug abuse"

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

2.1. Self-reporting

2.2. Victim-studies

2.3. Problems of comparative studies

3. Ana graphic and Social Characteristics of Drug Users

3.1. Gender

3.2. Age

3.3. Religiousness

3.4. Single individuals/cohabitation

3.5. Socio-economic level of family

3.6. Residence patterns (urban/rural/urban)

3.7. Educational levels

3.8. Occupation

3.9. Age at first use

3.10. Type of drug use

3. 11. Reasons given as cause of first use

3.12. Method of Intake

3.13. Pattern of the -Use

3.14. Average Quantity and Cost

3.15. Consequences on addict's health (physical/psychic)

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

4. The International Legal Regime

4.1. Analysis of the background, text and operation of the Single Convention on Narcotic Drugs, 1961, 1972

4.2. Analysis of the Convention on Psychotropic Substances, 1972

4.3. International collaboration in combating drug addiction

4.4. The SARC, and South-South Cooperation

4.5. Profile of international market for psychotropic substances

5. The Indian Regulatory System

5.1. Approaches to narcotic trafficking during colonial India

5.2. Nationalist thought towards regulation of drug trafficking and usage

5.3. The penal provisions (under the IPC and the Customs Act)

5.4. India's role in the evolution of the two international conventions

5.5. Judicial approaches to sentencing in drug trafficking and abuse

5.6. The Narcotic Drugs and Psychotropic Substances Act, 1985

5.7. Patterns of resource investment in India: policing adjudication, treatment, aftercare and rehabilitation

6. Human Rights Aspects

6.1. Deployment of marginalized people as carrier of narcotics

6.2. The problem of juvenile drug use and legal approaches

6.3. Possibilities of misuse and abuse of investigative prosecutory powers

6.4. Bail

6.5. The Problem of differential application of the Ugal Regimes, especially in relationto the resource less

7. The Role of Community In Combating Drug Addiction

7.1. Profile of Community initiatives in inhibition of dependence and addiction (e.g. deaddiction and aftercare)

7.2. The role of educational systems

7.3. The role of medical profession

7.4. The role of mass media

7.5. Initiatives for compliance with regulatory systems

7.6. Law reform initiatives

Select Bibliography

H.S. Becker, Outsiders : The Studies in Sociology of Deviance (1966)

J.A. Incard, C.D. Chambers, (eds.), Drugs and the Criminal Justice System (1974)

R. Cocken, DrugAbuseandpersonality in Young Offenders (1971)

G. Edwards Busch, (ed.) Drug Problems in Britain : A Review of Ten Years (1981)

P. Kondanram and Y.N. Murthy, "Drug Abuse and Crime : A Preliminary Study" 7 Indian Journal ofCriminology, 65-68 (1979)

P.R. Rajgopat Violence and Response: A Critque of the Indian Criminal System (1988)

United Nations, Economic and Social Reports of the Commission on Narcotic Drugs, United Nations

Social Defence, Research Institute (UNSDRI) Combating Drug Abuse and Related Crimes (Rome,July 1984, Publication No. 21).

Lok Sabha and Rajya Sabha Debates on 1986 Bill on Psychotropic Substances. Useful Journalsin this area are:

(i) The Law and Society Review (USA)

(ii) Journal of Drug Issues (Tallahassee Florida)

(iii) International Journal of Addictions (New York)

(iv) British Journal of Criminology

(v) Journal of Criminal Law, Criminology and Police Science (Baltimore , Md.)

(vi) Journal of Criminal Law and Criminology (Chicago, III)

(vii) International Journal of Offender Therapy and Comparative Criminology (London)

(viii) Bulletin on Narcotics (United Nations)

A10.JUVENILE DELINQUENCY

Objectives of the Course

Juvenile delinquency is considered and important branch of criminology. The impact of juvenile delinquency upon the formation of Indian criminology tradition does not seem to be noticeable. Nonunderstanding of crimes and treatment of offenders can be complete without a sure grasp of causes, carrots, and cures of juvenile delinquency. Increasingly, it is being also realized that young offenders require a wholly different centre of criminal justice system and should not be treated in the same way as the adult offenders. Juvenile Justice System, although a part of the criminal justice system has now its own autonomouscharacteristics. In addition, the state and the law have to deal with juveniles in certain situations, as parents patriae.The category of 'neglected children' defines the burdens of care which state and society have to assume for neglected children. Most categories of neglected children are also themselves the victims of crime. The institutional care of children poses its own distinctive dilemmas. These, too, should be discussed, especially, at the level of resource investment compared with the extent of need.

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

Syllabus

1. The Basic Concepts

1.1. The conception of 'child' in Indian Constitution and Penal Code.

1.2. Delinquent juvenile

1.3. "Neglected" juvenile

1.4. The overall situation of children/young persons in India, also with reference to crime statistics (of crimes by and against children)

2. Determining Factors of Juvenile Delinquency

2.1. Differential association

2.2. Anomie

2.3. Economic pressure

2.4. Peer group influence

2.5. Gang sub-culture

2.6. Class differentials

3. Legislative Approaches

3.1. Legislative approaches during the late colonial era.

3.2. Children's Act

3.3. Legislative position in various States

3.4. The Juvenile Justice Act

3.4.1. Constitutional aspects.

3.4.2. Distinction between "Neglected" and "delinquent" juveniles.

3.4.3. Competent authorities

3.4.4. Processual safeguards for juveniles

3.4.5. Powers given to government

3.4.6. Community participation as envisaged under the Act

4. Indian Context of Juvenile Delinquency

4.1. The child population percentage to total sex-ratio, urban/rural/rural-urban

4.2. Neglected - below poverty line, physically and mentally disabled, orphans, destitute, vagrants.

4.3. Labourers

4.3.1. In organised industries like zari, carpet, bidi, glass

4.3.2. In unorganised sector like domestic servant, shops and establishments, rag-pickers family trade.

4.4. Delinquent - number, sex-ratio, ratio to adult crime, types of offences committed, recidivism, rate of increase background

4.5. Drug addicts

4.6. Victims

4.6.1. Of violence - sexual abuse, battered, killed by parents

4.6.2. Of criminal activities like bootlegging, drug pollution as a response of protective approach

5. Judicial Contribution

5.1. Social action litigation concerning juvenile justice

5.2. Salient judicial decisions

5.3. Role of legal profession in juvenile justice system.

6. Implementation

6.1. Institutions, bodies, personnel

6.2. Recruiting and funding agencies

6.3. Recruitment qualifications and salaries or fund

6.4. Other responsibilities of each agency/person

6.5. Coordination among related agencies

6.6. Accountability-annual reports and accessibility of public to juvenile justice institution.

7. Preventive Strategies

7.1. State Welfare programmes health, nutrition, ICWS, grants-in-aid

7.2. Compulsory education

7.3. Role of community, family, voluntary, bodies, individuals.

Select Bibliography

National institute of Social Defence, Model Rules under the Juvenile Justice Act, 1986, (1986)

K.S. Shukla, Adolescent Offender (1985)

United Nations, Beijing Rules on Treatment of Young Offenders (1985)

Myron Weiner, The Child and State in India (1990)

The United Nations Declaration on the Rights of Children

UNICEF periodic materials

A.11. COLLECTIVE VIOLENCE AND CRIMINAL JUSTICE SYSTEM

Objectives of the Course

This is a crucial area of Indian development with which traditional, western, criminology is not overly preoccupied. Collective political violence (CPV) is the order of the day, whether it is agrarian(feudal) violence, or it is atrocities against untouchables, communal riots, electoral violence, police violence (encounters), political violence by militant and extremist groups, gender-based violence or violence involved in mercenary terrorism and its containment.

It is not very helpful in such contexts, to mouth the generalities such as "criminalization" or"lumpenization" of Indian politics. Closer scientific investigation of these phenomena is crucial,which should help us understand both the aetiology and the prognosis of CPV. Instead of politicalanalysis the course should focus on a broader social under- standing of the political economy of law in India. Each specific form of violence will be examined with a view to identifying the course ofits evolution, the state-law response policies of management of sanctions, compensation and rehabilitation of victims of violence, social and political costs. The growth of police and paramilitaryforces will also, in this context, be an object of study. Primary materials here will be governmental and citizen investigative reports. The emphasis of the course will be on fashioning overall democratic understanding and responses to meet this problem.

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

Syllabus

1. Introductory

1.1. Notions of "force", "coercion", "violence"

1.2. Distinctions: "symbolic" violence, "institutionalised' violence, "structural violence"

1.3. Legal order as a coercive normative order

1.4. Force-monopoly of modem law

1.5. "Constitutional" and "criminal" speech: Speech as incitement to violence

1.6. "Collective political violence" and legal order

1.7. Notion of legal and extra-legal "repression"

2. Approaches to Violence in India

2.1. Religiously sanctioned structural violence: Caste and gender based

2.2. Ahimsa in Hindu, Jain, Buddhist, Christian, and Islamic traditions in India

2.3. Gandhiji's approach to non-violence

2.4. Discourse on political violence and terrorism during colonial struggle

2.5. Attitudes towards legal order as possessed of legitimate monopoly over violence

during the colonial period

3. Agrarian Violence and Repression

3.1. The nature and scope of agrarian violence in the 18-19 centuries India

3.2. Colonial legal order as a causative factor of collective political (agrarian) violence

3.3. The Telangana struggle and the legal order

3.4. The Report of the Indian Human Rights Commission on Arwal Massacre

4. Violence against the Scheduled Castes

4.1. Notion of Atrocities

4.2. Incidence of Atrocities

4.3. Uses of Criminal Law to combat Atrocities or contain aftermath of Atrocities

4.4. Violence Against Women

5. Communal Violence

5.1. Incidence and courses of "communal" violence

5.2. Findings of various commissions of enquiry

5.3. The role of police and para-military systems in dealing with communal violence

5.4. Operation of criminal justice system tiring, and in relation to, communal violence

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

Select Bibliography

U. Baxi, "Dissent, Development and Violence" in R. Meagher (ed.) Law and Social Change: IndoAmerican Reflections 92 (1988)
U. Baxi (ed.), Law and Poverty: Critical Essays, (1988)
A.R. Desal, (ed.) Peasant Struggles in India, (1979)
A.R. Desai, Agrarian Struggles in India: After Independence (1986) A.R. Desai, Violation ofdemocratic Rights in India (1986)
D.A. Dhangare, Peasant Movement in India: 1920-1950 (1983)
Ranjit Guha, Element any Aspects of Peasant Insurgency in Colonial India (1983) Ranjit Guba,
(ed,) Subaltern Studies Vol. 1-6 (1983-1988)
T. Honderich, Violence for Equality (1980)
Mark Juergensmeyer, "The Logic of Religious Violence: The Case of Punjab" 22 Contributions toIndian Sociology 65 (1988)
Rajni Kothari, State Against Democracy (1987)
G. Shah, Ethnic Minorities and Nation Building: Indian Experience (1984)
K.S. Shukla, "Sociology of Deviant Behaviour," in 3 ICSSR Survey of Sociology and SocialAnthropology 1969-1979 (1986)

GROUP –B.: BUSINESS LAW

PROGRAMME STRUCTURE (2022-23):

First Semester

S.No.	Title
1.	LAW AND SOCIAL TRANSFORMATION IN INDIA
2.	INDIAN CONSTITUTIONALLAW: THE NEW CHALLENGES.
3.	LAW OF INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS
4.	LEGAL REGULATION OF ECONOMIC ENTERPRISES
5.	TERM PAPER / INTERNSHIP /COMPREHENSIVE VIVA VOCE

Second Semester

S.No.	Title
1.	JUDICIAL PROCESS
2.	LAW OF EXPORT – IMPORT REGULATION
3.	BANKING LAW
4.	TERM PAPER/INTERNSHIP/COMPREHENSIVE VIVA VOCE

Third Semester

S.No.	Title
1.	LEGAL EDUCATION AND RESEARCH METHODOLOGY
2.	CORPORATE FINANCE
3.	INSURANCE LAW
4.	PRACTICAL EXAMINATION/ COMPREHENSIVE VIVA VOCE

Fourth Semester

S.No.	Title
1.	PROPOSAL WRITING AND PRESENTATION
	FINAL DISSERTATION/PROJECT
	COMPREHENSIVE VIVA VOCE

B 012 LAW OF INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS

Objectives of the Course

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

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

Syllabus

1. IPR and International Perspectives

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

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

3.1. United Nations approaches (UNCTAD, UNCITRAL)

3.2. EEC approaches

3.3. Position in U.S.

3.4. The Indian situation.

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

5. Biotechnology Patents:

5.1. Nature and types of biotechnology patents

5.2. Patent over new forms of life: TRIPS obligations

5.3. Plant patenting

5.4. Sui generis protection for plant varieties

5.5. Multinational ownership

5.6. Regulation of environment and health hazards in biotechnology patents

5.7. Indian policy and position.

6. Patent Search, Examination and Records:

6.1. International and global patent information retrieval systems (European Patent Treaty).

6.2. Patent Co-operation Treaty(PCT)

6.3. Differences in resources for patent examination between developed and developing societies

6.4. The Indian situation

7. Special Problems of Proof of Infringement:

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

7.2. The evidentiary problems in action of passing off.

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

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

7.5. Need and Scope of Law Reforms.

8. Intellectual Property and Human Right

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

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

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

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

Select bibliography

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

Terrene P. Stewart (ed.), The GATT Uruguay Round: A Negotiating History (1986-1994) the End
Game (Part - 1) (1999), Kluwer
Ivar P. Cooper, Biotechnology and Law (1998), Clerk Boardman Callaghan, New York.
David Bainbridge, Software Copyright Law (1999), Butterworths
Sookman, Computer Law (1998), Carswell
Carlos M. Correa(ed.), Intellectual Property and International Trade (1998), Kluwer
Patent Co-operation Treaty Hand Book (1998), Sweet and Maxwell
Christopher Wadlow, The Law of Passing-Off (1998), Sweet and Maxwell
W.R.Cornish, Intellectual Property Law (1999), Sweet and Maxwell

B 013LEGAL REGULATION OF ECONOMIC ENTERPRISES

Objectives of the Course

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

Syllabus

1. The Rationale of Government Regulation

1.1. Constitutional perspectives

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

1.3. The place of public, small scale, co-operative, corporate, private and joint sectors -

in the changing context

1.4. Regulation of economic activities

1.4.1. Disclosure of information

1.4.2. Fairness in competition

1.4.3. Emphasis on consumerism

2. Development and Regulation of Industries

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

4. Sick Undertakings: Nationalisation or Winding Up?

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

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

7. Financial Services : Changing Techniques of Regulation

8. Critical Issues Regarding the Capital Issues

8.1. Equity and debt finance

8.2. Global depositories

8.3. De-materialised securities

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

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

9.2. Public Liability Insurance : adequacy

9.3. Issues in zoning and location of industrial units

10. Special Aspects of Legal Regulation of Select Public Enterprises

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

10.1. Telecom Regulatory Authority

10.2. Insurance Regulatory Authority

10.3. Broadcasting Regulatory Authority

11. Legal Regulation of Multi-Nationals

11.1. Collaboration agreements for technology transfer

11.2. Development and regulation of foreign investments

11.2.1. Investment in India : FDIs and NRIs

11.2.2. Investment abroad

Select bibliography

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

Industrial Policy Resolutions of 1948,1956, 1991

Industrial Licensing Policy 1970,1975

Industrial Policy Statements 1973,1977, 1980

Reports of Committees on Public Undertakings of Parliament.

Industries (Development and Regulation) Act, 1951

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

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

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

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

B014 LAW OF EXPORT IMPORT REGULATION

Objectives of the Course

After independence India has embarked upon all round efforts to modernise her economy through developmental ventures. Greater and greater emphasis is placed on increase of production in both industrial and agricultural sectors. Besides, there was the ever-pressing need for raising capital for investment in certain basic and key industries. All these required a considerably high rate of investment of capital. The process of modernisation necessitated the adoption of newer technologies for industry and agriculture. These technologies had to be borrowed from other developed countries. This, in turn, needed foreign exchange which could be earned by the increased exports of goods and raw materials from India. The need for accelerating the export trade of India's developing economy can hardly be overemphasised. Export earnings enable a developing country to finance its massive requirements of growth, to maintain its essential imports and thereby stimulate the process of its economic developments. In the words of Prof. V.K. R.V. Rao: "In fact, expansion of exports may well be described as an integral part of the development process, neglect of which can only be at the peril of development itself". Increasing exports have been necessitated to meet the growing needs of defence. India is a country rich in natural resources. One of the approaches to combat its economic backwardness could be in large-scale production and in maximization of its exports. Import and export of goods and raw materials is a complex, complicated and intricate activity. It involves elaborate economic, fiscal, budgetary and monetary policy considerations. Export and Import control policy is also closely connected with country's balance of payment position. The detailed procedures for imports and exports are provided in the Hand Book. The Union Government used to declare its import and export policy for a three-year period. At present they declare the policy for five years. The controls on exports and imports are closely connected with the Foreign Trade Regulation Act 1992.This course is designed to acquaint the students about the parameters of legal controls on imports and exports.

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

Syllabus

1. Introduction

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

1.2. Impact of regulation on economy.

2. The Basic Needs of Export and Import Trade

2.1. Goods

2.2. Services

2.3. Transportation

3. International Regime

3.1. WTO agreement

3.2. WTO and tariff restrictions

3.3. WTO and non-tariff restrictions

3.4. Investment and transfer of technology

3.5. Quota restriction and anti-dumping

3.6. Permissible regulations

3.7. Quarantine regulation

3.8. Dumping of discarded technology and goods in international market

3.9. Reduction of subsidies and counter measures.

4. General Law on Control of Imports and Exports

4.1. General scheme

4.2. Legislative control

4.2.1. Power of control: Central government and RBI

4.2.2. Foreign Trade Development and Regulation Act 1992

4.2.3. Restrictions under customs law

4.2.3.1. Prohibition and penalties

4.3. Export-Import formulation: guiding features

4.3.1. Control under FEMA

4.3.2. Foreign exchange and currency

4.3.2.1. Import of goods

4.3.2.2. Export promotion councils

4.3.2.3. Export oriented units and export processing zones

5. Control of Exports

5.1. Quality control

5.2. Regulation on goods

5.3. Conservation of foreign exchange

5.3.1. Foreign exchange management

5.3.2. Currency transfer

5.3.3. Investment in foreign countries

6. Exim Policy: Changing Dimensions

6.1. Investment policy: NRIs, FIIs (foreign institutional investors), FDIs
6.2. Joint venture
6.3. Promotion of foreign trade
6.4. Agricultural products
6.5. Textile and cloths
6.6. Jewellery
6.7. Service sector
7. Law Relating to Customs
7.1. Prohibition on importation and exportation of goods
7.2. Control of smuggling activities in export-import trade
7.3. Levy of, and exemption from, customs duties
7.4. Clearance of imported goods and export goods
7.5. Conveyance and warehousing of goods
8. Regulation on Investment
8.1. Borrowing and lending of money and foreign currency
8.2. Securities abroad - issue of
8.3. Immovable property - purchase abroad
8.4. Establishment of business outside
8.5. Issue of derivatives and foreign securities - GDR(global depositories receipts), ADR(American depository receipts) and Uro
8.6. Investment in Indian banks
8.7. Repatriation and surrender of foreign securities
9. Technology transfer
9.1. Restrictive terms in technology transfer agreements
9.2. Automatic approval schemes

Select Bibliography

Government of India, Handbook of Import Export Procedures, (Refer to the latest edition)Government of India Import and Export Policy (1997 -2002)

The students should consult the relevant volumes of the Annual Survey of Indian Law, Publishedby the Indian law Institute, New Delhi.

Foreign Trade Development and Regulation Act 1992 and Rules

Foreign Exchange Management Act 1999

Marine Products Export Development Authority Act 1972

Customs Manual (Latest edition)Final Treaty of GATT, 1994.

B 015BANKING LAW

Objectives of the Course

A vitally important economic institution the banking system is deeply influenced by socio-political and economic changes. The emerging changes in India, particularly after the initiation of the planning process as an instrument of rapid economic development had moulded and affected the banking structure, policies, patterns and practices. A significant development in the banking system is diversification in banks financing. The commercial banks entered 'into the field of wide-ranging financial assistance to industry, both large and small scale, requiring the need for social control of the banking system eventually leading to the nationalisation of banks. The conventional banking system, found to be deficient for planned developmental purposes,paved the way for developmental banking. The fag end of the last millennium witness's influx of foreign banking companies into India and a shift in the banking policy as part of the global phenomenon of liberalisation. The legal system is adopting itself into the new mores. This course is designed to acquaint the students with the conceptual and operational parameters of banking law, the judicial interpretation and the new and emerging dimensions of the bankingsystem.The course will comprise of about 42 units of one-hour duration each spread over a period of onesemester.

Syllabus

1. Introduction

1.1. Nature and development of banking

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

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

2. Law Relating to Banking Companies in India

2.1. Controls by government and its agencies.

2.1.1. On management

2.1.2. On accounts and audit

2.1.3. Lending

2.1.4. Credit policy

2.1.5. Reconstruction and reorganisation

2.1.6. Suspension and winding up

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

3. Social Control over Banking

3.1. Nationalization

3.2. Evaluation: private ownership, nationalisation and disinvestment

3.3. Protection of depositors

3.4. Priority lending

3.5. Promotion of under privileged classes

4. Deposit Insurance

4.1 The Deposit Insurance Corporation Act 1961: objects and reasons

4.1.2 Establishment of Capital of DIC

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

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

5. The Central Bank

5.1. Evolution of Central Bank

5.2. Characteristics and functions

5.3. Economic and social objectives

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

5.5. The Reserve Bank of India as the Central Bank

5.5.1. Organisational structure

5.6. Functions of the RBI

5.6.1. Regulation of monitory mechanism of the economy

5.6.1.1. Credit control

5.6.1.2. Exchange control

5.6.1.3. Monopoly of currency issue

5.6.1.4. Bank rate policy formulation

5.7. Control of RBI over non-banking companies

5.7.1. Financial companies

5.7.2. Non-financial companies

6. Relationship of Banker and Customer

6.1. Legal character

6.2. Contract between banker and customer

6.3. Banker's lien

6.4. Protection of bankers

6.5. Customers

6.5.1. Nature and type of accounts

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

6.6. Banking duty to customers

6.7. Consumer protection: banking as service

7. Negotiable Instruments

7.1. Meaning and kinds

7.2. Transfer and negotiations

7.3. Holder and holder in due course

7.4. Presentment and payment

7.5. Liabilities of parties

8. Lending by Banks

8.1. Good lending principles

8.1.1. Lending to poor masses

8.2. Securities for advances

8.2.1. Kinds and their merits and demerits

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

8.4. Default and recovery

8.4.1. Debt recovery tribunal

9. Recent Trends of Banking System in India

9.1. New technology

9.2. Information technology

9.3. Automation and legal aspects

9.4. Automatic teller machine and use of internet

9.5. Smart card

9.6. Use of expert system

9.7. Credit cards

10. Reforms in Indian Banking Law

10.1. Recommendations of committees: a review

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B 016INSURANCE LAW

Objectives of the Course

As early as in 1601 one finds an excellent exposition of the insurance idea expressed in these words of an Act of British Parliament "the loss lighteth rather easily, upon many than heavily upon few". The insured person transfers from his own shoulders to the insurers, who, in return for agreeing to assume a potential risk of 1oss receive a payment known as premium. The insurers rely on the probability that only some of the losses, they insure against will in fact occur within anygiven period. They calculate, therefore, that they will be left with a profit. The insurer, on the otherhand, is better able to risk his capital in trade since he knows that certain events which he cannotcontrol, such as fire, shipwreck, will not cause him to lose his investment.The insurance idea is an old-institution of transactional trade. The age old form of insurance wasthe marine insurance. There is nothing like disaster to set men's minds to work. Consequently, indue course of time fire and life insurance, made their appearance. Within the last hundred yearsthe insurance principle is being extended wider. Today one finds insurance cover for accidents,motor vehicles, glass, live stock, crop, burglary and various other disasters.Insurance is adevice not to avert risks, calamities and disasters; but to mitigate their rigours and.financial losses. The function of insurance is to spread such loss arising from risks of life over alarge number of persons.The operational framework of insurance idea is provided by the general principles of contract. Theinsurance policy, being a contract, is subject to all the judicial interpretative techniques. Besides,the insurance idea has a compensatory justice component. This brings it in the arena of the law oftort as well. It is even suggested that a fully grown and developed law of insurance may, if nottotally displace, decrease the significance of the law of tort.This course is designed to acquaint the students with the conceptual and operational parametersof insurance law in the context of the development of the general principles of law and judicial interpretation to inform the students about the use of law for the establishment of "just" order in insurance and to develop the appreciative and evaluative faculties of the students.

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

Syllabus

1. Introduction

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

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

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

2. General Principles of Law of Insurance

2.1. Definition, nature and history

2.2. The risk - commencement, attachment and duration

2.3. Assignment and alteration

2.4. Settlement of claim and subrogation

2.5. Effect of war upon policies

3. Indian Insurance Law: General

3.1. History and development

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

3.3. Mutual insurance companies and cooperative life insurance societies

3.4. Double Insurance and re-insurance

4. Life Insurance

4.1. Nature and scope

4.2. Event insured against life insurance contract

4.3. Circumstances affecting the risk

4.4. Amounts recoverable under life policy

4.5. Persons entitled to payment

4.6. Settlement of claim and payment of money

5. Marine Insurance

5.1. Nature and Scope

5.2. Classification of marine policies

5.2.1. The Marine Insurance Act, 1963

5.2.2. Marine insurance

5.2.3. Insurable interest, insurable value

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

5.2.5. Voyage-deviation

5.2.6. Perils of the sea

5.2.7. Assignment of policy

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

5.2.9. Return of premium

6. Insurance Against Accidents

6.1. The Fatal Accidents Act, 1855

6.1.1. Objects and reasons

6.1.2. Assessment of compensation

6.1.3. Contributory negligence,

6.1.4 Apportionment of compensation and liability

6.2. The Personal Injuries (Compensation insurance) Act 1963

6.2.1. Compensation payable under the Act

6.2.2. Compensation insurance scheme under the Act-Compulsory insurance

7. Property Insurance

7.1. Fire insurance

7.2. The Emergency Risks (Factories) Insurance

7.3. The Emergency Risks (Goods) Insurance

7.4. Policies covering risk of explosion

7.5. Policies covering accidental loss, damage to property

7.6. Policies covering risk of storm and tempest

7.7. Glass-plate policies

7.8. Burglary and theft policies

7.9. Live stock policies

7.10. Goods in transit insurance

7.11. Agricultural insurance

8. Insurance Against Third Party Risks

8.1 The Motor Vehicles Act, 1988

8.1.1 Nature and scope

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

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

8 2 Liability Insurance

8.2.1 Nature and kinds of such insurance

8.2.2 Public liability insurance

8.2.3 Professional negligence insurance

9. Miscellaneous Insurance Schemes: New Dimensions

9.1 Group life insurance

9.2 Mediclaim, sickness insurance

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B. 017CORPORATE FINANCE

Objectives of the course

Industrialisation has played, and has to play, a very vital role in the economic development of India. In the post independent era, industrial development is regarded,

and hence employed, as principal means in the strategy for achieving the goal of economic and social justice envisioned in the Constitution. Corporations, both public and private, are viewed as a powerful instrument for development. In a developing society like India enormous varieties of consumer goods are manufactured or produced. Obviously, the situation raises the issues of procuring, utilising and managing the finances. For this purpose a science of financial management techniques has beenevolved. The faculties of commerce, business and management studies have since last decades started to impart instruction so as to turn out sufficiently well equipped and adequately trained financial personnel. However, the legal and juristic aspects of corporate finance have been moreor less not effectively taken care of. In view of the above perspectives the broad objectives of this cause may be formulated as follows-

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

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

Syllabus

1. Introduction

1.1. Meaning, importance and scope of corporation finance

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

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

1.6. Constitutional perspectives - the entries 37, 38, 43, 44, 45, 46, 47, 52, 82, 85, and

86 of List 1 - Union List; entry 24 of List 11 - State List.

2. Equity Finance

2.1. Share capital

2.1.1. Prospectus - information disclosure

2.1.2. Issue and allotment

2.1.3. Shares without monetary consideration

2.1.4. Non-opting equity shares

3. Debt Finance

3.1. Debentures

3.1.2. Nature, issue and class

3.1.3. Deposits and acceptance

3.1.4. Creation of charges

3.1.4.5. Fixed and floating charges

3.1.5. Mortgages

3.1.6. Convertible debentures

4. Conservation of Corporate Finance

4.1. Regulation by disclosure

4.2. Control on payment of dividends

4.3. Managerial remuneration

4.4. Payment of commissions and brokerage

4.5. Inter-corporate loans and investments

4.6. Pay-back of shares

4.7. Other corporate spending

5. Protection of creditors

5.1. Need for creditor protection

5.1.1. Preference in payment

5.2. Rights in making company decisions affecting creditor interests

5.3. Creditor self-protection

5.3.1. Incorporation of favourable terms in lending contracts

5.3.2. Right to nominate directors

5.4. Control over corporate spending

6. Protection of Investors

6.1. Individual share holder right

6.2. Corporate membership right

6.3. Derivative actions

6.4. Qualified membership right
6.5. Conversion, consolidation and re-organisation of shares
6.6. Transfer and transmission of securities
6.7. Dematerialisation of securities
7. Corporate Fund Raising
7.1. Depositories - IDR(Indian depository receipts), ADR(American depository receipts),GDR(Global depository receipts)
7.2. Public financing institutions - IDBI, ICICI, IFC and SFC
7.3. Mutual fund and other collective investment schemes
7.4. Institutional investments - LIC, UTI and banks
7.5. FDI and NRI investment - Foreign institutional investments (IMF and World bank
8. Administrative Regulation on Corporate Finance
8.1. Inspection of accounts
8.2. SEBI
8.3. Central government control
8.4. Control by registrar of companies
8.5. RBI control

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