

Jiwaj University, Gwalior
LL.M. Ist Semester
Paper – I
Law and Social Transformation in India

The following Syllabus prepared with this perspectives will be spread over a period of one semester.

1. Law and social change:- Law as an instrument of social change , law as the product of traditions and culture, Criticism and evaluation in the light of colonization and the introduction of common law system and institutions I India and its impact on further development of law and legal institutions in India.
2. Religion and the law:- Religion as a devise factor, Secularism as solution to the problem Reform of the law on secular lines: problems, Freedom of religion and non discrimination on the basis of religion, Religious minorities and the law.
3. Language and the law:- Language as a devise factor : formation of the linguistic states Constitutional guarantees to linguistic minorities, Language policy and the constitution official language : multi-language system, Non-discrimination on the ground of language.
4. Community and the Law:- Caste as a devise factor Concept Non-discrimination on the ground of caste, Acceptance of caste as a factor to undo past injustices, protective discrimination Scheduled caste tribes and backward classes Reservation for Economically and social back classes statutory commissions statutory provisions.
5. Regionalism and the Law: Regionalism as a divise factor Concept of India as one unit, right of movement, residence and business : impermissibility of

state or regional barriers, Equity in matters of employment :the slogan Sons of the soil and its practice Admission to educational institutions : preference to residents of a state.

6. Women and the Law:- Crimes against women Gender injustice and its various forms, Women's Commission, relating to women Constitutional and other legal provisions related to women.
7. Children and the Law:- Child labour Sexual exploitation Adoption and related problems, children and education child marriage.
8. Modernisation and the Law:- Modernisation as a value : Constitutional perspectives reflected in the fundamental duties, reform of a family law Agrarian reform Industrialisation of agriculture, Industrial reform : free enterprise v. State regulation Industrialisation V Environmental protection Reform of court processes, Criminal law plea bargaining compounding and payment of compensation to victims civil Law (ADR) confrontation V. Consensus mediation and conciliation lok adalats prison reforms.

Select Bibliography:-

- I) Mare Galanter (ED) Law and Society In Modern India (1997) Oxford.
- II) Robert Ling at The classical law of India (1998) Oxford.
- III) Manushi A journal about women and society.
- IV) H.M. Seervai Constitution Law of India 1996 Tirpathi.
- V) Savitri Gunasekhare Children, Law and Justice 1997 Sage.
- VI) M.P. Jain outlines of Indian Legal History 1993 Tirpathi Bombay.
- VII) Manorajan Mohanty class caste Gender Reading in Indian Govt and Politics.

Jiwaj University, Gwalior
LL.M. Ist Semester
Paper – II
Indian Constitutional Law : The New Challenges

The following Syllabus prepared with this perspectives will be spread over a period of one semester.

1. Federalism:- Creation of new states, Allocation and share of resources- distribution of grants in aid, The inter state disputes on resources, Rehabilitation of internally displaced persons, Centre's responsibility and internal disturbance within states, Directions of the Center to the state under Article 356 and 365.
2. "State" Need for widening the definition in the wake of liberalization.
3. Right to the equality: Privatisation and its impact on affirmative action.
4. Freedom of press and Challenge of New Scientific Development: Freedom of Speech and rights to broadcast and telecast, Rights to strikes hartal and pandla.
5. Emerging Regime of New Rights and Remedies Reading Directive Principles and Fundamental Duties into Fundamental Rights Compensation jurisprudence, Right to education, Commercialisation of education and its impact, Brain Drain by foreign education market.
6. Rights of Minorities to Establish and Administer Educational institutions and state Control.
7. Secularism and Religious fanaticism.
8. Legislative Procedure.
9. Separation of Powers : Stresses and strain, Judicial activism and judicial rests, PII implementation judicial independence Appointment, transfer and removal of judges, Accountability: executive and judiciary, Tribunals.



10. Democratic process: Next of politics with criminals and the Business, Election, Election Commission : status, Electoral Reforms, Coalition Government stability, durability, corrupt practice grass root democracy.
11. Constitutional Emergency Provisions.

Select Bibliography:-

- a) D.D. Basu. Shoeter Constitutions of India.
- b) Constitutional Assembly Debates Vol. 1 & 12 1989.
- c) H.M. Seeravi: Constitutional Law
- d) V.N. Shukul: Constitutional Law of India (M.P. Singh ed.)
- e) G. Austin: Constitutional Comerstume of a nation. J.N. Pandey: The Constitution of India (Hindi & English)
- f) B.K. Sharma: Bharat ka Samidhan.
- g) M.D. Chaturavadi Indian Constitutional Law of India.
- h) ILL.Journal
- i) AIR SCC
- j) Research Journals.
- k) H.R. Khanna : Making of India Constitution



Jiwaji University, Gwalior (M.P.)
LL.M. Ist Semester
Paper – III
(Criminal Group)
Principles of Criminal Law

Max.M. 100

Pass M. 40
Aggregate – 50%

Note:- The Paper shall be of 100 Marks Candidates are required to attempt five questions out of ten questions.

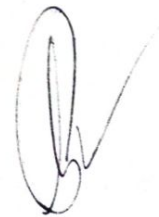
Criminal Law

a. Principles of Criminal Law

1. Crime -
2. Element of Crime
3. Stages of Crime
4. Factors Defining mens-rea under India penal code.
5. Acts not Punishable under Indian Panel code (General Exceptions)

b. Procedure in Criminal Law

1. Classification of criminal courts in India
2. Accusatorial and Inquisitorial system of trial
3. Principles of fair-trial
4. Role of Judge prosecutor of defining in fair-trial
5. Concept of plea Bargaining in India.



Jiwaj University, Gwalior
LL.M. Ist Semester
Paper – III
Administrative Law- Group

Administrative Process: Nature and Scope

The Syllabus prepared with the above mentioned objective will extend to a period of one semester.

1. Administrative Process: Nature and meaning the role of administrative agencies.
2. Rule of Law : Changing dimensions, regulation of a administrative process.
3. Separation of powers : From rigidity to flexibility
4. Delegated Legislation: Problems, Process and Controll
5. Power and duty: Doitrine of police power, doctrine of eminent power taxing power responsibility and accountability.
6. Administrative Discretion: Structuring and limiting impact of teaching development.

Select Bibliography:-

- I) Friedman The state and the rule of a Law in a mixed Economy.
- II) Dicey, Introduction to the Law of the Constitution.
- III) Davis, Discretionary Justice.
- IV) Jain & Jain, Principals of Administrative Law Wadhwa, Nagpur.
- V) De. Smith Judicial Review of Administrative Action 1995.
- VI) M.P. Jain Cases and Materials on Administrative Law 1996, Voli Wadhwa, Nagpur.



Jiwaj University, Gwalior
LL.M. Ist Semester
Paper – III
Human Rights Law – Group

Concept and Development of Human Rights

Content The following syllabus prepared with the above.

1. Human Rights : Concept : Human rights in Indian tradition :ancient, medieval. and modern, human rights in western tradition, development of Human Rights, human rights in international law and national law.
2. Classification on human right – First second and third Generations historical Development.
3. Human Rights: Politics and society : Colonisation, imperialism and human rights power practices, accountability and transparency, liberalization .
4. Human Rights and judicial Process : Judicial activism.
5. Human Rights Protection Agencies.

Select Bibliography:-

- i) Angela Hegarty, Siobhan Leonard, Human Rights and Agenda for the century 1999.
- ii) Lalit Parmer Human Rights, 1998.
- iii) Rma Jois, Human Rights, : Bharatiya values 1998
- iv) Lon I. fuller , The Morality of Law.
- v) John Finnis, Natural Law and natural Rights 19982.
- vi) M.G. Chitlara, Human Rights : Commitment and Betrayal, 1996
- vii) V.D. Kulshreshtra , The Classical Law of India 1998. Oxford.

Jiwaj University, Gwalior
LL.M. Ist Semester
Paper – III
(Business Law Group)
Principal of Contract

Principal of Contract

This Paper shall be of 100 Marks Candidates attempted five questions out often.

Contents:-

1. History and Nature of Contractual Obligation Agreement Proposal and Acceptance.
2. Consideration
3. Capacity to Contract.
4. Free Consent
5. Discharge of Contract
6. Contract of Indemnity Guarantee
7. Bailment and Pledge
8. Agency Liability

Select Bibliography -

- a. M.Krishnan Nain, Law of Contract
- b. Dottent Contract
- c. Anand & Aiyer Law of Specifir Relief 1999
- d. P.S. Aiyer



Jiwaji University, Gwalior (M.P.)
LL.M. IInd Semester
Paper – Ist
Judicial Process and Law and Legal Theories
(Compulsory Subject)

Syllabus

1. Law – Definition and Content
2. Legal Theories – Natural Law Theories, Historical Theory of Law, Austinian Theory of Law, Sociological Theory of Law, Neoclassical Theory of Law.
3. Jurisprudential Concepts – Personality, Right and Duty and Ownership.
4. Nature of Judicial Process –
 1. Judicial Process as an Instrument of Social Ordering.
 2. Judicial Process and creativity in Law common law model Legal Reasoning and growth of law change and stability.
 3. The tools and techniques of judicial creativity and precedent
 4. Legal development and creativity through legal reasoning under statutory and codified systems.
5. Special Dimensions of Judicial Process in Constitutional Adjudications.
 1. Notions of indicial review
 2. Role' in constitutional adjudication various theories of indicial role.
 3. Tools and techniques in policy – making and creativity in constitutional adjudication.
 4. Varieties of judicial and juristic activism
 5. Problems of accountability and judicial law – making.
6. Judicial Process in India
 1. Indian debate on the role of judges and on the notion of judicial review.
 2. The “independence” of judiciary and the “political” nature of indicial process
 3. Judicial activism and creativity of the Supreme Court the tools and techniques of creativity/
 4. Judicial process in pursuit of constitutional goals and values new dimensions of judicial activism and structural challenges.
 5. Institutional liability of courts and judicial activism scope and limits.
7. The Concepts of Justice
 1. The concept of justice or Dharma in Indian thought
 2. Dharma as the foundation of legal ordering in Indian thought.
 3. The concept and various theories of justice in western thought.



4. Various theoretical bases of justice : the liberal contractual tradition
liberal utilitarian tradition and the liberal moral tradition.
8. Relation between Law and Justice
1. Equivalence Theories Justice as nothing more than the positive law of the stronger class
 2. Dependency theories For its realization justice depends on law, but justice is not the same as law.
 3. The independence of justice theories means to end relationship of law and justice The relationship in the context of the Indian constitutional ordering.
 4. Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

Select Bibliography'

- Juflus Store, - The Province and Function of Law, Part II, Chs. 1.816(2000), Universal, New Delhi.
- Cardozo, The Nature of Judicial Process (1995) Universal, New Delhi
- Henry J. Abraham The Judicial Process (1998), Oxford.
- J. Stone, Precedent and the Law : Dynamics of Common Law Growth (1985) Butterworths
- W. Friedmann, Legal Theory (1960), Stevens, London
- Bodenheimer, Jurisprudence the Philosophy and Method of the Law (1997), Universal, Delhi
- J. Stone, Legal System and Lawyers' Resonances (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.
- Dias – Jurisprudence
- Petan – Concepts of Jurisprudence
- Friedman – Legal Theories of Jurisprudence.

3

al tradition, th

Jiwaji University, Gwalior (M.P.)
LL.M. IInd Semester
Paper – IInd
Legal Education And Research Methodology
(Compulsory Subject)

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, Publication of journal and assessment of teachers
8. Clinical legal education legal aid, legal literacy, legal survey and law reform
9. Research Methods
 1. Socio Legal Research
 2. Doctrinal and non – doctrinal
 3. Relevance of empirical research
 4. Induction and deduction
10. Identification of Problem of research
 1. What is a research problem?
 2. Survey of available literature and bibliographical research.
 - (I) Legislative materials including subordinate legislation, notification and policy statements
 - (II) 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.
 - (III) Juristic Writings a survey of juristic literature relevant to select problems in India and foreign periodicals.
 - (IV) Compilation of list of reports or special studies conducted relevant to the problem.
11. Preparation of the Research Design
 1. Formulation of the Research problem
 2. Devising tools and techniques for collection of data Methodology
 - (i) Methods for the collection of statutory and case materials and juristic literature.
 - (ii) Use of historical and comparative research materials.
 - (iii) Use of observation studies.
 - (iv) Use of questionnaires/interview
 - (v) Use of case studies.
 - (vi) Sampling procedures design of sample, types of sampling to be adopted.
 - (vii) Use of scaling techniques.

- (viii) Jurimetrics
- (ix) Computerized Research A study of legal research programs such as Lexis and West law coding.
- (x) Classification and tabulation of data use of cards for data collection Rules for tabulation Explanation of tabulated data.
- (xi) Analysis of data

Bibliography:-

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

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

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

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

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

William J. Grade and Paul K. Hiatt, 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/n Nutshell, (1996), West Publishing Co.

Havard Law Review Association, Uniform System of Citations.

IL! Publication, Legal Research and Methodology.



Jiwaji University, Gwalior (M.P.)
LL.M. IInd Semester
Paper – Ist
Drug Addiction, Criminal Justice and Human Rights
(Criminal Group)

Max.M. 100

Pass M. 40
Aggregate – 50%

Introductory:-

Basic Conceptions Drugs "narcotics" "Psychotropic substances" Dependence
"addiction" "Crime without victims" Trafficking "in "Drugs" "Primary drugs abuse:-

Anagraphic and Social Characteristics of Drugs Users

Gender, age religiousness, single individuals/ cohabitation, socio-economic level
of family, Residence patterns (urban/rural/urban) Educational levels, occupation, age
at first use, Type of drug use, Reasons given as cause of first use, Method of intake,
pattern of the use, Consequences on addict's health (physical/psychic)

The International legal Regime

Analysis of the background, text and operation of the single convention on
Narcotic drugs, 1961, 1972.

The Indian Regulatory system .

1. Approaches to narcotic trafficking during colonial India, Nationalist thought
towards regulation of drug trafficking and usage.
2. The penal provisions (under the IPC and customs Act.)
3. India's role in the evolution of the two international conventions, Judicial
approaches to sentencing in drugs trafficking and abuse, The Narcotic drugs and
Psychotropic Substances Act, 1985.
4. Patterns of resource investment in India : Policing adjudication treatment
aftercare and rehabilitation.
5. The Narcotic drugs and Psychotropic Substances Act , 1985.

Human Rights Aspects:-

Deployment of marginalized people as carriers of narcotics, The problem of juvenile drug use and legal approaches, possibilities of misuse and abuse of investigative prosecutor powers, Bail.

The Role of Community In Combating Addiction

The role of educational systems, The role of medical profession, The role of mass media, Initiatives for compliance with regulatory systems, Law reform Initiatives.

Select Bibliography:-

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

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

R.A. Cocken, *Drug Abuse and Personality in Young Offenders* (1971)

United Nations, *Economic and Social Reports of the Commission on Narcotic drugs.*

United Nations.

Lok Sabha and Rajya sabha Debates on 1986 bill on psychotropic Substances

Select bibliography

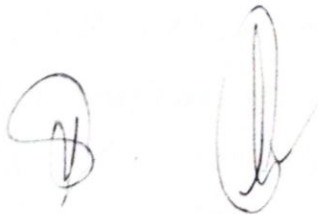
Principal of Crime R.K. Nigam

Wilkins and Cross, *Outline of the Law of Evidence*

Archbold, *Pleading, Evidence and Practice in Criminal Cases*

Sarkar, *Law of Evidence*

K.N.Chandrasekharan Pillai(ed.), R.V. Keikar's *Outlines of Criminal Procedure* (2000), Eastern, Law 225



Jiwaji University, Gwalior (M.P.)
LL.M. IInd Semester

Paper – IInd
(Business law Group)
Law of Industrial and Intellectual Property

Max.M. 100

Pass M. 40
Aggregate – 50%

Note:- The Paper shall be of 100 Marks Candidates are required to attempt five questions out of ten questions.

Syllabus

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

- 6.3. Differences in resources for patent examination between developed and developing societies
- 6.4. The Indian situation
7. Special Problems of Proof of Infringement:
 - 7.1. Status of intellectual property in transit - TRIPS obligation - Indian position.
 - 7.2. The evidentiary problems in action of passing off.
 - 7.3. The proof of non-anticipation, novelty of inventions protected by patent law
 - 7.4. Evidentiary problems in piracy : TRIPS obligation - reversal of burden of proof in process patent
 - 7.5. Need and Scope of Law Reforms.
8. Intellectual Property and Human Right
 - 8.1. Freedom of speech and expression as the basis of the regime of intellectual property right - copyright protection on internet - WCT (WIPO Copyright Treaty, 1996).
 - 8.2. Legal status of hazardous research protected by the regime of intellectual property law.
 - 8.3. Human right of the impoverished masses intellectual property protection of new products for healthcare and food security
 - 8.4. Traditional knowledge - protection- biodiversity convention- right of indigenous people.

Select bibliography

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

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

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

David Bainbridge, Software Copyright Law (1999), Butterworths

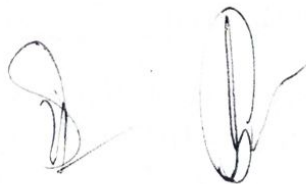
Sookman, Computer Law (1998), Carswell

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

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

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

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



Jiwaji University, Gwalior (M.P.)
LL.M. IInd Semester

Paper – IIIrd
(Human Rights law Group)
Human Rights and International Order

Syllabus

1. Development of the Concept of Human Rights Under International Law
 - 1.1. Role of International Organization and Human Rights
 - 1.2. Universal Declaration of Human Rights (1948)
 - 1.3. Covenant on Political and Civil Rights (1966)
 - 1.4. Covenant on Economic, Social and Cultural Rights (1966)
 - 1.5. I L O and other Conventions and Protocols dealing with human rights
2. Role of Regional Organizations
 - 2.1. European Convention on Human Rights
 - 2.2. European Commission on Human Rights/Court of Human Rights.
 - 2.3. American Convention on Human Rights
 - 2.4. African Convention on Human Rights
 - 2.5. Other regional Conventions.
3. Protection agencies and mechanisms
 - 3.1. International Commission of Human Rights
 - 3.2. Amnesty International
 - 3.3. Non-Governmental Organizations (NGOs)
 - 3.4. U.N. Division of Human Rights
 - 3.5. International Labour Organization
 - 3.6. UNESCO
 - 3.7. UNICEF
 - 3.8. Voluntary organizations
 - 3.9. National and State Human Rights Commissions.
4. International enforcement of Human Rights
 - 4.1. Role of ICJ and regional institutions

Select Bibliography

- Benedetto Conforti and Francesco Francioni, Enforcing International Human Rights in Domestic Courts, (1997).
- Francisco Forrest Martin, International Human Rights Law and Practice, (1997).
- Luck Clements, European Human Rights Taking a Case under the Convention, (1994).
- Evelyn A. Ankumah, The African Commission on Human Rights and People's Rights, (1996).
- R.K.Sinha, Human Rights of the World, (1997).
- Philip Alston, The United Nations and Human Rights A Critical Appraisal, (1992).
- R.S.Sharma and R.K.Sinha, Perspectives in Human Rights Development, (1997).
- The Human Rights Watch Global Report on Women's Human Rights, (2000), Oxford.
- B.P.Singh Seghal, Human Rights in India, (1996).
- Chandan Bala, International Court of Justice: Its Functioning and Settlement of International Disputes, (1997).



**Jiwaji University, Gwalior (M.P.)
LL.M. IInd Semester**

**Paper – IVth
(Administrative Law Group)
Administrative Process and Judicial Control**

Syllabus

1. Concepts and Agencies
 - 1.1. Common law countries
 - 1.2. French system
2. Judicial Review in India
 - 2.1. Historical development
 - 2.2. Powers of the Supreme Court
 - 2.3. Powers of the High Court
 - 2.4. Role of subordinate judiciary
3. Jurisdiction
 - 3.1. Finality clauses
 - 3.2. Conclusive evidence clauses
 - 3.3. Law fact distinction
 - 3.4. Exclusionary clause
4. Grounds of Review
 - 4.1. Doctrine of ultra vires
 - 4.2. Unreviewable discretionary powers: from Liversidge to Padfield
 - 4.3. Discretion and Justifiability
 - 4.4. Violation of fundamental rights
 - 4.5. Extraneous consideration and/or irrelevant grounds
 - 4.6. Delegation
 - 4.7. Acting under dictation
 - 4.8. Malafides and bias
 - 4.9. Lack of rationality and proportionality
 - 4.10. Oppressing decision
 - 4.11. Absence of proportionality

5. Procedural fairness
 - 5.1. Legitimate Expectation
 - 5.2. Natural justice and duty to act fairly
 - 5.3. Bias and personal interest
 - 5.4. Fair hearing

6. Remedies
 - 6.1. Writs
 - 6.2. Injunction and declaration

7. Limits of judicial review
 - 7.1. Locus standi and public interest litigation
 - 7.2. laches
 - 7.3. Res judicata
 - 7.4. alternative remedies

8. Judicial Review Delegated Legislation

Select Bibliography

- S.P. Sathe, Administrative Law (1998), Butterworths, India.
De Smith, Judicial Review of Administrative Action (1995), Sweet and Maxwell.
I.P. Massey, Administrative Law (1995), Eastern, Lucknow.
Bagawati Prasad Banerjee, Writ Remedies, (1999), Wadhwa, Nagpur.
M.P. Jain, The Evolving Indian Administrative Law (1983), Tripathi, Bombay
Jain & Jain, Principles of Administrative Law (1986), Tripathi
M.P. Jain, Cases and Materials on Administrative Law (1996), Vol.I, Wadhwa, Nagpur



Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester
Paper – Ist
Criminology & Privileged class Deviance

Max.M. 100

Pass M. 40
Aggregate – 50%

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 focuses 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 one semester.

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

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 – in 1959 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 Ibakkar-Natarajan Commission Report on Fairfax.

3. Police Deviance

- 3.1. Structures of legal 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)
- Surendranath Dwevedi 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 Potherm und, "Patterns of Trade Union Leadership in Dhanbad Coal fields" 23 *J.I.L.I* 522 (1981)

Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester

Paper – IIInd
Juvenile Delinquency

Max.M. 100

Pass M. 40

Aggregate – 50%

Note:- This paper shall be of 100 marks. Candidates are required to attempt five questions out of ten questions.

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, destitutes, 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

Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester

Paper – IIIrd
Collective violence and Criminal Justice System

Max.M. 100

Pass M. 40

Aggregate – 50%

Note:- This paper shall be of 100 marks, Candidates are required to attempt five questions out of ten questions.

Syllabus

1. Introductory

- 1.1. Notions of "force", "coercion", "violence"
- 1.2. Distinctions: "symbolic" violence, "institutionalised" violence, "structural violence"
- 1.3. "Constitutional" and "criminal" speech: Speech as incitement to violence
- 1.4. Collective political violence" and legal order
- 1.5. 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. Violence against the Scheduled Castes

- 3.1. Notion of Atrocities
- 3.2. Incidence of Atrocities
- 3.3. Uses of Criminal Law to combat Atrocities or contain aftermath of Atrocities
- 3.4. Violence Against Women

4. Communal Violence

- 4.1. Incidence and courses of "communal" violence
- 4.2. Findings of various commissions of enquiry
- 4.3. The role of police and para-military systems in dealing with communal violence
- 4.4. Operation of criminal justice system tiring, and in relation to, communal violence



5. Criminal Liability.

1. Group Liability
2. Vicarious Liability
3. Strict Liability
4. Absolute Liability
5. Liability in social economic and Socio-welfare offences.

Select bibliography

- U. Baxi, "Dissent, Development and Violence" in R. Meagher (ed.) *Law and Social Change: Indo-American Reflections* 92 (1988)
- U. Baxi (ed.), *Law and Poverty: Critical Essays*, (1988)
- A.R. Desai, (ed.) *Peasant Struggles in India*, (1979)
- A.R. Desai, *Agrarian Struggles in India: After Independence* (1986) A.R. Desai, *Violation of democratic Rights in India* (1986)
- D.A. Dhangare, *Peasant Movement in India: 1920-1950* (1983)
- Ranjit Guha, *Elementary Aspects of Peasant Insurgency in Colonial India* (1983) Ranjit Guha, (ed.) *Subaltern Studies Vol. 1-3* (1983-1988)
- T. Honderich, *Violence for Equality* (1980)
- Mark Juergensmeyer, "The Logic of Religious Violence: The Case of Punjab" 22 *Contributions to Indian 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 Social Anthropology 1969-1979* (1986)
- Law

**Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester**

**Paper – Ist
Insurance Law
(Business Law Group)**

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 I 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

Select bibliography

- John Hanson and Christophals Henly, All Risks Property Insurance (1999), LLP Asia, Hongkong.
Peter Mac Donald Eggers and Patric Foss, Good Faith and Insurance Contracts (1998) LLP Asia, Hongkong
Banerjee, Law of Insurance (1994), Asia Law House, Hyderabad.
Mitra B.C, Law Relating to Marine Insurance (1997) Asia Law House, Hyderabad
JCB Gilmar and Mustill, Arnold on the Law of Marine Insurance, (1981), Sweet & Maxwell
Birds, Modern Insurance Law (1997) Sweet & Maxwell
Colinvaux's Law of Insurance (1997), Sweet & Maxwell
O'Mary on Marine Insurance (1993), Sweet & Maxwell.
International Labour Office, Administration Practice of social Insurance (1985)
E.R. Hardy Ivamy, General Principles of insurance Law (1979)
Edwin W. Patterson, Cases and Materials on Law of insurance (1955)
M. N. Sreenivasan Law and the Life Insurance Contract (1914)



Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester

Paper – IIIrd
Law of Export Import Regulation

Max.M. 100

Pass M. 40
Aggregate – 50%

Note:- This paper shall be of 100 marks Candidates are required to attempt five question out of ten questions.

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,
Published

by the Indian law Institute, New Delhi.

Foreign Trade Development and Regulation Act 1992 and Rules

Foreign Exchange Management Act 1999

Marine Products Export Development Authority Act 1972

Customs Manual (Latest edition)

Final Treaty of GATT, 1994.

Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester

Paper – IVth
Banking Law

Max.M. 100

Pass M. 40
Aggregate – 50%

Note:- This paper shall be of 100 marks Candidates are required to attempt five question out of ten questions.

Syllabus

1. Introduction

- 1.1. Nature and development of banking
- 1.2. History of banking in India and elsewhere -indigenous banking-evolution of banking in India - different kinds of banks and their functions.
- 1.3. Multi-functional banks - growth and legal issues.

2. Law Relating to Banking Companies in India

- 2.1. Controls by government and its agencies.
 - 2.1.1. On management
 - 2.1.2. On accounts and audit
 - 2.1.3. Lending
 - 2.1.4. Credit policy
 - 2.1.5. Reconstruction and 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 monetary mechanism of the economy
 - 5.6.1.1. Credit control
 - 5.6.1.2. Exchange control
 - 5.6.1.3. Monopoly of currency issue
 - 5.6.1.4. Bank rate policy formulation
- 5.7. Control of RBI over non-banking companies
 - 5.7.1. Financial companies
 - 5.7.2. Non-financial companies

6. Relationship of Banker and Customer

- 6.1. Legal character
- 6.2. Contract between banker and customer
- 6.3. Banker's lien
- 6.4. Protection of bankers
- 6.5. Customers
 - 6.5.1. Nature and type of accounts
 - 6.5.2. Special classes of customers - lunatics, minor, partnership, corporations, local authorities
- 6.6. Banking duty to customers
- 6.7. Consumer protection: banking as service

7. Negotiable Instruments

- 7.1. Meaning and kinds
- 7.2. Transfer and negotiations
- 7.3. Holder and holder in due course
- 7.4. Presentment and payment
- 7.5. Liabilities of parties

8. Lending by Banks

- 8.1. Good lending principles
 - 8.1.1. Lending to poor masses
- 8.2. Securities for advances
 - 8.2.1. Kinds and their merits and demerits
- 8.3. Repayment of loans : rate of interest, protection against penalty
- 8.4. Default and recovery
 - 8.4.1. Debt recovery tribunal

9. Recent Trends of Banking System in India

- 9.1. New technology
- 9.2. Information technology
- 9.3. Automation and legal aspects
- 9.4. Automatic teller machine and use of internet
- 9.5. Smart card
- 9.6. Use of expert system
- 9.7. Credit cards

10. Reforms in Indian Banking Law

- 10.1. Recommendations of committees: a review

Select bibliography

- Basu, A. Review of Current Banking Theory and Practise (1998) Mac millan
M. Hapgood (ed.), Pagets' Law of Banking (1989) Butterworths, London
R. Goode, Commercial Law, (1995) Penguin, London.
Law 258
Ross Cranston, Principles of Banking Law (1997) Oxford.
L.C. Goyle, The Law of Banking and Bankers (1995) Eastern
M.L. Tannan, Tannan's Banking Law and Practice in India (1997) India Law House, New Delhi, 2 volumes
K.C. Shekhar, Banking Theory and Practice (1998) UBS Publisher Distributors Ltd. New Delhi.
M. Dasse, S. Isaacs and G. Pen, E.C. Banking Law, (1994) Lloyds of London Press, London
V. Conti and Hamaui (eds.), Financial Markets' Liberalization and the Role of Banks', Cambridge University Press, Cambridge, (1993).
J. Dermine (ed.), European Banking in the 1990s' (1993) Blackwell, Oxford.
C. Goodhart, The Central Bank and the Financial System (1995), Macmillan, London
S. Chapman, The Rise of Merchant Banking (1984) Allen Unwin, London
K. Subrahmanyam, Banking Reforms in India (1997) Tata Maigraw Hill, New Delhi.
Subodh Markandeya and Chitra Markandeye, Law Relating to Foreign Trade in India: Being a Commentary on the Foreign Trade, (Development and Regulation) Act 1992, Universal Law Publishing Co. Pvt. Ltd. Delhi.
R.S. Narayana, The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993), Asia Law House, Hyderabad.
M.A. Mir, The Law Relating to Bank Guarantee in India (1992), Metropolitan Book, New Delhi.
Anthony Pierce, Demand Guarantees in International Trade (1993) Sweet & Maxwell,
Ross Cranston (ed.) European Banking Law: The Banker-Customer Relationship (1999) LLP, London
Mitra The Law Relating to Bankers' Letters of Credit and Allied Laws, (1998) University Book Agency, Allahabad.
R.K. Talwar, Report of Working Group on Customer Service in Banks
Janakiraman Committee Report on Securities Operation of Banks and Financial Institution (1993)
Narasimham Committee report on the Financial System (1991)- Second Report (1999)

Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester

Paper – IVth
Public Authorities Liability

Max.M. 100

Pass M. 40
Aggregate – 50%

Objectives of the course

Judicial decisions in the common law world have formulated several duties and liabilities on the administrative hierarchy towards the citizens. Is the state in exercise of sovereign functions liable to compensate the affected persons? To what extent is the state in exercise of sovereign functions immune from liability? The state enters into contracts in more ways than one. Should there be standards of conduct laid down on the state when it does so? How can accountability be determined in all these areas? Open government is one of the significant attributes of good government in democracy. In what way these norms can be meticulously followed by the state in meting out administrative justice. There are problems a country like India does confront in her march towards good governance.

This course with the above mentioned perspectives in view comprises about 42 units of one hour duration to be spread out to one semester.

Syllabus

1. Tortious Liability

- 1.1. Sovereign immunity
- 1.2. Commercial and non-commercial function

2. Contractual liability

- 2.1. Processual justice : Privilege - right dichotomy
- 2.2. Blacklisting of contractors
- 2.3. Terms in government contract as instruments of social justice

3. Emerging Liability

- 3.1. Personal accountability
- 3.2. Compensatory jurisprudence and right to life
- 3.3. Accountability under consumer law

4. Privilege Against Disclosure

- 4.1. Right to information

- 4.2. Official secrecy
- 4.3. Executive privilege
- 4.4. Security of state and control on information
- 4.5. Judicial review

5. Promissory Estoppel

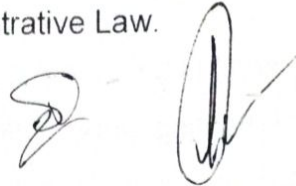
- 5.1. Legitimate expectation
- 5.2. Constitutional dimensions

Select bibliography

Jain & Jain, Principles of Administrative Law (1986), Tripathi

De Smith, Judicial Review of Administrative Action (1995).

B.Schwartz, An Introduction to American Administrative Law.



Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester

Paper – IVth
Public Authorities and Power Holders Controls on Madministration

Max.M. 100

Pass M. 40
Aggregate – 50%

Objectives of the course

The maladministration is a disturbing phenomenon witnessed in a developing democracy like India. People holding public offices and authority are accused of misuse of their office and misappropriation of public funds for private gain. Privatization of public property for their private aggradisement is an evil to be curbed early. Institutions like Lokpal and Lokayukt, agencies like commissions of enquiry and vigilance commission and legislative committees inquiring into particular problem or general questions are in the process of experimentation in the country with the object of getting out of vicious triangle. These are opinions to strengthen the CBI. The reports of Comptroller and Auditor General are also followed up. This course shall concentrate on all these areas and make an evaluation of the existing machinery in the light of the judicial dicta on certain cases.

The paper comprises of about 42 units of one-hour duration to be spread out to a period of one semester.

Syllabus

1. Ombudsman

- 1.1. The concept
- 1.2. Comparative perspectives
- 1.3. Evolving Indian models -Lokpal, Lokayukt institutions

2. Commission of Inquiry

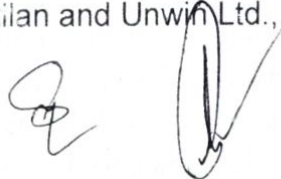
3. Vigilance Commissions
4. Investigation Agencies : the CBI
5. Inquiries by Legislative Committees
6. Legislative Control
7. Financial Control - Comptroller and Auditor General
8. Judicial Inquiries

Select bibliography

K.S. Shukla and S.S.Singh, Lokayukta: a Social Legal Study (1988), Indian Institute of Public Administration, N.Delhi.

Jain & Jain, Principles of Administrative Law (1986) Tripathi

Donald C. Rowat, The Ombudsman (1966), George Ailan and Unwin Ltd.,

Two handwritten signatures in black ink. The first is a cursive signature, and the second is a more stylized signature with a large loop.

Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester

Paper – IVth
Local Self-Government Law

Max.M. 100

Pass M. 40
Aggregate – 50%

Objectives of the course

With the introduction of the Constitution seventy third and seventy fourth amendments, India is moving towards the ideal of direct democracy endowing the local bodies with powers of administration in matters of regional and local importance. This change has added new vistas of Indian democracy and it offers an opportunity to translate the Gandhian concept of Gram Swaraj into practice. Necessarily, a person specializing in administrative law has to be equipped with the knowledge on the working of early systems, the present constitutional scheme, the legislative powers of the State transferring responsibility to local bodies and on the increasing regulatory and financial powers of the local bodies. The nature of the democratic functioning of these elected bodies and the scope of administrative control as well of the judicial control over them are challenging areas for students of administrative law to evaluate and help formulation of new and pragmatic working methods.

The course shall comprise about 42 units of one-hour duration to be spread out to a period of one semester.

Syllabus

1. Historical Perspectives
 - 1.1. Early period
 - 1.2. Gram Swaraj: the Gandhian concept
2. Constitutional Scheme
 - 2.1. Directive Principles
 - 2.2. Structure and powers of local bodies
3. Legislative Powers
 - 3.1. Direct democracy and grass root planning
 - 3.2. Municipalities and corporation

3.3. Gram Sabha

4. Quasi-legislative Powers

4.1. Rule making power of the State Government

4.2. Regulations and Bye-laws

5. Financial Powers

5.1. Levying taxes

5.2. Licensing power

5.3. Financial resources and powers

6. Judicial and Quasi-judicial powers of the Local Bodies

7. Election to Local Bodies

8. Conduct of Meetings: Corporation, Municipal Council, Panchayat Committee and Gram Sabha

9. Institutional and Judicial Control

Select bibliography

Friedman, The State and the Rule of Law in a Mixed Economy

Neville L. Brown and J.F. Garner, French Administrative Law

Dicey, Introduction to the Law of the Constitution,

Ivor Jennings, Law and the Constitution

Schwartz & Wade, Legal Control of Government

Davis, Discretionary Justice

Jain & Jain, Principles of Administrative Law (1986), Tripathi, Bombay

De Smith, Judicial Review of Administrative Action (1995)

Indian Law Institute, Government Regulation of Private

W. Thornhill (ed.), The Growth and Reform of English Local Self-government (1971),

Weidenfeld and Nierlson, London

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

M. Venketarangaia & M. Pattabhiram, Local Government in India (1969) Allied, New Delhi.



Jiwaji University, Gwalior (M.P.)
LL.M. III:rd Semester

Paper – IVth
Protection and Enforcement of Human Rights in India

Max.M. 100

Pass M. 40
Aggregate – 50%

Note:- This paper shall be of 100 marks Candidates are required to attempt five question out of ten questions.

Syllabus

1. History and Development of Human Rights in Indian Constitution
 - 1.1. Constitutional Philosophy - Preamble
 - 1.2. Fundamental Rights
 - 1.3. Directive Principles of State Policy
 - 1.4. Fundamental Duties
2. Judicial Activism and Development of Human Rights Jurisprudence
3. Enforcement of Human Rights
 - 3.1. Formal enforcement mechanisms
 - 3.1.1. Role of Supreme Court
 - 3.1.2. Role of High Courts
 - 3.1.3. Role of Civil and Criminal Courts
 - 3.1.4. Statutory Tribunals
 - 3.1.5. Special Courts
4. Role of India in implementing international norms and standards

Select bibliography

- D.D.Basu, Human Rights in Indian Constitutional Law, (1994).
Vijay Chitnis,(et.al.). Human Rights and the Law: National and Global Perspectives, (1997).
B.P.Singh Seghal, Law, Judiciary and Justice in India, (1993).
James Vadakkumchery, Human Rights and the Politics in India, (1996).
D.R.Saxena, Tribals and the Law, (1997).
Poornima Advani, Indian Judiciary : A Tribute, (1997).
Justice Venkataramiah, Human Rights in the Changing World, (1998).
Paramjit S.Jaiswal and Neshtha Jaiswal, Human Rights and the Law, (1996)

Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester

Paper – IVth

**Human Rights of Disadvantaged Groups : Problems and issues in the
Protection and Enforcement**

Max.M. 100

Pass M. 40

Aggregate – 50%

Note:- This paper shall be of 100 marks Candidates are required to attempt five question out of ten questions.

Syllabus

1. Concept of Disadvantaged Groups
2. Emerging Human Rights Jurisprudence and the Role of the Judiciary
 - 2.1. Rights of women
 - 2.2. Rights of the child
 - 2.3. Rights of prisoners
 - 2.4. Rights of dalits
 - 2.5. The tribal and other indigenous people
 - 2.6. The mentally ill
 - 2.7. The stateless persons
 - 2.8. The unorganised labour
 - 2.9. 'Aids' victims
 - 2.10. Rights of minorities
3. Enforcement of Human Rights
 - 3.1. Protection Laws of the Disadvantaged Groups: Problems and Issues
4. Future Perspectives of the Human Rights of the Disadvantaged

Select bibliography

- G.S Bhargava and R.M.Pal, Human Rights of Dalit Societal Violation, (1999).
Geraldine Van Dueren, The International Law on the Rights of the Child, (1998).
Prabhat Chandra Tripathi, Crime Against Working Women, (1998).
Paras Diwan and Piyush Diwan, Women and Legal Protection
Philip Alston (et.al.), Children, Rights and the Law.
Kelly D. Askin, Dorean M. Koenig, Women and International Human Rights Law, (1999).
N.K.Chadrabarti, Juvenile Justice in the Administration of Criminal Justice, (1999).
Rebecca Wallace, International Human Rights, Text and Materials, (1997).
Janaki Nair, Women and Law in Colonial India, (1996).
Simon Creighton, Vicky King, Prisons and the Law, (1996).

Jiwaji University, Gwalior (M.P.)
LL.M. IIIrd Semester

Paper – IVth

International Humanitarian Law and Refugee law

Max.M. 100

Pass M. 40

Aggregate – 50%

Note:- This paper shall be of 100 marks Candidates are required to attempt five question out of ten questions.

Syllabus

1. Humanization of Warfare.
 - 1.1. Amelioration of the wounded and sick
 - 1.1.1. Armed forces in the field
 - 1.1.2. Armed forces at sea
 - 1.1.2.1. The shipwrecked
 - 1.2. Protection and facilities
 - 1.2.1. Prisoners of war
 - 1.2.2. Civilians in times of War
 - 1.2.3. Cultural properties
2. Control of weapons
 - 2.1. Conventional
 - 2.2. Chemical
 - 2.3. Biological
 - 2.4. Nuclear
3. Humanitarian law: Implementation
 - 3.1. Red Cross - role
 - 3.2. National legislation
4. The Concept of refugees
 - 4.1. Definition of refugees and displaced persons - their problems
 - 4.2. The UN Relief and Rehabilitation Administration and other International Refugee organizations : international protection.
 - 4.3. Protection under national laws
5. Strategies to combat refugee problem
 - 5.1. Repatriation, resettlement local integration and rehabilitation.
 - 5.2. UNHCR - role
 - 5.3. UNHCR and India

Select bibliography

B.S.Chimni, International Refugee Law, (2000).

Jean Yves Calier, Who is a Refugee A Comparative Case Law Study, (1997)

Kelly Dawn Askin, War Crimes Against Women, (1997).

M.K.Balachandran, Rose Varghese, Introduction to International Humanitarian Law, (1997).

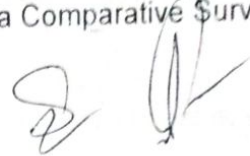
Guy S. Goodwin-Gill, The Refugee in International Law, (1996).

Veral Gowlland- Debbas, The Problem of Refugees in the Light of Contemporary International Law Issues, (1996).

Anti-personnel Landmines Friend or Foe?, International Committee of Red Cross, (1996).

Resettlement Handbook, The United Nations High Commissioner for Refugees.

James C. Hathaway, Hohn A. Dent, Refugee Rights: Report on a Comparative Survey, (1995)



Jiwaji University, Gwalior (M.P.)
LL.M. IInd Semester

Paper – IVth
Project work and Viva – Voce

Max.M. 50

Min. M. 20
Aggregate – 50%

The Project work and Viva-Voce shall be held at the end of IIIrd Semester examination. Each student shall prepare a project report on the topic assigned to them in advance and he shall bring that record at the time of Viva – Voce.

The Practical & viva-voce examination shall be conducted by a Panel of one external examiner to be appointed by the university and internal examiner. The Head of department will act as internal examiner.



Jiwaji University, Gwalior (M.P.)
LL.M. IVth Semester

Paper – 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 a range 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

Retribution, Utilitarian prevention: Deterrence, Utilitarian: Intimidation,
Behavioural prevention: Incapacitation, 2.5. Behavioural prevention: Rehabilitation
– Expiation, Classical Hindu and Islamic approaches to punishment.

3. The Problematic of Capital Punishment

 2 

Constitutionality of Capital Punishment, Judicial Attitudes Towards Capital Punishment in India - An inquiry through the statute law and case law., Law Reform Proposals

4. Approaches to Sentencing

Alternatives to Imprisonment, Probation, Corrective labour, Fines, Collective fines
Reparation by the offender/by the court

5. Sentencing

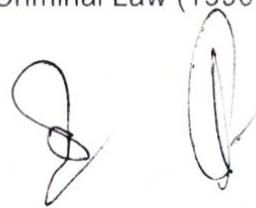
Principal types of sentences in the Penal Code and special laws, Sentencing in white collar crime, Pre-sentence hearing, Sentencing for habitual offender, Summary punishment, Plea-bargaining.

6. Imprisonment

The state of India's jails today, The disciplinary regime of Indian prisons, Classification of prisoners, Rights of prisoner and duties of custodial staff, Deviance by custodial staff, Open prisons, Judicial surveillance - basis - development reforms,

Select bibliography

- S. Chhabra, 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 Social Anthropology 1969-179 (1986)
Tapas Kumar Banerjee, Background to Indian Criminal Law (1990), R. Campray & Co., Calcutta.



Jiwaji University, Gwalior (M.P.)
LL.M. IVth Semester

Paper – Corporate Finance

Objectives of the Course

Industrialisation has played, and has to play, a very vital role in the economic development of India. In the post independent era, industrial development is regarded, and hence employed, as principal means in the strategy for achieving the goal of economic the and social justice envisioned in the constitution. Corporation, both public and private, and are viewed as a powerful instrument for development, In a developing society like India enormous varieties of consumer goods are manufactured or produced. Obviously, the situation raises the issues of procuring utilising and managing the finances. For this purpose a science of financial management techniques has been evolved. The faculties of commerce, business and management studies have since last decades started to impart instruction so as to turn out sufficiently well equipped and adequately trained financial personnel. However, the legal and juristic aspects of corporate finance have been more or less not effectively taken care of.

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

- (i) To understand the economic and legal dimensions of corporate finance in the process of industrial development in establishing social order in the context of constitutional values
- (ii) To acquaint the students with the normative philosophical and economic contours of various statutory rules relating to corporate finance.
- (iii) To acquaint the students with the organisation, functions, lending, and recovery procedures, conditions of lending and accountability of international national and state financing institutions and also of commercial banks; and
- (iv) To acquaint the students with the process of the flow and outflow of corporate finance. The following syllabus prepared with the above perspective comprise of 42 units to be spread over a period of one semester.



Syllabus

1. Introduction

- 1.1. Meaning, importance and scope of corporation finance
- 1.2. Capital needs - capitalisation - working capital - securities-borrowings-deposits, debentures
- 1.3. Objectives of corporation finance - profit maximisation and wealth maximisation
- 1.4. Constitutional perspectives - see the following 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

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
 - 3.1.1. Nature, issue and class
 - 3.1.2. Deposits and acceptance
 - 3.1.3. Creation of charges
 - 3.1.4. Fixed and floating charges
 - 3.1.5. Mortgages
 - 3.1.6. Convertible debentures

4. Conservation of corporate finance

- 4.1. Regulation by disclosure
 - 4.1.1. Control on payment of dividends
- 4.2. Managerial remuneration
- 4.3. Payment of commissions and brokerage
- 4.4. Inter-corporate loans and investments
- 4.5. Pay-back of shares
- 4.6. 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

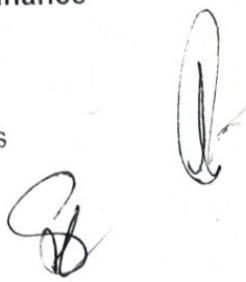
- 6.4. Qualified membership right
- 6.5. Conversion, Consolidation and re-organisation of shares
- 6.6. Transfer and transmission of securities
- 6.7. Dematerialisation of securities

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
 - 8.3.1. Control by Registrar of companies
 - 8.3.2. RBI control



Jiwaji University, Gwalior (M.P.)
LL.M. IVth Semester

Paper – Comparative Administrative Law

Objective of the course

Specialists in Administrative Law have to be in the position to assess the developments in Indian administrative law from a comparative angle. That the administrative law jurisprudence in the Country owed major its growth from the English and American development is a recognised fact. However, India is still to go for general legislation of the English and U.S. type laying down administrative norms. From a comparative angle, the course focuses on the doctrine of separation of powers, the scope of delegated legislation, the exercise of discretion, the doctrine of fairness struck by judicial process for administrative decision-making and the liabilities of the administration.

This paper shall comprise of about 42 units of one-hour duration to be spread out to a period of one semester.

Syllabus

- 1. Evolution and Significance of Administrative Law in Various Systems of Governance- From Ancient to Modern.**
 - 1.1. French system
 - 1.2. England and US
 - 1.3. Other systems
- 2. Doctrine of Separation of Powers**
 - 2.1. Comparative survey - common law and continental systems : English, US, French, German and Indian.
- 3. Delegated Legislation**
 - 3.1. Comparative approaches: widening contours: classification, controls over delegated legislation.
- 4. Administrative Discretion**
 - 4.1. Need for discretionary powers.
 - 4.2. Nature, scope and limits.

5. Processual Fairness.

- 5.1. Evolution and significance of natural justice.
- 5.2. England: judicial process: doctrine of fairness and doctrine of legitimate expectation - legislation.
- 5.3 US: due process and judicial decisions - legislation India: through judicial process - doctrine of fairness : Articles 14, 19 and 21 - doctrine of legitimate expectation.
- 5.4. Access to information.

6. Liability of Administration - England, US and Indian Practices.

- 6.1. Contractual liability
- 6.2. Tortious liability
- 6.3. Federal Tort Claims Act, 1946
- 6.4. Crown Proceedings Act 1947.
- 6.5. Indian attempts at legislation.

Select bibliography

- Peter H. Schuck, Foundations of Administrative Law (1994), Oxford, New York.
Friedman, The State and the Rule of Law in a Mixed Economy
Neville L. Brown and J.F. Garner, French Administrative Law
Ivor Jennings, Law and the Constitution
Schwartz & Wade, Legal Control of Government
Davis, Discretionary Justice
De Smith, Judicial Review of Administrative Action (1995)
Neil Hawke and Neil Papworth, Introduction to Administrative Law (1996), Lawman, New Delhi.
D.D.Basu, Comparative Administrative Law, (1998).

Jiwaji University, Gwalior (M.P.)
LL.M. IVth Semester
Paper – Science Technology and Human Rights

Objectives of the course

We live in an era of scientific development. The alarming rate of development in biotechnology calls for drastic change in the law. Many concepts and terms have to be re-defined. The development in information technology poses serious problems and challenges. The rapid changes made by science and technology will have to be reflected in law to make it meaningful and realistic in the modern era. This course is intended to make students conscious of various legal problems arising due to developments in such areas as biotechnology and information technology and to identify the changes needed in the law.

Syllabus

1. Interrelationship of Science, Technology and Human Rights

2. Implication of Development of Science and Technology on Human Rights

- 2.1. Right to environment in the development of science and technology
- 2.2. Right to development in the advancement of science and technology
- 2.3. Right to human health and impact of developments in medical sciences

3. Medicine and the Law

- 3.1. Organ transplantation
- 3.2. Experimentation on human beings
- 3.3. Euthanasia (mercy killing)
- 3.4. Gene therapy

4. Issue of Human Rights Ethics in Scientific and Technological Development

- 4.1. Sex determination test
- 4.2. Induced abortion
- 4.3. Reproductive technology
- 4.4. Cloning
- 4.5. In vitro fertilization
- 4.6. Artificial insemination
- 4.7. Surrogate motherhood

5. Development in Information Technology and Human Rights

6. Impact of Scientific and Technological Progress on Human Rights: Normative Response of the International Community

- 6.1. Right to life
- 6.2. Right to privacy
- 6.3. Right to physical integrity
- 6.4. Right to information
- 6.5. Right to benefit from scientific and technological progress
- 6.6. Right to adequate standard of living

Select bibliography

- Diane Rowland, Elizabeth Macdonald, Information Technology Law, (1997).
Suresh T. Viswanathan, The Indian Cyber Law (2000).
The International Dimensions of Cyberspace Law (2000), UNESCO Publication.
D.P. Mittal, Law of Information Technology (Cyber Law), (2000).
Michael Chissick, Alistair Kelman, Electronic Commerce, Law and Practice, (1999).
Adwin W. Patterson, Law in a Scientific Age, (1963)
Steve Jones, Borin Van Leon, Genetics for Beginners, (1993).
Weeramantry, C.G., Human Rights and Scientific and Technology Development, 1990
Kamenka, E., Ideas and Ideologies Human Rights (1978)
Galtung, Human Rights in Another Key, (1994)
Akbar, M.J., Riots After Riots, (1988)
Baxi, U. (ed.), Rights to be Human, (1986)
Kazmi, F., Human Rights, (1987)

