

**AWADHESH PRATAP SINGH  
UNIVERSITY  
REWA (M.P.)**



**SYLLABUS**

**LL.M. (Prev.) Examination 2006  
LL.M. (Final) Examination 2007**

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## **ORDINANCE NO. 22**

### **LL.M. EXAMINATION**

#### **I—GENERAL**

- (i) The LL.M. Examination shall be held in two parts called the LL.M. (Part-I) and LL.M. (Part-II) Examination. The Examination shall be open to regular students.
- (ii) The LL.M. (Part-I) shall be by written papers and LL.M. (Part-II) shall be by four written papers and viva voce or by three written papers, one dissertation and Viva voce.
- (iii) LL.M. degree course shall be spread over a period of two years viz., LL.M. (Part-I). Each LL.M. Examination shall divided in two terms viz. Summer term and Winter term which shall extend from January to June; and July to December respectively.
- (iv) Every candidate shall be examined in is the subjects as mentioned in the scheme of examination and course of studies for each term.

#### **SCHEME FOR SUPERVISED STUDIES FOR LL.M. EXAMINATION**

Section (1) : (a) Subject to Section 3-a candidate shall be eligible to appear at the LL.M. (Part-I) Examination if after passing the LL.B. Examination of the University or of an Indian University recognized for the purpose by the Executive Council and has completed regular course of study prescribed

for the examination under a guide approved for the purpose by the Board of Studies in law in a college affiliated to the Vishwavidyalaya.

(b) Subject to section 3, a candidate shall be eligible to appear at the LL.M. (Part-II) Examination if after passing the LL.M. (Part-I) Examination of this Vishwavidyalaya has completed a regular course of study prescribed for the examination under a guide approved for the purpose by Board of Studies in Law, in a Law College affiliated to the Vishwavidyalaya.

Section (2) : The qualification of a person that may be approved by the Board of Studies in Law as a guide for LL.M. studies shall be :

- [i] Doctorate degree in Law, or
- [ii] LL.M. with at least three years experience of teaching LL.B. classes, or
- [iii] Any other expert in Law who may be approved for purpose in exceptional cases for which reasons shall be recorded by the Board of Studies.

Section (3) : Every candidate who proposes to pursue LL.M. Studies under an approved guide as provided in section I shall apply to the Registrar with a fee of Rs. 30/for registration as a candidate for LL.M. Part I or LL.M. Part II Examination as the case may be by 15<sup>th</sup> of August preceding the Examination or such last date as the Vice-Chancellor may approve and along with an application submit the following :

- (i) A Certificate from the Principal of the college where he intends to pursue the studies, that in case, the candidate is recognised he will be allowed to study in the College library, and
- (ii) A letter from one of the guides having qualifications as mentioned in Section (2) or being approved by the Board of Studies in Law for the purpose expressing willingness to supervise and guide the

studies of the candidate.

## **RULES OF ADMISSION OF CANDIDATES WHO HAVE PURSUED REGULAR COURSES OF STUDIES**

- (i) (a) A candidate who has passed the LL.B. examination of the Vishwavidyalaya or LL. B. or other equivalent Examination of a recognised University shall be eligible to appear at the LL.M. (Part-I) Examination provided he/she has attended a regular course of lectures in UTD/affiliated College for a period of one year after passing the LL.B. or an equivalent Examination.
- (b) A candidate who has passed the LL.M. Part (1st and 2nd term) Examination of this Vishwavidyalaya shall be eligible to appear at LL.M. (Part-II) Examination provided he/she has attended a regular course of lectures in a UTD/affiliated College for a period of one year after passed the LL.M. Part-I (1st and 2nd term) Examination.

Section (5) : In order to pass LL.M. Part-I (1st and 2nd term) and LL.M. Part-II (1st and 2nd term) Examination a candidate shall have to secure at least 40% marks in each paper and 50% in aggregate in each term separately.

Section (6) : A candidate failing in the 1st term will be allowed to prosecute his studies in 2nd term and may appear in the Examination of 2nd term and also in his paper of 1st term but in both cases he shall have to obtain at least 40% marks in each paper and 50% in aggregate in each term Examination separately. //

Division shall be awarded on the basis of the aggregate marks of LL.M. Part-I (1st and 2nd term) and LL.M. Part-II (1st and 2nd term).

- First Division 60% or more
- Second Division 50% or more

However, if a candidate who has offered Dissertation and

secured 40% or more marks in the dissertation. But fails in the 2nd term of LL.M.-II examination, such candidate need not to resubmit his dissertation but he has to appear in other papers of 2nd term of LL.M.-II examination and marks of dissertation will be carried over. In case a candidate secures less than 40% marks in dissertation, he has to re-write dissertation and the marks obtained by him by the dissertation re-written by him shall be added to the marks obtained in other papers.

Section (4) : (i) Every candidate proposing to write dissertation shall submit at least three copies of dissertation out of which one copy shall be kept in the college library.

(ii) Each dissertation shall be evaluated by two Examiners— external and internal. The internal Examiner shall be generally the guide duly approved of unless debarred for exceptional reasons to be recorded.

(iii) Each examiner shall evaluate the dissertation in 100 marks and mean of the Both marks shall be awarded to candidate. In case there is difference of more than 15 marks in the marks of two Examiner's the dissertation shall be evaluated by a third Examiner who shall be external and the marks given by third Examiner shall be final.

(iv) In order to maintain uniformity in evaluation one Examiner shall be appointed as external Examiner for evaluation of maximum five dissertations.

Section (5) : This scheme will come into force with effect from sessions 2005-06 notwithstanding anything to the contrary contained in any other provision made in this behalf.

# SCHEME OF EXAMINATION OF LL.M. I & II

## LL.M.-I In two terms

### LL.M.-I (1st term)

- (1) ✓ Principles of Legislation and Interpretation of Statutes 100 Marks
- (2) Indian Constitutional Law : The New Challenges 100 Marks
- (3) Optional Groups : 100 Marks
- (i) International Law and Organization, Group—A  
International organisation : Law, Practice  
and Future  
OR
- ✓(ii) Criminal Law, Group—B  
Juvenile Delinquency ✓  
OR
- (iii) Business Law, Group—C  
✓ Law of Industrial and Intellectual Property  
OR
- (iv) Environmental and Legal order, Group—D  
Environment and Development : Law  
and Policy  
OR
- (v) Human Rights Law, Group—E  
Concept and Development of Human Rights  
OR
- (vi) Administrative Law, Group-F  
✓ Administrative Process : Nature and Scope
- (4) Project & Viva-Voce Exam. 50 Marks

### LL.M.-I (IInd term)

- ✓(5) Jurisprudence including Ancient Hindu Law 100 Marks
- ✓(6) Legal Education and Research Methodology 100 Marks
- (7) Optional Groups : 100 Marks
- (i) International Law and Organization, Group—A  
Disarmament and Peace strategies  
OR

- ✓(ii) Criminal Law, Group—B  
 ✓ Penology : Treatment of offenders  
 OR
- (iii) Business Law, Group—C  
 General Principles of Law of Contract  
 (Sec. 1 to 75)  
 OR
- (iv) Environmental and Legal order, Group—D  
 Resource Management and the Law  
 OR
- (v) Human Rights Law, Group—E  
 Human Rights and International Order  
 OR
- (vi) Administrative Law, Group-F  
 Administrative Process and Judicial Control
- (8) Project & Viva-Voce Exam. 50 Marks

### LL.M.-II (Ist term)

#### Optional Groups

- (i) International Law and Organisation, Group—A
- (9) International Humanitarian Law 100 Marks  
 (10) Law and Diplomacy 100 Marks  
 (11) Law of the Sea 100 Marks  
 OR
- (ii) Criminal Law, Group—B
- (9) ✓ Comparative Criminal Procedure 100 Marks  
 (10) ✓ Privileged class deviance 100 Marks  
 (11) ✓ Drug Addiction, Criminal Justice and Human Rights 100 Marks  
 OR
- (iii) Business Law, Group—C
- (9) Banking Law 100 Marks  
 (10) Insurance Law 100 Marks  
 (11) Corporate Finance 100 Marks  
 OR
- (iv) Environmental and Legal order, Group—D
- (9) Environment and International Legal order 100 Marks  
 (10) Biological Diversity and Legal order 100 Marks

(11)	Prevention and Control of Pollution	100 Marks
	OR	
(9)	(v) Human Rights Law, Group—E Protection and Enforcement of Human Rights in India	100 Marks
(10)	Human Rights of Disadvantaged Groups : Problems and is Issues in the Protection and Enforcement	100 Marks
(11)	International Humanitarian Law and Refugee Law	100 Marks
	OR	
(9)	(vi) Administrative Law, Group—F Public Authorities : Liability	100 Marks
(10)	Public Authorities and power Holders : Controls on Maladministration	100 Marks
(11)	Comparative Administration Law	100 Marks
(12)	Project & Viva-Voce Exam.	50 Marks

### LL.M.-II (IInd term)

#### Optional Groups :

(13)	(i) International Law and Organisation, Group—A . International Law and Contemporary Issues	100 Marks
	OR	
(13)	(ii) Criminal Law, Group—B Collective violence and Criminal Justice system	100 Marks
	OR	
(13)	(iii) Business Law, Group—C <u>Company Law</u>	100 Marks
	OR	
(13)	(iv) Environmental and Legal order, Group-D Environmental Legislation (National)	100 Marks
	OR	
(13)	(v) Human Rights Law, Group—E Science, Technology and Human Rights	100 Marks
	OR	
(13)	(vi) Administration Law, Group—F Local Self—Government Law	100 Marks



(14) Dissertation

OR

100 Marks

Any paper out of the following not already offered in the LL.M.-II (IInd term) 100 Marks

- (i) International law contemporary Issue
- (ii) Collective violence
- (iii) Company Law
- (iv) Environmental Legislation (National)
- (v) Science, Technology & Human rights
- (vi) Local Self-government Law

(15) Project and Viva-Voce

50 Marks

Project and Viva-Voce Examination in each term shall be of 50 Marks.

LL.M.-I will Consisting of two terms, 1st term and 2nd term. Similarly LL.M.-II will consist of two terms : 1st and 2nd term.

~~✓~~ A candidate will not be allowed to seek admission in LL.M.-II unless he clears LL.M.-I (both 1st and 2nd terms). However, a candidate failed in any paper of 1st term of LL.M.-I may appear in LL.M.-I (2nd term) but he has to clear all papers of 2nd term as well as of 1st term in which he has failed or does not appear for any genuine reason.

## **LL.M. Part I (1st Term)**

### **Compulsory Courses**

#### **Paper I**

### **LEGISLATION-PRINCIPLES, METHODS AND INTERPRETATION**

**(1) Course Defined and delineated :**

The course is intended to acquaint the students of advanced studies in law with the history and development of the legislation with special reference to the Western legal systems and a comparative study of Legislation in the Indian Legal system. A particular attention and its comparative importance over Non Legislated Laws. The subject of study shall, inter-alia include :—

- (a) Principle of Legislation
- (b) Methods of Legislation, and
- (c) Interpretation of Statutes.

**(2) Statutory Material :**

To be prescribed.

**Recommended Books :**

1. Bentham : Theory of Legislation
2. Bentham : A Fragment of Government
3. Bentham : An Introduction to the principles of  
Morals and Legislation
4. Dicey : Law & Public Opinion in England

- 5. Maxwell : Interpretations of Statutes
- 6. Jagdish Swarup : Interpretations of Indian Statutes.
- 7. Singh, G.P. : Interpretation Statutes

(b) Articles : To be prescribed

(c) Cases : To be prescribed

Course Objectives and Outcomes :  
 The course is intended to provide the students of  
 Law with the history and development of  
 legislation with special reference to the Indian legal  
 system and a comparative study of legislation in the Indian  
 legal system. A few other countries of the continent  
 shall be included for comparative study.

- (a) Principle of Legislation
- (b) Methods of Legislation
- (c) Interpretation of Statutes
- (2) Statutory Material  
 To be prescribed.

Recommended Books :

1. Austin : Theory of Legislation

2. Dicey : A Treatise on the Law and Custom of the Constitution

## Paper II

### 02. 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 norms. 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
  - 1.2.1. The inter-state disputes on resources
- 1.3. Rehabilitation of internally displaced persons.
- 1.4. Centre's responsibility and internal disturbance within States.
- 1.5. Directions of the Centre to the State under Article 356 and 365

- 1.6. Federal Comity : Relationship of trust and faith between Centre and State.
- 1.7. Special status of certain States.
  - 1.7.1. 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
    - 6.1.1. 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 state control.
8. Secularism and religious fanaticism.
9. Separation of powers : stresses and strain. *Art*
  - 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. OPTIONAL GROUPS  
GROUP—A : INTERNATIONAL LAW AND ORGANIZATIONS

(i) INTERNATIONAL ORGANISATIONS LAW  
PRACTICE AND FUTURE

Objectives of the course

The years following the Second World War have witnessed a phenomenal growth of international organizations. The United Nations has become increasingly complex in its functioning, and the range of its activities has widened beyond manageable proportions. It has therefore become imperative to understand the modes of operation of the numerous organs and agencies of the U.N. system, the decision-making pattern, financing and accountability. The interactions between the members and the Organisation over the years to cope up with their numerous responsibilities have been handicapped with nonavailability of funds and non-co-operation of the certain members.

In order to give students an in-depth understanding, it would be useful to conduct intensive studies of some agencies such as the UNDP and the FAO. There have also come into existence well known non-governmental organizations whose expertise is made use of by various UN Agencies in the capacity of consultants. The role played by such NGOs would also be assessed in the light of the objectives of the organization.

The course will explore the areas of co-operation in international relations which are likely to bring about cohesion and integration, and assess the role of international organization in fostering change. It will also provide an opportunity for understanding the major issues of law and

policy which are presently being faced by international organizations. s

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

## **Syllabus**

**1. Evolution of International organization : The Concept of Europe, the League of Nations and the United Nations.**

**2. United Nations as a Constitutional and Political System.**

2.1. Organs and Their functions

2.2. Law creating processes including Resolutions and Declarations of the General Assembly and Specialized Agencies

2.3. Financing and Problems of financial crisis

2.4. Amendment process

2.5. Secretary General of the United Nations.

**3. The Political Process**

3.1. Blocks and Alliances

3.2. Non-aligned movement and its impact on voting in the various organs of the United Nations.

3.3. African and Latin American Groups

3.4. India and the United Nations

3.5. The Big Two and the United Nations.

**4. Peace-Keeping**

4.1. UN peace-keeping functions.

4.2. UN peace-keeping force—case studies

4.3. Problems of peace-enforcement through the UN



## 5. Special Agencies and Non Governmental Organisations

- 5.1. Constitution and functions of specialized agencies
- 5.2. Case studies of some agencies such as FAO and UNDP as illustrative organizations within the UN system.
- 5.3. Select studies of NGOs serving as consultants.
  - 5.3.1. Amnesty International
  - 5.3.2. International Commission of Jurists.

## 6. Peaceful Change through United Nations

- 6.1. Dispute settlement machinery of the United Nations
- 6.2. The Role of ECOSOC in bringing about peaceful change
- 6.3. UN operational Programmes in the Social Field
- 6.4. UN operational programmes in the Economic Field
- 6.5. Anti-colonial consensus
- 6.6. Disarmament and human rights.

### Select bibliography

- D.W. Bowett, *Law of International Institutions*, (1982)
- Ingrid Detter, *Law Making by the International Organisation*, (1965)
- Stephen S. Goodspeed, *Nature and Function of International Organisation*, (1967)
- Wilfred Jenks, *The proper Law of International Organisations*, (1962)
- E. P .Waiters, *History of the League of Nations* (1965)
- D.W.Bowett, *United Nations Forces : A Legal Study* (1969)

- Leland M. Goodrich, *Charter of the United Nations* (1969)
- Leland M. Goodrich, *United Nations in a Changing World* (1974).
- Rosalyn Higgins, *Development of International Law through Political Organs of the United Nations* (1963)
- Hans Kelsen, *Law of the United Nations* (1954)
- Rahmatullah Khan, *Implied Powers of the United Nations* (1970)
- Edward Macwhinney, *United Nations Law Making* (1984)
- M.S. Rajan, *United Nations and Domestic Jurisdiction* (1961)

or  
**GROUP—B : CRIMINAL LAW**

**(ii) JUVENILE DELINQUENCY**

**Objectives of the course**

Juvenile delinquency is considered an important branch of criminology. The impact of juvenile delinquency upon the formation of Indian criminology tradition does not seem to be noticeable. No understanding 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 autonomous characteristics.

In addition, the state and the law have to deal with juveniles in certain situations, as *parens 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-cultures
- 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,

- 4.2. urban/rural/rural-urban  
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

OF

# GROUP—C : BUSINESS LAW

## (iii) LAW OF INDUSTRIAL AND INTELLECTUAL PROPERTY

### Objectives of the course

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

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

## Syllabus

1. IPR and International Perspectives
2. Trademarks and Consumer Protection (Study of UNCTAD report on the subject)
3. The Legal Regime of Unfair Trade Practices and of Intellectual Industrial Property
  - 3.1. United Nations approaches (UNCTAD, UNCITRAL)
  - 3.2. EEC approaches
  - 3.3. Position in U.S.
  - 3.4. The Indian situation.

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

**5. Biotechnology Patents :**

- 5.1. Nature and types of biotechnology patents
- 5.2. Patent over new forms of life : TRIPS obligations
- 5.3. Plant patenting
- 5.4. Sui generis protection for plant varieties
- 5.5. Multinational ownership
- 5.6. Regulation of environment and health hazards in biotechnology patents
- 5.7. Indian policy and position.

**6. Patent Search, Examination and Records :**

- 6.1. International and global patent information retrieval systems (European Patent Treaty).
- 6.2. Patent Co-operation Treaty (PCT)
- 6.3. Differences in resources for patent examination between developed and developing societies
- 6.4. The Indian situation

**7. Special Problems of Proof of Infringement :**

- 7.1. Status of intellectual property in transit-TRIPS obligation—Indian position.
- 7.2. The evidentiary problems in action of passing off.
- 7.3. The proof of non-anticipation, novelty of inventions protected by patent law
- 7.4. Evidentiary problems in piracy : TRIPS obligation—reversal of burden of proof in process patent
- 7.5. Need and Scope of Law Reforms.



## 8. Intellectual Property and Human Right

- 8.1. Freedom of speech and expression as the basis of the regime of intellectual property right—copyright protection on internet—WCT (WIPO Copyright Treaty, 1996).
- 8.2. Legal status of hazardous research protected by the regime to intellectual property law.
- 8.3. Human right of the impoverished masses intellectual property protection of new products for health care 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.
- Terence 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

or

## **GROUP—D : ENVIRONMENT AND LEGAL ORDER**

### **(iv) ENVIRONMENT AND DEVELOPMENT : LAW AND POLICY**

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

The concept of environment lay embedded in ancient ethos. Throughout the centuries there were invisible processes working for the maintenance and improvement of environment. Towards the close of the last millennium one finds widening dimensions of environmental protection strategies. There gained ground the environmental consciousness. How do these developments stand reflected in formulation of policies and in following constitutional values in India? This is the thrust of the paper.

The following syllabus prepared with this perspectives will comprise about 42 units of one hour duration to be spread over a period of one semester.

### **Syllabus**

#### **1. The Idea of Environment**

- 1.1. Ancient and medieval writings
- 1.2. Traditions
- 1.3. Natural and biological sciences : perspectives
- 1.4. Modern concept : Conflicting dimension

#### **2. Development**

- 2.1. Theories of development
- 2.2. Right to development

- 2.3. Sustainable development—national and international perspectives,
- 2.4. Developing economies

### **3. Policy and Law**

- 3.1. From Stockholm to Rio and after
- 3.2. Post-Independence India
- 3.3. Role of government
  - 3.3.1. Five Year Plans
  - 3.3.2. Forest Policy
  - 3.3.3. Conservation strategy
  - 3.3.4. Water policy

### **4. Population, Environment and Development**

- 4.1. Population explosion and environmental impact
- 4.2. Population and development
- 4.3. Population and sustainable development

### **5. Constitutional Perspectives**

- 5.1. Fundamental Rights
  - 5.1.1. Right to environment
  - 5.1.2. Enforcement of the right
  - 5.1.3. Directive principles and fundamental duties
  - 5.1.4. Legislative power
- 5.2. Environment : Emerging concepts and challenges
  - 5.2.1. Polluter pay principle : absolute liability of hazardous industry
  - 5.2.2. Precautionary principle

### 5.2.3. Public trust doctrine

#### Select Bibliography

- C.M. Abraham, *Environmental Jurisprudence in India* (1999), Kluwer
- Madhav Gadgil and Ramachandra Guha, *This Fissured Island : An Ecological History of India* (1996), Oxford.
- R.B. Singh & Suresh Misra, *Environmental Law in India* (1996), Concept Publishing Co., New Delhi.
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or

## GROUP E : HUMAN RIGHTS LAW

### (v) CONCEPT AND DEVELOPMENT OF HUMAN RIGHTS

#### Objectives of the course

Protection of Human Rights (HR) became an important issue after the second world war and after the acceptance of Universal Declaration of Human Rights. The growth of HR Law and jurisprudence thereafter was spontaneous and continuous. The changes in the global scenario bring new concept of HR protection against violation. In one sense, HR can be said as the rights which the nature has endowed with human beings. However, they are not mere privileges given to the subjects by the ruler but are liberties permitted to the 'citizens' in a democracy. Manifestly a law that violates human rights is no law at all. Probably this perspective may give an impression that human rights are not different from natural rights envisaged by the natural law school.

Although Indian polity waited for more than one score and five years for adoption of Fundamental Duties in the Constitution, it is beyond doubt that every human being has responsibilities and obligation not only towards the other fellow beings, but also towards the society at large. Only when a society is aware of this right-duty relationship can there be any meaning to human rights.

This course is intended to highlight the concept of human rights, their evolution and their importance in Our society now particularly in the era of privatisation, globalisation and liberalisation .

Prepared with the above perspective, the following syllabus comprises of about 42 units to be spread over a period of one semester.

# Syllabus

## 1. Human Rights : Concept.

- 1.1. Human rights in Indian tradition : ancient, medieval and modern
- 1.2. Human rights in western tradition
- 1.3. Development of natural rights.
- 1.4. Human rights in international law and national law

## 2. Classification of Human Right—First, Second and Third Generations : Historical Development

### 3. Human Rights : Politics and Society

- 3.1. Colonisation, imperialism and human rights
- 3.2. Power, practices, accountability and transparency
- 3.3. Liberalization, privatization and globalization
- 3.4. Human duties : responsibilities and obligations

### 4. Human Rights and Judicial Process

- 4.1. Judicial activism

### 5. Human Rights Protection Agencies

#### Select bibliography

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- Lalit Parmer, *Human Rights*, (1998).
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- Lon L. Fuller, *The Morality of Law*
- John Finnis, *Natural Law and Natural Rights*, (1980).

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- M.G. Chitkara, *Human Rights : Commitment and Betrayal*, (1996).
- V.D. Kulshreshtra, *Landmarks in the Indian Legal and Constitutional History*, (1995)
- Robert Lewngat, *The Classical Law of India* (1998), Oxford.



or

## GROUP F : ADMINISTRATIVE LAW

### (vi) ADMINISTRATIVE PROCESS : NATURE AND SCOPE

#### Objectives of the course

The administrative explosion of the 19th century in the common law world brought in new norms of relationships between the state and its citizens. In due course, the continental strategies of control over administration had their influence. Along with this the civil service and administrative agencies gained more and more importance when the state launched welfare programmes and became the guardian of the rights of individuals. The standards of administrative behaviour are moulded and supported through constitutional values in the lands of constitutional sovereignty. Necessarily, a student of law relating to administration should get a deep knowledge of the operation and changing phenomena of these standards from a comparative angle. This is so especially in the wake of technological revolution and its aftermath on the administration.

The syllabus prepared with the above mentioned objective comprises of 42 units to be spread over a semester.

### Syllabus

1. Administrative Process
  - 1.1. Nature and meaning
  - 1.2. The role of civil service
  - 1.3. The role of administrative agencies

## 2. Administrative Process : Regulation to De-regulation and Control Decontrol Globalization and Liberalization

2.1. Constitutional standards

2.2. Comparative aspects

## 3. Rule of Law

3.1. Changing dimensions

3.2. Regulation of administrative process

## 4. Separation of powers : From Rigidity to Flexibility

## 5. Delegated Legislation : Problems, Process and Control

## 6. Power and duty

6.1. Doctrine of police power

6.2. Doctrine of eminent power

6.3. Taxing power

6.4. Responsibility and accountability

## 7. Administrative Discretion

7.1. Structuring and limiting

7.2. Impact of technological development

## Select bibliography

- Friedman, *The State and the Rule of Law in a Mixed Economy*
- Dicey, *Introduction to the Law of the Constitution*
- Davis, *Discretionary Justice*
- Jain & Jain, *Principles of Administrative Law* (1986)  
Tripathi

- De Smith, *Judicial Review of Administrative Action* (1995)
- M.P. Jain, *Cases and Materials on Administrative Law* (1996), Vol. 1, Wadha, Nagpur.

## Paper IV

### 04. Project & Viva-Voce Exam.

## **LL.M. Part—I (IInd Term)**

### **Paper V**

#### **05. Jurisprudence including Ancient Hindu Law**

##### **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 justice perspective. Hence a compulsory paper on jurisprudence is essential in the LL.M. Curriculum. The objective of this paper is to acquaint the students of higher studies in with history of Indian and Western legal philosophy. It shall include the examination of the logical or analytical, Historical, Philosophical and Sociological basis of law. Special emphasis shall be laid on the suitability of the western theories for the Indian legal developments with a view to developing tools and technique of the law more appropriate to the present and future needs of the Indian society. Comparative study shall also be made of the western concepts with the concepts of ancient Hindu Law.

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

### **Syllabus**

#### **1. Native of Jurisprudence**

- 1.1. Meaning of the term "Jurisprudence"
- 1.2. Nature and definition of law

#### **2. Schools of Jurisprudence**

- 2.1. Analytical Positivism

- 2.2. Natural Law
- 2.3. Historical School
- 2.4. Sociological School
- 2.5. The Bharat Jurisprudence

### **3. Purpose of Law**

- 3.1. Justice
- 3.2. Justice and Law : approaches of different schools.

### **4. Sources of Law**

- 4.1. Legislation
- 4.2. Precedents
- 4.3. Customs
- 4.4. Juristic Writings

### **5. The concepts of Justice**

- 5.1. The concept of Justice or Dharma in Indian thought
- 5.2. Dharma as the foundation of legal ordering in Indian thought.
- 5.3. The concept and various theories of justice in the Western thought.
- 5.4. Various theoretical bases of Justice. The liberal contractual tradition, the liberal utilitarian tradition, the liberal moral tradition.

### **Select Bibliography**

- R.W.M. Dias, Jurisprudence
- Salmond, Jurisprudence
- W. Friedmann, Legal theory (1960) Stevens London
- Julius Stone, Precedent and the law, Dynamics of Common Law growth (1985) Butterworths

- Boden Keimer, Jurisprudence the philosophy and methods of the law (1997) Universal Delhi
- John Rawls, A theory of Justice (2000) Universal Delhi
- P.V. Kane : History of Dharmashastra
- R. Pound, An Introduction of the philosophy of law.

## Paper VI

### 06. LEGAL EDUCATION AND RESEARCH METHODOLOGY

#### Objectives of the course

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

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

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

#### Syllabus

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

5. **The Seminar Method of teaching**
6. **Examination system and problems in evaluation—external and internal assessment.**
7. **Student participation in law school programmes  
Organisation of Seminars, publication of journal and  
assessment of teachers**
8. **Clinical Label 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.

## II. 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
  - A. Classification and tabulation of data—use of cards for data collection—Rules for tabulation. Explanation of tabulated data.
  - B. Analysis of data

### *Bibliography*

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- S.K. Aggarwal (Ed.), *Legal Education in India* (1973), Tripathi, Bombay.
- N.R. Madhava Menon, (ed) *A Handbook of Clinical*

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- 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*.

## Paper VII

# 07. OPTIONAL GROUPS

## GROUP—A : INTERNATIONAL LAW AND ORGANIZATION

### (i) DISARMAMENT AND PEACE STRATEGIES

#### Objectives of the course

Disarmament has been a major issue in international relations for creating conditions of peace. The mad race for conventional and nuclear arms among the super powers has been going on unabated. Even the newly emergent poor nations have found it essential to divert their resources for the acquisition of sophisticated arms and upkeep of military hardware.

Developed nations with nuclear capabilities are spending billions of dollars for creating balance of terror. These nations are the most important source for the supply of arms to developing nations. The implications of transfer of technology are grave and need a thorough understanding of the issues involved. The ownership patterns for mass production of armaments need a close scrutiny and the methods used by giant manufacturers of sophisticated armaments to push sales have recently come under severe attack. These have a direct bearing on national policies for production and sale of armaments.

Nations individually and collectively have been involved in devising methods for disarmament and non-proliferation of nuclear weapons. The UN has been fully absorbed for the last several decades in initiating dialogues on disarmament. In the course of years the impediments which stand in the way of arriving at an international understanding have been laid bear.

The course will explore the alternative strategies for creating conditions of peace. This would involve a critical examination of dispute resolution and crisis management techniques, equitable allocation of world's resources and economic development of less developed countries.

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

## **Syllabus**

### **1. The Conceptions of Disarmament**

- 1.1. Disarmament and world security, military alliances, arms trade
- 1.2. Changing conceptions of disarmament.

### **2. The dynamics of the Arms Race**

- 2.1. The reasons of arms race, including nuclear weapons.
- 2.2. Consequences of arms race in terms of resources and economic development
- 2.3. International implications of the arms race

### **3. Disarmament and the United Nations**

- 3.1. History of the failure of disarmament efforts
- 3.2. UN Disarmament Commission, its achievements and limitations.
- 3.3. U.N. Disarmament Decades of 1970's and 1980's
- 3.4. Negotiations leading to the signing of SALT I and SALT II

### **4. Nuclear Disarmament : Problems and Perspectives**

- 4.1. Nuclear Non-Proliferation treaty and Intermediate range Missile Treaty.
- 4.2. International regulation of nuclear weapons

5. International Regulation of Biological and Chemical or Weapons of Mass Destruction

6. International regulation and Control of Militirization of Outer Space and the Ocean Bed

7. Conserving the world's resources

7.1. Assisting the economic development of less developed countries.

7.2. Harnessing science and technology for development

7.3. Protection of human rights.

7.4. Peaceful settlement of international disputes

7.5. Towards a balanced world trade.

7.6. Peace research and its significance

#### Select Bibliography

- Burns H. Weston, *Toward Nuclear Disarmament and Glohal Security : a Search for Alternatives* (1980)
- J. Schell, *The Fate of the Earth* (1982)
- J.N. Singh, *Use of Force Under International Law* (1984)
- Julius Stone, *Legal Controls of International Law* (1954)
- M. Walzer, *Just and Unjust Wars* (1979)
- R. Kothari, *Transformation and Survival : In Search of Human World Order* (1988)
- R. Falk, et. al., *International Law : A Contemporary Perspective* pp. 473-519 (1985)
- R. Falk, *The End of World Order* pp. 155-276 (1983)
- Report of the Secretary General : Chemical and Bacteriological (Biological weapons and the effects of their Possible Use. (UN Doc. A/7575 Rev. 1 S/9292 Rev. I (1969)

or

## GROUP—B : CRIMINAL LAW

### (ii) 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
- (9) 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 the statute law and case law.
- 3.3. Law Reform Proposals

## 4. Approaches to Sentencing

- 4.1. Alternatives to Imprisonment
  - 4.1.1. Probation
  - 4.1.2. Corrective labour
  - 4.1.3. Fines
  - 4.1.4. Collective fines
  - 4.1.5. 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 Surveys of Sociology and Social Anthropology 1969-179 (1986)
- Tapas Kumar Banerjee, *Background to Indian Criminal Law* (1990), R. Campray & Co., Calcutta.

## Paper III

### (iii) GENERAL PRINCIPLES OF LAW OF CONTRACT

#### Objective of the course

This course is intended to acquaint student with the general principles of contract and theories of contract. Section 1 to 75 of the Indian Contract Act 1872 including the doctrines of promissory estoppel fundamental breach, government as a contracting party, standard form contracts and multi-national agreement strategies and constraints to enforce contractual obligations.

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

### Syllabus

#### 1. General principles of law of contract

- 1.1. History and Nature of contractual obligations
- 1.2. Agreement and contract : definitions, elements and kinds
- 1.3. Proposal and acceptance
- 1.4. Consideration
- 1.5. Capacity of contract
- 1.6. Free consent—Its need and definition—Factors vitiating free consent

#### 2. Legality of objects

- 2.1. Void agreements

- 2.2. Unlawful consideration and objects
- 2.3. Void aggregation
- 3. Discharge of a contract and its various modes**
  - 3.1. By Performance
  - 3.2. By Breach
  - 3.3. Impossibility of performance
  - 3.4. By Period of Limitation
  - 3.5. By Agreement
- 4. Quasi-contracts or certain relations resembling those treated by contract**
- 5. Remedies in contractual relations**
- 6. Government as a contracting party**
  - 6.1. Constitutional provisions
  - 6.2. Government power to contract
  - 6.3. Procedural requirements
  - 6.4. Kinds of government contract
  - 6.5. Performance of such contracts
- 7. Standard form contracts**
  - 7.1. Nature and Advantages
  - 7.2. Principles of Protection against the possibility of Exploitation
  - 7.3. Class between two standard form contracts
- 8. Multi-National Agreement**
- 9. Strategies and constraints to enforce contractual obligations**

- 9.1. Judicial Methods
- 9.2. Other methods like arbitration, Lok Adalat, Nyaya Panchayat and other such formal methods
- 9.2. Systemic constraints in settling contractual disputes

### **Bibliography**

- Beatesen (ad), Anson's Law of Contract (27th Ed. 1998)
- Anson, Law of Contract (2000) universal
- G.C. Ch'eshire and H.S. Fifoot and M.P. Furmston, Law of Contract (1992) ELBS with Butter Worths
- Avtar Singh, Law of contract (2000) Estern Lucknow
- Pollock and Mulla, Indian Contract Act (Latest Edition)
- P.S. Atiya, Introduction to the law of contract 1992 reprint (Claredon Law Series)
- G.H. Treital, Law of contract, Sweet & Maxwell (1997 Reprint)

or

## GROUP—D : ENVIRONMENTAL AND LEGAL ORDER

### (iv) Resource Management and the Law

#### Objectives of the course

Sustainable use of resources, natural and man-made, is the desideratum in an environmentally conscious period of human development. Wise use of water, land, forest and other common property resources, such as wet lands, lakes, roads and parks become an important task in this respect. Protection of various energy resources is equally significant element in countering wastage, indiscriminate use and unwise choices.

The following syllabus prepared with this perspective is to be spread over one semester with 42 units of one hour duration

### Syllabus

#### 1. Water

- 1.1. Salinity
- 1.2. Bund and spill ways
- 1.3. Aquaculture and fishing : regulation
- 1.4. Irrigation
- 1.5. Ground water management
- 1.6. Interstate water management and disputes

#### 2. Land

- 2.1. Controls on land development
- 2.2. Eco-friendly land planning : conservation, utilisation and conversion.

2.3. Mining and quarrying

### 3. Concepts of Common Property and State Property

3.1. Forest

3.2. Wildlife

3.3. Common facilities and the right to use : roads, parks, pathways, lakes, rivers

3.4. Natural heritage-Tribal habitat

3.5. Historical monuments

3.6. Wet lands : Wise use concept

### 4. Energy

4.1. Sources

4.2. Energy related environmental problems : tapping, transmission and utilization, indiscriminate use

4.3. Utilization of conventional energy : hydro-electric, thermal and nuclear

4.4. Non-conventional energy : Solar, wind, tidal and biogas

### Select Bibliography

- Kailash Thakur, *Environmental Protection : Law and Policy in India* (1997), Deep & Deep publications, New Delhi
- WCED, *Our Forest, Our Future* (1999), Cambridge
- Abraham C.M. *Environmental Jurisprudence in India* (1999), Cluwer.
- Diwedi, *India's Environmental Policies, Programmes and Stewardship* (1999), Mc.Millan.
- Enid M. Barron, et. al. (eds.), *Royal Commission on Environmental Pollution*, London, U.K. (1998), Kluwer.

- David B. Wilkins, *Animal Welfare in Europe* (1997), Kluwer
- Mark Austen Arjg Tamara Richards, *Basic Legal Documents on Intemational Animal Welfare and Wild Life Conservafion* (2000), Kluwer.
- Jack Grosse, *Protection and Management of Our Natural Resources, Wild, Life and Habitat* (1997), Oceana.
- Enid. M. Barson and Ilga Nielson (eds.) *Agriculture and Sustainable Use in Europe* (1998), Kluwer.
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- Frodorick R.Anderson, et. al. *Environmental Improvement through Economic Incentives* (1977)
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- S.K. Jain and A.R.K. Sastry, *Threatened Plants of India : A State of the Art Report* (1980)
- Armin Rozencranz, et. al. (eds.), *Environmental Policy and Law in India* (1988), Butterworths, India.

or

## GROUP—E : HUMAN RIGHTS LAW

### (v) Human Rights and International Order

#### Objectives of the course

Human rights have universal application. They gathered importance when the United Nations adopted the 4 Universal Declaration of human Rights in 1948. The role of international organisations in promoting awareness of human rights is very significant. The international conventions, though not binding, have persuasive force since the violations will be decried by the international community. International Non-Governmental Organisations watch and monitor human rights violations in every country. However, in the absence of national legislation, the enforcement of the rights will be difficult.

With the above perspectives in view this course will comprise of 42 units of one hour duration to be spread out during one semester.

### 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 Right (1966)
  - 1.5. ILO and other Conventions and Protocols dealing with human rights



## **2. Role of Regional Organizations**

- 2.1. European Convention on Human Rights
  - 2.1.1. European Commission on Human Rights/Court of Human Rights.
- 2.2. American Convention on Human Rights
- 2.3. African Convention on Human Rights
- 2.4. Other regional Conventions.

## **3. Protection agencies and mechanisms**

- 3.1. International Commission of Human Rights
  - 3.1.1. Amnesty international
  - 3.1.2. Non-Governmental Organizations (NGOs)
- 3.2. U.N. Division of Human Rights
- 3.3. International Labour Organization
- 3.4. UNESCO
- 3.5. UNICEF
- 3.6. Voluntary organizations
- 3.7. 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).
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- *The Human Rights Watch Global Report on Women's Human Rights*, (2000), Oxford.
- B.P. Singh Seghal, *Human Rights in India*, (1996).
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or

**GROUP—F : ADMINISTRATIVE LAW**

**(vi) ADMINISTRATIVE PROCESS AND JUDICIAL CONTROL**

**Objectives of the course**

Administrative law is mainly a judge-made law and has secured its present features through a myriad of judicial decisions. The historical evolution of the judicial agencies reviewing administrative procedures, jurisdictional aspects of administrative decision making subjected to review, the grounds on which decisions are challenged, the scope of review of delegated legislation and the limitations on the judicial review of administrative action are to be studied in detail in this course. The procedural fairness is the key to good administrative decision and the various remedies rendered in judicial process clear the way for achieving administrative justice. The ever increasing number of delegated legislation in the form of rules, regulations, circulars and general orders have the characteristics of law, which though framed by administration, impose burden on the rights of citizens. Keeping this specie of administration beyond judicial review is neither in the interests of the general public nor for laying down standards of administrative behaviour.

This course, with the above mentioned perspective in view, comprises of about 42 units to be spread out to a period of one semester.

## **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 (124)

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 Prosad 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, Wadha, Nagpur.

## Paper VIII

### 08. Project and Viva-Voce Exam.

## LL.M. Part—II (1st Term)

### Optional Groups :

#### Group—A : International Law and Organization

#### Paper IX

### 09. INTERNATIONAL HUMANITARIAN LAW

#### Objectives of the course

International Law has traditionally been a law which regulates relations among states. Individuals have been objects and not subjects of International Law. A logical extension of these principles led to the theory that international law could not confer rights nor impose duties on individuals. What it could do was to appeal to conscience of the nations that unnecessary suffering of human being should be avoided. In view of territorial and personal character of sovereignty of a state, treatment of its own nationals and stateless persons, subject to limited exceptions remained under the exclusive jurisdiction of a state. Although this unsatisfactory state of law was hardly adequate to prevent ill-treatment of individuals, particularly during war, it became the starting point for anew branch of international law towards the end of the last century.

The total character of modern war and threat of annihilation due to use of nuclear weapons have been responsible for a new concern for survival of humanity. To meet this challenge the United Nations and other voluntary international agencies have been actively involved in prescribing standards of treatment based upon dictates of humanity and overseeing their implementation in difficult situations. The underlying purpose is to ensure a human

treatment of all individuals, a minimum standard of treatment which may not be departed from even under the necessities of war or grave provocation. The following syllabus prepared with this perspective will be spread over a period of one semester.

## **Syllabus**

### **1. International Movement for Humanization of Warfare**

Contributions of classical writers; history of the Red Cross; Geneva conventions of 1864 for Amelioration of the Condition of wounded Soldiers in Land Army, St. Petersburg Declaration, 1868. The Hague Conventions of 1899 and 1907, Geneva Conventions of 1929 and 1949 on treatment of Prisoners of war, Wounded and Sick persons and Civilian Persons.

### **2. International Efforts to Outlaw Slavery, Slave Trade and Practices Similar to Slavery, Forced Labour and Trafficking in Human Beings.**

### **3. United Nations and Humanitarian Law**

The Role of ECOSOC and ILO; Crusade against discrimination in respect of employment and occupation; Racial Discrimination.

### **4. International Refugees**

The UN Relief and Rehabilitation Administration and other International Refugee Organizations; Conventions relating to Status of Refugees and Stateless persons; Genocide Convention.

### **5. Implementation of the Right to Self determination**

Declaration on the grant of independence to colonial countries and people, humanitarian treatment of peoples living under colonial rule and trusteeships.



## 6. Eliminating Discrimination Against Women Through International Cooperation.

### Select bibliography

- C. Hosoya, N. Ando, Y. Onuma, R. Minear, *The Tokyo War Crimes Trial* (1986).
- G. Tunkin, *Theory of International Law* (1974)
- G. Schwarzenberger, *The Law of Armed Conflicts* (Vol. II)
- J. Stone, *Legal Controls of International Conflicts* (1959)
- R. Falk, "The Shimoda Case" 69 *Am. J. Int. Law* (1965)
- T. Taylor, *Nuremberg and Vietnam : An American Tragedy* (1971)

## Paper X

# 10 LAW AND DIPLOMACY

### Objectives of the course

The importance of diplomacy in international relations cannot be underestimated ; Even before and after the emergence of the modern state system and the generally agreed rules of international law, diplomacy has been the most outstanding means for influencing decisions relating to maintenance of international law.

The course will dwell on structural inequalities and geopolitical realities which shape national policies. The role of diplomacy from ancient to modern times will be assessed and salient features of the "new" diplomacy highlighted. Momentous developments in technology giving rise to arms race and military alliances have in no small measure been responsible for utilizing new strategies by powerful states to control foreign policies of nations.

In this connection it will be necessary to understand the conduct of diplomacy in the various forums of the United Nations. Inasmuch as delegations of all the members remain more or less present throughout the year at the United Nations Headquarters, it becomes relatively easy to handle some difficult situations. To provide an insight of the 'subject, the use of diplomacy in crisis management in contemporary international society will be discussed.

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

### Syllabus

#### 1. Contemporary International System

International stratification, neo-colonialism dependence

and domination, geopolitical considerations.

**2. Beginning of Diplomacy : Various Diplomatic Traditions, Greek, Byzantine and Indian; Golden age of Classical Diplomacy of 18th and 19th Centuries in Europe.**

**3. Transition from "old" to "new" diplomacy, Impact of the First World War and the Russian Revolution.**

**4. Impact of Technology on the Conduct of Diplomacy, Impact of the Nuclear Weapons, Military Alliance.**

**5. Secret v. Open Diplomacy, Democratic Control of Foreign Policy.**

**6. Diplomacy in contemporary world.**

6.1. Cold war and its impact on diplomacy

6.2. Diplomacy of the Summit

6.3. Diplomacy in the United Nations

6.4. Development and diplomacy

6.5. Diplomacy through mass media and propaganda

**7. Crisis Management**

7.1. Nicaragua

7.2. Namibia

7.3. Palestine

7.4. Sri Lanka

7.5. Iran-Iraq conflict

7.6. Diplomacy in the Law of the Sea Convention

7.7. Diplomacy and new human rights conceptions

7.7.1. Diplomacy and Right to Development Declaration

7.7.2. The Stockholm Declaration on Environment.

## 8. Diplomacy and Resources

### Select bibliography

- A. Ball, *Modern Intentional Negotiations* (1969)
- I. Clark, *Reform and Resistance in International Order* (1980)
- I. Clark, "The Satisfied and the Dissatisfied States Negotiate International Law : A Case Study," 18 *World Politics* 20-41 (1965)
- H. Nicolson, *Diplomacy* (1969)
- J. Stone, *Law and Nations* (1974)
- L. Hanken, *How Nations Behave* (1968)
- R.L. Friedheim, *Parliamentary Diplomacy—A Survey* (1976)
- R.P. Anand, *International Courts and Contemporary Conflict* (1979)

## Paper XI

### 011. LAW OF THE SEA

#### Objectives of the course

There have been momentous changes in the law of the sea for the last fifty years. An almost settled branch of international law has been reopened in response to the needs of the international community to appropriate limitless resources of the sea for common good. Although the importance of sea as a means of communications has lessened in recent years, new scientific and technological developments have brought to the fore the need of devising an equitable system for the distribution of vast living and non-living resources of the sea. The problems of conservation of vast living and non-living resources are complex. States have been using the sea rather recklessly with the result that there is the danger of pollution and consequent loss of animal life and contamination of the environment.

The course on the Law of the sea will, therefore, focus attention on resources of sea as common heritage of mankind. It will necessitate examinations of policy goals of various uses of the sea in the context of dwindling resources on the landmass. It will address itself to problems of conservation, pollution and equitable distribution of resources of the sea-to-sea to nations, large and small, with a seacoast or landlocked.

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

#### Syllabus

1. Historical introduction to the law of the Sea  
Contributions of Seldon, Grotius, Bynkershock and others

to the development of the early law, the Anglo-Norwegian Fisheries case and its aftermath; the technological revolution and utilization of the new resources of the sea population explosion and its impact on the law, the U.N. Conferences on the Law of the Sea; Developing nations and the uses of sea.

## **2. Changing concepts of Maritime Frontiers**

- 2.1. Rights of states over territorial waters and contiguous zone
- 2.2. Continental Shelf
- 2.3. Exclusive Economic Zone
- 2.4. Principles for determination of maritime frontiers and Maritime Boundaries under the customary and conventional law

## **3. Exploitation of Deep Sea-Bed Resources.**

- 3.1. International Sea Bed Authority, its functions and powers, Decision making; settlement of disputes, principles governing joint ventures; transfer of data and training of personnel of the Authority; Problems and Perspectives.

## **4. Conservation of Living Resources of 'the High Sea : Problems of Maritime Pollution.**

## **5. Land-locked States and the Law of the Sea**

## **6. Sea as Common Heritage of Mankind; the Future of the Law of the Sea**

## **7. International Sea Tribunal to Settle Disputes**

### **Select bibliography**

- Orrego Vicuna, *The Changing International Law of the High Seas Fisheries* (1999), Cambridge Ian Brownlie, *Principles of Public International Law*

- (1998), Clarendon press, Oxford.
- P. Chandrasekhara Rao, *The New Law of Maritime Zones* (1983) Miling Publications, New Delhi Samir Mankababy, *The International Shipping Rules* (1986), Croonil4elm, London
  - Nagendra Singh, *International Maritime Law Conventions*, Vol. I Navigation (1983) Stevens & Maxwell, London.
  - Myron H. Nordquist and John Norton Moore (eds.), *Ocean Policy—New Institutions, Challenges and Opportunities* (1999), Kluwer
  - R.P. Arland, *Law of the Sea : Caracas and beyond* (1978)
  - D.W. Bowett, *Law of the Sea*
  - D.W. Bowett, *Legal Regime of Islands in International Law*
  - John Colombos, *International Law of The Sea* (1962)
  - J.H. Hargrove, *Who Protects the Ocean : Environment and the Development of the Law of the Sea*
  - Devendra Kaushik, *Indian Ocean Towards a Peace Zone* (1983)
  - Myres S. McDougal and W. Burke, *The Public Order of the Oceans* (1962)
  - D.P. P'Conrlel, *International Law of the Sea*, Vols, I & II (1982)

## **Group—B : Criminal Law**

### **Paper IX**

## **09 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 jurisprudentially thrust has to be given to this subject at the post-graduate level as this is a subject which has constitutional undertones and jurisprudentially 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
  - 1.1.1. Nyaya Panchayats in India
    - 1.1.1.1. Panchayats in tribal areas
- 1.2. Organisation of prosecuting agencies for prosecuting criminals
  - 1.2.1. Prosecutors and the police
- 1.3. 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
  - 3.3.1. Expert evidence
- 3.4. Appeal of the court in awarding appropriate punishment.
- 3.5. 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 Evidence*
- K.N. Chandrasekharan Pillai (ed.), R.V. Kelkar's *Outlines of Criminal Procedure* (2000), Eastern, Lucknow.
- Patric Deviin, *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

## Paper X

### B 01 PRIVILEGED CLASS DEVIANCE

#### Objective 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 offence" 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

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—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 Ibakker-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. Bhargava, *Political Corruption in India* (1986)
- 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 Rothermund, "Patterns of Trade Union Leadership in Dhanbad Coal fields" 23 J.I.L.I. 522 (1981)

## 011 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, non-therapeutic 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 policies 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 Protocol in 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, 1986

Broadly, 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 one semester.

## **Syllabus**

### **1. Introductory**

- 1.1. Basic conceptions
  - 1.1.1. Drugs I 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. Anagraphic 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 Legal Regimes, especially in relation to 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. de addiction 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, *Drug Abuse and personality 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" *Indian Journal of Criminology*, 65-68 (1979)
- P.R. Rajgopat *Violence and Response : A Critique 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 Journals in 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, Ill)
- (vii) International Journal of Offender Therapy and Comparative Criminology (London)
- (viii) Bulletin on Narcotics (United Nations)

## Group—C : Business Law

### Paper IX

#### 09 BANKING LAW

##### Objectives of the course

A vitally important economic institution the banking system is deeply influenced by sociopolitical and economic changes. The emerging changes in India, particularly and 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 bank 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 far end of the last millennium witnesses influx of foreign banking companies into India and a shift in the banking policy as part of the global phenomenon of liberalisation. The legal system is adopting itself into the new mores.

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

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

# Syllabus

## 1. Introduction

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

## 2. Law Relating to Banking Companies in India

- 2.1. Controls by government and its agencies.
  - 2.1.1. On management
  - 2.1.2. On accounts and audit
  - 2.1.3. Lending
  - 2.1.4. Credit policy
  - 2.1.5. Reconstruction and 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
- 4.2. Establishment of Capital of DIC
- 4.3. Registration of banking companies insured banks,  
liability of DIC to depositors
- 4.4. 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

Contract between banker and customer

6.2.

Banker's lien

6.3.

Protection of bankers

6.4.

Customers

6.5.

Nature and type of accounts

6.5.1.

Special classes of customers—lunatics, partnership, corporations, local authorities, minor,

6.5.2.

Banking duty to customers

6.6.

Consumer protection : banking as service

6.7.

## 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

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  - 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 Balfker-Customer Relationship* (1999) LLP, London
  - Mitra, *The Law Relating to Bankers' Letters of Credit and Allied Lavies*, (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)

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

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

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

The operational framework of insurance idea is provided by the general principles of contract. The insurance policy, being a contract, is subject to all the judicial interpretative techniques Besides, the insurance idea has a compensatory

justice component. This brings it in the arena of the law of tort as well. It is even suggested that a fully grown and developed law of insurance may, if not totally displace, decrease the significance of the law of tort.

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

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

## **Syllabus**

### **1. Introduction**

- 1.1. Nature of insurance contract, various kinds of insurance, proposal, policy, parties, consideration, need for utmost good faith, insurable interest, indemnity
- 1.2. Insurance policy, law of contract and law of torts-future of insurance : need, importance and place of insurance
- 1.3. Constitutional perspectives—the Entries 24, 25, 29, 30, 47 of List 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 Christopals Henly, *All Risks Property Insurance* (1999), LLP Asia, Hongkong.
- Peter Mac Donald Eggers and Patric Foss, *Good Faith and Insurance Contracts* (1998) LLP Asia, Hongkong
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- M.N. Sreenivasan *Law and the Life Insurance Contract* (1914)



## 011 CORPORATE FINANCE

**Objectives of the course**

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

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

- (i) To understand the economic and legal dimensions of corporate finance in the process of industrial development in establishing social order in the context of constitutional values
- (ii) To acquaint the students with the normative, philosophical and economic contours of various statutory rules relating to corporate finance
- (iii) To acquaint the students with the organisation, functions, lending, and recovery procedures,

- conditions of lending and accountability of international national and state financing institutions and also of commercial banks; and
- (iv) To acquaint the students with the process of the flow and outflow of corporate finance.

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

## Syllabus

### Introduction

1. Meaning, importance and scope of corporation finance
2. Capital needs—capitalisation—working capital—securities—borrowings deposits debentures
3. Objectives of corporation finance—profit maximisation and wealth maximisation
4. Constitutional perspectives—the entries 37, 38, 43, 44, 45, 46, 47, 52, 82, 85, and 86 of List I—Union List; entry 24 of List II—State List.

### Equity Finance

1. Share capital
  - 1.1. Prospectus—information disclosure
  - 1.2. Issue and allotment
  - 1.3. Shares without monetary consideration
  - 1.4. Non-opting equity shares

### Debt Finance

1. Debentures
  - 1.2. Nature, issue and class
  - 1.3. Deposits and acceptance

- 3.1.4. Creation of charges
- 3.1.4.5. Fixed and floating charges
- 3.1.5. Mortgages
- 3.1.6. Convertible debentures

#### **4. Conservation of Corporate Finance**

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

#### **5. Protection of creditors**

- 5.1. Need for creditor protection
  - 5.1.1. Preference in payment
- 5.2. Rights In making company decisions affecting creditor interests
- 5.3. Creditor self-protection
  - 5.3.1. Incorporation of favourable terms in lending contracts
  - 5.3.2. Right to nominate directors
- 5.4. Control over corporate spending

#### **6. Protection of Investors**

- 6.1. Individual share holder right
- 6.2. Corporate' membership right

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

## 7. Corporate Fund Raising

- 7.1. Depositories—IDR (Indian depository receipts), ADR (American depository receipts), GDR (Global depository receipts)
- 7.2. Public financing institutions—IDBI, ICICI, IFC and SFC
- 7.3. Mutual fund and other collective investment schemes
- 7.4. Institutional investments—LIC, UTI and banks
- 7.5. FDI and NRI investment—Foreign institutional investments (IMF and World bank)

## 8. Administrative Regulation on Corporate Finance

- 8.1. Inspection of accounts
- 8.2. SEBI
- 8.3. Central government control
- 8.4. Control by registrar of companies
- 8.5. RBI control

## Select bibliography

- Alastair Hundson, *The Law on Financial Derivatives* (1998), Sweet & Maxwell
- Eil's Ferran, *Company Law and Corporate Finance* (1999), Oxford.

- Jonathan Charkham, *Fair shares : the Future of Shareholder Power and Responsibility* (1999), Oxford.
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- V.G. Kulkarni, *Corporate Finance* (1961)
- Y.D. Kulshreshta, *Government Regulation of Financial management of Private Corporate Section in India* (1986)
- Journals—Journal of Indian Law Institute, Journal of Business Law, Chartered Secretary, Company Law Journal, Law and Contemporary Problems.
- Statutory Materials—Companies Act and laws relating SEBI, depositories, Industrial financing and information technology.

## **Group D : Environmental and Legal Order**

### **Paper IX**

## **09 ENVIRONMENT AND INTERNATIONAL LEGAL ORDER**

### **Objectives of the course**

Through the centuries of their growth, societies had done their best to keep their neighbourhood clean and health. Industrialisation brought in its wake unprecedented and unpredicted environmental hazards and upset the old ethos and equilibrium. The environmental consciousness is an offshoot of this saga of industrial growth. It is said that the world environmental consciousness had made a radical change in the character of international law from a moral code of ethics among nations to an almost positive law imposing on the states to observe environmental norms. Striking a significant note at the close of the last millennium, areas of international concern on environment are legion. Modes of reconciling the conflicts are also varied. The concept of sustainable development is a significant tool both at the international level and at the domestic system for reconciliation of environmental values and developmental needs.

This paper prepared with the above neutered perspectives comprises about 4 3 units of one-hour duration to be spread over semester.

### **Syllabus**

- 1. International Concern for Environment Protection**
  - 1.1. World environment movement
  - 1.2. Natural and cultural heritage

1.3. Role of international and regional organizations

**2. International Obligations towards Sustainable Development**

- 2.1. International financing policy
- 2.2. World environment fund
- 2.3. Global Environmental Facility (GEF)
  - 2.3.1. International co-operation
  - 2.3.2. Poverty alleviation

**3. Marine Environment**

- 3.1. Marine resources : conservation and exploitation
- 3.2. Scientific research and exploration
- 3.3. Antarctic environment
- 3.4. International Seabed Authority
- 3.5. Pollution from ships
- 3.6. Dumping of oil and other wastes into the sea

**4. Trans-boundary Pollution Hazards**

- 4.1. Oil pollution
- 4.2. Nuclear fallouts and accidents
- 4.3. Acid rain
- 4.4. Chemical pollution
- 4.5. Green house effect
- 4.6. Depletion of ozone layer
- 4.7. Space pollution

## 5. Control of Multinational Corporations and Containment of Environmental Hazards

- 5.1. Problems of liability and control mechanisms
- 5.2. Disaster management at international level
- 5.3. Monopoly of biotechnology by MNCs

## 6. Disposal and Dumping of Hazardous Wastes : Transnational Problem and Control

### Select bibliography

- Priya Kanjan Trivedi, *International Environmental Laws* (1996), A.P.H. Publishing Corporation, New Delhi.
- Sir Elworthy and Jane Holder, *Environmental Protection : Text and Materials* (1997), Butterworths
- Nathali L.T.J. Horbach, *Contemporary Developments in Nuclear Energy Law* (1999), Kluwer.
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- Dovor Vidas, *Protecting the Polar Marine Environment* (2000), Cambridge.
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- Zhiguo Gao, *Environmental Regulation of Oil and*



Gas (1998), Kluwer.

- Indian Law Institute, Legal Control of Environmental Pollution (1980)
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- J.M. Spector, "Elephants, Donkeys and other Creatures? Presidential Election Cycles and International Law of the Global Commons" 15 A.M.U. INT'L L.Rev.5, pp 976-1038 (1999)

## Paper X

# 010 BIOLOGICAL DIVERSITY AND LEGAL ORDER

### Objectives of the course

Biological diversity includes all life forms on the earth and signifies a life supporting order, essential for the normal functioning of eco-systems and the Biosphere as a whole. Dependence of human life on biological diversity is thus no doubt essential. Destruction of bio-diversity, especially of the developing countries is a disturbing phenomenon and presents a matter of grave concern. The growth of biotechnology and genetic engineering triggers off numerous issues of ethical and legal significance in relation to experimentation on animals and plants. Apart from being considered as gifts of nature, animals and plants becomes a target of commercial exploitation. Sustainable development envisages contrary position and lays emphasis on the duty to protect the diverse flora and fauna not only for present generation but also for the succeeding generations to come. With the above perspectives the course focuses on the legal mechanisms of preserving bio-diversity in a sustainable manner.

This paper comprises about 42 units one of one hour duration to be spread over a semester.

## Syllabus

### 1. Bio-diversity

- 1.1. Meaning
- 1.2. Need for protection of bio-diversity
- 1.3. Dependence of human life on the existence in flora and fauna

- 1.4. Significance of wild life
- 1.5. Medicinal plants
- 1.6. Plant and micro-organism

## **2. Bio-diversity and Legal Regulation**

- 2.1. Utilization of flora and fauna for bio-medical purposes
- 2.2. Experimentation on animals : Legal and ethical issues
- 2.3. Genetic mutation of seeds and micro-organisms
- 2.4. Genetic engineering
- 2.5. Legal mechanisms of control
  - 2.5.1. Recognition of regional and local agencies

## **3. Development Projects and Destruction of Bio-diversity : Concept of Sustainable Development**

### **4. Problems in Legal Regulation of Medicinal Plants**

- 4.1. Cosmetic plants
- 4.2. Animal products
- 4.3. Utilization of flora and fauna for bio-medical purposes by Multi-national corporations : Problems of control
- 4.4. Regulation of trade in wild-life products

### **5. Legal framework for Development and Protection of Sanctuaries**

- 5.1. Parks
- 5.2. Zoos
- 5.3. Biosphere resources
- 5.4. Protection of genetic resources for agriculture

## Select bibliography

- Arjun Prasad Nagore, Biological Diversity and International Environmental Law (1996) A.P.H. Publishing Corporation, New Delhi.
- Project Large, Plant Variety Protection and Plant Biotechnology—Options for India (1999), Allied.
- M.S. Swaminathan, Genetic Conservation : Microbes to Man, Presidential Address at XV International Congress of Genetics, New Delhi, India, December 12-21,1983
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## Paper XI

# 011 PREVENTION AND CONTROL OF POLLUTION

### Objectives of the course

Pollution hazards bring the worst harm to the environment. Legal measures are attempted to prevent or control various kinds of pollution and their aftermath. Can land pollution hazards be prevented or controlled effectively by criminal sanctions especially in a developing country like India? What other legal strategies can be adopted at this level? To what extent can corporate civil liability be extended for remedying pollution maladies particularly mass disasters. One has to be a critic of the existing laws and to look forward to desirable mechanism of control over pollution hazards. This paper aims at shedding light on these areas.

### Syllabus

#### 1. Pollution

- 1.1. Meaning
- 1.2. Kinds of pollution and their impact

#### 2. Pollution of Water

- 2.1. Definition
- 2.2. Ground water pollution
- 2.3. Sources
- 2.4. Critique of existing laws
  - 2.4.1. Machinery
  - 2.4.2. Powers

- 2.4.3. Function
- 2.4.4. Offences and penalties

### 3. **Pollution of Air**

- 3.1. Pollutants and effects
- 3.2. Modalities of control
- 3.3. Conflicts of jurisdiction of different control
- 3.4. Agencies
- 3.5. Critique of the existing legal frame work

### 4. **Noise Pollution**

- 4.1. Sources and effects
- 4.2. Different legal controls
- 4.3. Need for specific law

### 5. **Disposal of Waste**

- 5.1. Kinds of wastes
- 5.2. Disposal agencies : local bodies and other agencies
- 5.3. Disposal and recycling of wastes

### 6. **Sanctions against Pollution**

- 6.1. Efficacy of criminal and civil sanctions
- 6.2. Corporate liability, civil and criminal
  - 6.2.1. Should penalties be prohibitive?
  - 6.2.2. Civil liability, compensatory and penal
  - 6.2.3. Administrative compensation system
- 6.3. Incentives to pollution control

### Select bibliography

- Kailash Thakur, Environmental Protection Law and Policy in India (1997), Deep & Deep publications, New Delhi
- Enid.M. Barson and Liga Nielson (eds.), Agriculture and Sustainable Use in Europe (1998), Kluwer.
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- Frodorick R. Anderson, et.al. Environmental Improvement Through Economic Incentives (1977)
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- Indian Law Institute, Mass Disasters and Multinational Liability : The Bhopal Case (1986),
- Inconvenient Forum and Convenient Catastrophe : The Bhopal Case (1986).
- Armin Rozencranz, et.al. (eds.) Environmental Policy and Law in India (2000), Butterworths India.

## **Group—E : Human Rights Law**

### **Paper IX**

#### **09 PROTECTION AND ENFORCEMENT OF HUMAN RIGHTS IN INDIA**

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

A reading of fundamental rights and duties in the Constitution of India reveals that they constitute the human rights charter in India. The judiciary, the major protective and enforcement machinery, is very active in protecting human rights. Judicial activism in this field has added new dimensions to human rights jurisprudence. There are a number of cases where courts apply the provisions of the international conventions to fill the gaps in legislation. The apex court has also ventured to apply international convention even where there was no legislation in the area. Thus the judiciary has been directly implementing international conventions at the national level. This course aims at familiarising students with the judicial activism in protecting human rights and enables them to evaluate the adequacy of the methods of enforcement.

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

##### **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.R. 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).

## Paper X

# 010 HUMAN RIGHTS OF DISADVANTAGED GROUPS : PROBLEMS AND ISSUES IN THE PROTECTION AND ENFORCEMENT

### Objectives of the course

Human rights are the rights of all human beings. Violation of these rights is human rights violations. Due to frequent violations to particular groups in disadvantageous positions, new categories of human rights have emerged. These groups are of people such as women, children, prisoners and dalits. Violation of human rights of these groups is of great concern of every nation today. The officials of the state like the police force commit such violations. This is only an illustration. There are several other categories of violations.

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

## 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 Bueren, *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).

## Paper XI

### 011 INTERNATIONAL HUMANITARIAN LAW AND REFUGEE LAW

#### Objectives of the course

The two world wars had had enough of lessons to teach. But the present scenario shows that the nations have not learnt any lesson : wars continue to be there. The International Humanitarian Law aims at humanising war though war itself is inhuman. Human rights do have value only in peace time. War is the negation of all human rights. Though the United Nations Charter does not permit war, it has shown the wisdom to regulate the war if one occurs.

War is one of the factors which creates the problem of refugees. There have been some endeavours on the part of the international community to protect the interests of refugees. But due to political interference, the formulation of the definition of the term 'refugee' in the 'Convention relating to the status of refugees' has been such that it helps the developed countries to shirk the responsibility towards the refugees leaving the burden to the developing countries.

This course intends to equip the students with the awareness of the various problems of refugees and to inspire them to critically evaluate the international conventions and national legislation.

This paper comprises of about 42 units of one hour duration spread over a period of one semester.

#### 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 shiprecked
- 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 Gowiland—Debbas, *The Problem of Refugees in the Light of Contemporary International Law Issues*, (1996).
- *Anti-personnel Landmines Friend or Foe?*, International Committee of Red Crosst, (1996).
- Resefflement Handbook, *The United Nations High Commissioner for Refugees*.
- James C. Hathaway, Hohn A. Dent, *Refugee Rights : Report on a Comparative Survey*, (1995)

Group—F : Administrative Law  
Paper IX

09 PUBLIC AUTHORITIES : LIABILITY

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

LLM.



- 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. Schwark, *An Introduction to American Administrative Law*.

## Paper X

# 010 PUBLIC AUTHORITIES AND POWER HOLDERS : CONTROLS ON MALADMINISTRATION

### 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 aggrandisement 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 Allan and Unwin Ltd., Toronto

## Paper XI

### 1. 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  
5.1.1. England : judicial process : doctrine of fairness and doctrine of legitimate expectation  
5.1.2. expectation—legislation  
5.1.3. US : due process and judicial decisions—legislation  
India : through judicial process—doctrine of fairness : Articles 14, 19 and 21—doctrine of legitimate expectation  
5.2. 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)

## Paper XII

**012 Project and Viva-Vice**

# LL.M. Part—II (IInd Term)

## Optional Groups :

### Group—A : International Law and Organization

#### Paper XIII

## 013 INTERNATIONAL LAW AND CONTEMPORARY ISSUES

### Objectives of the course

This course focuses on the problems of international law in the making. The major normative instruments to be explored are : no New international economic order, the Declaration on the Right to Development and Continuing Struggle for North-South Equity, which continue for crystallize new human rights.

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

#### 1. The New International Economic Order. (NIEO)

- 1.1. Background
- 1.2. Essential component of the NIEO
- 1.3. State acceptance and practice of NIEO principles
- 1.4. Critique of NIEO

#### 2. The Right to Development

- 2.1. The 1979 (3.A. Resolution)
- 2.2. Progress towards enjicator of the Declaration of Right for Development

23. Basic Concepts of right to development
  24. State acceptance and practice"
  25. Critique.
3. **Towards Sustainable Development**
    - 3.1. The context of U.N. Commission on Environment and Development
    - 3.2. Our Common Future : the Report of the Commission
    - 3.3. Proposed legal principles for environmental protection and sustainable development.
  4. State acceptance and practice
  5. Critique.

#### lect bibliography

- H.W. Singer & J.A. Ansari, *Rich and Poor Countries* (1982)
- P. Aiston, "Development and the Rule of Law; Prevention Versus Cure as a Human Rights Strategy" in *Human Right and Rule of law* (1981)
- R. Falk, *The End of the World Order* (1983)
- S. Gwrge, *How the other Half Dies : The Real Persons for World Hunger* (1976)
- U. Bad, "The New International Economic Order, Basic Needs and Rights : Notes Towards Development of the Right to Development" : in *Role of Law and Judiciary in Transformation of Society : India G.D.R. Experiments* 178-205 (1984) D.A. Desaired.) and see the literature there in cited. This paper is also published in the J. of the Indian Society of international Law.



- UN Report of the Secretary General : "The International Dimensions of the Right to Development as a Human Right with other Human Right Based on International Cooperation, including the Right to Peace, Taking into Account the Requirement of the New International Economic Order and the Fundamental Human Needs". EICN-41374.
- U.N., *Our Common Future : The World Commission on Environment and Development* (1987)

10/1/17  
B 017. COLLECTIVE VIOLENCE AND  
CRIMINAL JUSTICE SYSTEM  
13/1/17

**Objective 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 political analysis the course should focus on a broader social understanding of the political economy of law in India. Each specific form of violence will be examined with a view to identifying the course of its 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 paramilitary forces 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, "institutionalized" violence, "structural violence"
- 1.3. Legal order as a coercive normative order
- 1.4. Force-monopoly of modern 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 : 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, *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 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)

## Group—C : Business Law

### Paper XIII

#### 013. Company Law

##### Objective of the course

Industrialisation plays a very vital role in the Economic development of India. In the post Independence era, industrial regulation is employed as a Principal means in the strategy for attaining constitutional values. Companies are no doubt powerful instruments for development. Besides bringing returns and financial benefits to the capital and labour they help amelioration of the living conditions of masses. In a developing society like India, vast varieties of consumer goods are manufactured or produced and different kinds of public utility services are generated both the general welfare and consumption purposes. The course is intended to acquaint the student of advanced studies in law with the theories and structure of corporation. Law relating to companies—Public and Private Companies Act, 1956. Including law and Multinational Companies and corporate liability.

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

### Syllabus

1. Meaning of corporation
  - 1.1. Theories of corporate personality
  - 1.2. Creation and Extinction of corporations
2. Forms of corporate and non-corporate organisations

## **Group—D : Environmental and Legal Order**

### **Paper XIII**

## **013 ENVIRONMENTAL LEGISLATION (NATIONAL)**

### **Objectives of the course**

Concepts of environmental protection lay scattered in isolated provisions of general legislation in India before world consciousness was aroused by the Stockholm conference in 1972. In the post Stockholm period there were many legislative activities in such areas like control of pollution and forest conservation. This legislative activism culminated in the enactment of Environment (Protection) Act 1986 with a plethora of delegated legislation and delegation of powers. The central government has become the guardian of environmental protection and formulated rules and regulations on coastal zones, noise pollution and preparedness on environmental disasters. There are attempts in making laws for implementation of norms laid down in international conferences.

This paper spreads over the above-mentioned objectives and will comprise of 42 units of one-hour duration.

### **Syllabus**

- 1. General Laws on Environmental Concern**
  - 1.1. Code of Criminal Procedure : Public nuisance
  - 1.2. Provisions in the Indian Penal code
  - 1.3. Local bodies law : an overview

## **Environment (Protection) Act, 1986**

- 2. 'Necessary and proper clause' : concentration of power on ,the Central Government
- 2.1. Delegated legislation : power to make rules, regulation and to issue directions
- 2.2. Delegation of powers
- 2.3.

## **3. Coastal Zone Management**

- 3.1. Sea erosion
- 3.2. CRZ Notification
- 3.2.1. Prohibitions and exemptions
- 3.2.2. Permissible activities
- 3.3. Classification of zones
- 3.4. Regulation of sea resorts
- 3.4.1. Eco-tourism
- 3.5. Coastal zone management plans
- 3.6. Aquaculture

## **4. Laws on Hazardous Substance**

## **5. Preparedness on Environmental Disasters**

## **6. Emerging Legal Controls**

- 6.1. Eco-mark
- 6.2. Environmental audit
- 6.3. Environment Impact Assessment
- 6.4. Public participation in environmental decision making
- 6.5. Environment information



## Select bibliography

- Leelakrishnan, P., et. al. (eds.), *Law and Environment* (1990), Eastern, Lucknow
- Leelakrishnan, P., *The Environmental Law in India* (1999), Butterworths, India.
- Department of Science and Technology, Government of India, *Report of the Committee for Recommending Legislative Measures and Administrative Machinery for Ensuring Environmental Protection* (1980) (Tiwari Committee Report).
- Indian Law Institute, *Environment Protection Act : An Agenda for Implementation* (1987)
- *Indian Journal of Public Administration*, Special Number on Environment and Administration, July September 1988, Vol. XXXV, No. 3
- Findley, R.W. and Farber, D.A., *Environmental Law*
- David Hughes, *Environmental Law* (1999), Butterworths, London
- Armin Rozencranz, et.al. (eds.), *Environmental Policy and Law in India* (2000), Oxford.

**Group E. Human Rights Law group**  
**Paper XIII**

**J 066. SCIENCE, TECHNOLOGY AND HUMAN RIGHTS**

**Objectives of the course**

We live in an era of scientific development. The alarming rate of development in bio-technology 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 bio-technology 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)
- Adv. 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., *Roits After Riots*, (1988)
- Baxi, U. (ed.), *Rights to be Human*, (1986)
- Kazmi, F., *Human Rights*, (1987)
- Levin L., *Human Rights*, (1982)
- Gromley W.P., *Human Rights and Environment*, (1976)
- Madhavtirtha, *Human Rights*, (1953)
- Beddard H., *Human Rights and Europe*, (1980)
- Swarup J., *Human Rights and Fundamental Freedoms*, (1975)
- Nagendra Singh, *Human Rights and International Cooperation*, (1969)

- Kashyap, S.C., *Human Rights and Parliament*, (1978)
- Khare S.C., *Human Rights and United Nations*, (1977)
- Moskowitz, *Human Rights and World Order*, (1958)
- Drost, *Human Rights as Legal Rights*, (1965)
- Garling M., *Human Rights Handbook*, (1979)
- Andrews J.A., *Human Rights in Criminal Procedure*, (1982)
- Kalaiah A.B., *Human Rights in International Law*, (1986)
- Menon, I. (ed.), *Human Rights in International Law*, (1985)
- Robertson, A.B. (ed.), *Human Rights in National and International Law*, (1970)
- Lauterpacht, E., *International Law and Human Rights*, (1968)
- Robertson, E., *Human Rights in the World*, (1972)
- Sohn, Lonis & Burgenthal, *International Protection of Human Rights*, (1973)
- Baxi, U., "Human Rights, Accountability and Development", *Indian Journal of International Law*, 279, (1978)
- Basu, D.D., *Human Rights in Constitutional Law*, (1994)
- Macfarlane, L.J., *The Theory and Practice of Human Rights*, (1985)
- Krishna Iyer, V.R., *Human Rights—A Judge's Miscellany*, (1995)
- Rama Jois, M., *Human Rights : Bharatiya Values*, (1998)

# Group—F : Administrative Law

## Paper XIII

### 013 LOCAL SELF—GOVERNMENT LAW

#### 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, India is, moving towards the 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*

- Iwor 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. Venketarangaiya & M. Pattabhiram, *Local  
Government in India* (1969) Allied, New Delhi.



## **Paper XIV**

### **014. Dissertation**

**or**

Any paper out of the following not already offered in the LL.M.- II (IInd term)

- (i) International law Contemporary Issues.
- (ii) Collective violence
- (iii) Company Law
- (iv) Environmental Legislation (National)
- (v) Science, Technology and Human rights
- (vi) Local-Self government Law

## **Paper XV**

Project and Viva-Voce Examination in Each term shall be of 50 marks.

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