

बरकतउल्ला विश्वविद्यालय, भोपाल
Barkatullah Vishwavidyalaya, Bhopal

विधि संकाय
एल.एल.एम. I-II सेमीस्टर
पाठ्यक्रम एवं परीक्षा योजना
निर्धारित पुस्तकें

FACULTY OF LAW
LLM. I-II SEMESTER
2009-10



प्रकाशक

कुलसचिव

बरकतउल्ला विश्वविद्यालय, भोपाल

2009&10

मूल्य 50 :-

General norms for LL.M. Curriculum

The course design shall be

Semester	Compulsory/ Core	Optional	Total	Marks
First	2	2	4	400
Second	1	2	3	300
Third	1+1 (Practical)	2	4	400
Fourth	Dissertation	Equivalent to 2 Courses	2	200
				1300

1. Every paper shall carry 100 marks
2. Dissertation carry 100 marks for written work and 100 marks for viva-voce, which shall be conducted in the University Teaching Department.
3. The practical examination shall be held at the end of the third semester on Research Methodology, law teaching and clinical work and carrying 100 marks.
4. The individual faculty of law shall evaluate practical. They can formulate their own models of assessments.

Barkatullah University, Bhopal.

Syllabus for UTD and Colleges

L.L.M. Previous – 2008-2009

LL.M. Part – I – Semester- II

Compulsory Papers

I	I JUDICIAL PROCESS	Max 100	Min 40	Aggregate 50%
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Max 100	Min 40	Aggregate 50%
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Optional Papers (Two)

Group - B Criminal law

- I Privileged class deviance
- II Drug addiction, criminal justice and human rights

Max **Min** **Aggregate**
100 **40** **50%**

Group- C **Business law**

I Law of Export Import Regulation

II Banking law

Max **Min** **Aggregate**
100 **40** **50%**

Group- E **Environmental law and Legal Order**

I Prevention and control of pollution

II Environment and international legal order

Max **Min** **Aggregate**
100 **40** **50%**

Group -G **Constitution and Legal Order**

I Union-state financial relations

II Constitutionalism: pluralism and federalism

Max	Min	Aggregate
100	40	50%

Group -J **Human Right Law**

- I Protection and enforcement of human rights in India

- II Human rights of disadvantaged groups: problems and issues in the protection and enforcement

LL.M. Part – I – Semester- II

Max. Mark: 100
JUDICIAL PROCESS

Min. Marks: 40

Objective of the course

A lawyer, whether academic or professional, is expected to be competent to analyze and evaluate the legal process from a broader justice perspective. Hence a compulsory paper on judicial process is essential in the LL.M. curriculum. The objective of this paper is to study the nature of judicial process as an instrument of social ordering. It is intended to highlight the role of court as policy maker, participant in the power process and as an instrument of social change. This paper further intends to expose the intricacies of judicial creativity and the judicial tools and techniques employed in the process.

Since the ultimate aim of any legal process or system is pursuit of justice, a systematic study of the concept of justice and its various theoretical foundations is required. This paper, therefore, intends to familiarize the students with various theories, different aspects and alternative ways, of attaining justice.

Syllabus

1. Nature of judicial process

1. Judicial process as an instrument of social ordering
2. Judicial process and creativity in law – common law model – Legal Reasoning and growth of law – change and stability
3. The tools and techniques of judicial creativity and precedent
4. Legal development and creativity through legal reasoning under statutory and codified systems

2. Special dimensions of Judicial Process in Constitutional Adjudications

1. Nations of judicial review
2. Role in constitutional adjunctions – various theories of judicial role
3. Tools and techniques in policy– making and creativity in constitutional adjunction
4. Varieties of judicial and justice activism
5. Problems of accountability and judicial law making

3. Judicial Process in India

1. Indian debate on the role of judges and on the nation of judicial review

2. The “Independence” of judiciary and the “Political” nature of judicial process
 3. Judicial activism and creativity of the Supreme Court – the tools and techniques of creativity
 4. Judicial process in pursuit of constitutional goals and values – new dimensions of judicial activism and structural challenges
 5. Institutional liability of courts and judicial activism-scope and limits
- 4. The concepts of Justice**
1. The concept of justice or Dharma in Indian thought
 2. Dharma as the foundation of legal ordering in Indian thought
 3. The concept and various theories of justice in the western thought
 4. Various theoretical bases of justice: the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition
- 5. Relation between Law and Justice**
1. Equivalence Theories – Justice as nothing as nothing more than the positive law of the stronger class
 2. Dependency theories – for its realization justice depends on law, but justice is not the same as law
 3. The independence of justice theories-means to end relationship of law and justice- the relationship in the context of the Indian constitutional ordering
 4. Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice

Selected bibliography

1. Julius Stone, The Province and Function of Law, Part II Chs. 1. 8-16 (2000), University New Delhi
2. Carzo, The Nature of Judicial Process (1995) Universal, New Delhi
3. Henry J. Abraham, The judicial Process (1998), Oxford
4. J. Stone, Precedent and the Law: Dynamics of Common Law Growth (1985) Butterworths
5. W.Friedmann, Legal Theory(1960), Stevens, Landon
6. Bodenheimer, Jurisprudence-the Philosophy and Method of the Law (1997), Universal, Delhi
7. J. Stone, Legal System and Lawyers’ Reasoning (1999), Universal Delhi
8. U. Baxi, The Indian Supreme Court of India – A Socio – Legal Critique of its Juristic Techniques (1977), Tripathi, Bombay
9. John Rawls, A Theory of Justice (2000), Universal, Delhi
10. Edward H. Levi, An Introduction to Legal Reasoning (1970), University of Chicago

LL.M. Part – I – Semester- II

Max. Mark: 100

Min. Marks: 40

GROUP – B CRIMINAL LAW

PRIVILEGED CLASS DEVIANCE

Objective of the Course

This course focuses on the “Privileged classes”. The definition of “Privileged classes” in a society like India should not pose major problem at all the expression nearly includes wielders of all forms of State and social (including religious) power. Accordingly, the course focuses on the relation between privilege power and deviant behaviour. The traditional approaches which highlight "white-collar offences", "socio-economic offences" or "crime 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 of 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 deviances crime is usually associated with the impoverished or improvident;
- (b) Constructions 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) Issue and dilemmas in penal and sentencing policies.

Syllabus

1. Introduction

Conceptions of white-collar crimes
Indian approaches to socio-economic offences

Notions of privileged class deviances as providing a wider categorization of understanding Indian development

Typical forms of such deviance

Official deviances (deviance by legislators, judges, bureaucrats)

Professional deviance: journalists, teachers, doctors, lawyers, engineers, architects and publishers

Trade union deviance (including teachers, lawyers/urban property owners)

Landlord deviances (class/caste based deviance)

Police deviances

Deviance on electoral process (rigging, booth capturing, impersonation, corrupt practices)

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

1. Conception of official deviance- permissible limit of discretionary powers
2. The Chambal valley dacoit Vinoba Mission and Jai Prakash Narain Mission – in 1959 and 1971
3. The Chagia Commission Report on LIC Mundra Affair
4. The Das Commission Report on Pratap Singh Kairon
5. The Grover Commission Report on Dev Raj Urs
6. The Maruti Commission Report
7. The Ibakkar- Natarajan Commission Report on Fairfax

3. Police Deviance

Structures of legal restraint on police power in India

Unconstitutionality of "third-degree" methods and use of fatal force by police

"Encounter" killings

Police atrocities

The plea of superior orders

rape and related forms of gender-based aggression by police and para-military forces

Reforms suggestions especially by the National Police Commissions

4. Professional Deviance

Unethical practices at the Indian bar

The Lentin Commission report

The Press Council on unprofessional and unethical journalism

Medical malpractice

5. Response of Indian Legal Order to the Deviance of Privileged Classes

Vigilance Commission
Public Accounts Committee
Ombudsman
Commissions of Enquiry
Prevention of Corruption Act, 1947
The Antulay Case

Selected bibliography

1. Upendra Baxi, *The Crisis of the Indian Legal System* (1982) Vikas Publishing House, New Delhi
2. Upendra Baxi, (ed.), *Law and Poverty: Essays* (1988)
3. Upendra Baxi, *Liberty and Corruption: The Antulay Case and Beyond* (1989)
4. Surendra Nath Dwevedi and G.S. Bhargava, *Political Corruption in India* (1967)
5. A.R. Desai (ed.) *Violation of democratic Rights in India* (1986)
6. A.G. Noorani, *Minister's Misconduct* (1974)
7. B.B. Pande, *The Nature and Dimensions of Privileged Class Deviance "In the othe side of development 136* (1987; K.S. Shukla ed.)
8. Indira Rothermund, *"Patterns of Trade Union Leadership in Dhanbad Coal Fields"* 23 J.I.L.I 522 (1981)

LL.M. Part – I – Semester- II

Max. Mark: 100
GROUP – B

CRIMINAL LAW

Min. Marks: 40

DRUG ADDICTION, CRIMINAL JUSTICE AND HUMAN RIGHTS

Objective 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?

Apart from these causal issues, there are the broad questions of the social costs-benefits of criminalization of addictive behaviour. Should drug taking remain in the category of "crime without victimism?" 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 purpose may well be linked with international trafficking in psychotropic substances. It has even been suggested that encouragement of drug-dependency may have, in addition to motivation of high profiles, politically subversive aspects.

Assuming that both addiction and trafficking have to be regulated, what penal polices should be appropriate? What human rights costs in the administration of criminal justice should be considered acceptable? The international response to these questions is indicated by the Single convention on narcotic drugs, 1961, adopted in New York, 30 March 1961 and as amended by 1972 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 in the impact of regulation need evaluated at every stages.

Syllabus

Introductory

Basic conceptions
Drug, narcotics" "psychotropic substances"
'Dependence," " addiction"
"Crimes without victims"
"Trafficking" in "drugs"
"Primary drug abuse"

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

Self – reporting
Victim – studies
Problems of comparative studies

3. Anagraphic and Social Characteristics of Drug Users

Gender
Age
Religiousness
Single individuals/cohabitation
Socio- economic level of family
Residence patterns (urban/rural/urban)
Educational levels
Occupation
Age at first use
Type of drug use
Reasons given as cause of first use
Method of intake
Pattern of the use
Average quantity and cost
Consequences on addict's health (physical/psychic)

4. The International Legal Regime

Analysis of the background, text and operation of the single convention on narcotic drugs, 1061,1972
Analysis of the convention on psychotropic substances, 1972
International collaboration in combating drug addiction
The SARC, and South- South cooperation
Profile of International market for psychotropic substances

5. The Indian Regulatory system

Approaches to narcotic trafficking during colonial India

Nationalist thought towards regulation of drug trafficking and usage
The penal provisions (under the IPC and the customs Act)
India's role in the evolution of the two international conventions
Judicial approaches to sentencing in drug trafficking and abuse
The narcotic drugs and psychotropic substances Act, 1985
Patterns of resource investment in India: policing adjudication, treatment, aftercare and rehabilitation

6. Human Rights Aspects

Deployment of marginalized people as carrier of narcotics
The problem of juvenile drug and legal approaches
Possibilities of misuse and abuse of investigative prosecutor powers
Bail
The problem of differential application of the Ugal Regimes, especially in relation to the resource less

7. The Role of Community In Combating Drug Addiction

1. Profile of community initiatives in inhabitation of dependence and addiction (e.g. de addiction and aftercare)
2. The role of educational systems
3. The role of medical profession
4. The role of mass media
5. Initiative for compliance with regulatory systems
6. Law reform initiatives

Selected bibliography

1. H.S. Becker, outsiders: The Studies in Sociology of Deviance (1966)
2. J.A. Incard, C.D. Chambers (eds.), Drug and the Criminal Justice System (1974)
3. R. Cocken, Drug abuse and Personality in Young Offenders (1971)
4. G. Edwards Busch, (ed.) Drug Problems in Britain: A Review of Ten Years (1981)
5. P. Kondanram and Y.N. Murthy, "Drug Abuse and Crime: A Preliminary Study" 7 Indian Journal of Criminology, 65-68 (1979)
6. P.R. Rajgopal Violence and Response: A Critique of the Indian Criminal System (1988)
7. United Nations, Economics and Social Reports of the Commission on Narcotic Drugs, United Nations
8. Social Defence, Research Institute (UNSDRI) combating drug abuse and related crimes (Rome, July 1984, publication No. 21.)
9. Lok Sabha and Rajya Sabha debates on 1986 bill on psychotropic substances. Useful journals in this area are:

10. The Law and Society Review (USA)
11. Journal of Drug Issue (Tallahassee florida)
12. International journal of Addictions (New York)
13. British journal of Criminology Law, Criminology and police sciences (Baltimore, Md.)
14. Journal of Criminal Law and Criminology (Chicago, III)
15. International Journal of Offenders Therapy and Comparative Criminology (Landon)
16. Bulletin on Narcotics (United Nations)

LL.M. Part – I – Semester- II

Max. Mark: 100

Min. Marks: 40

Group – C: BUSINESS LAWS

LAW OF EXPORT IMPORT REGULATION

Objectives of the course

After independence India has embarked upon all round efforts to modernize her economy through developmental ventures. Greater and greater emphasis is placed on increase of production in both industrial and agricultural sectors. Besides, there was the ever- pressing need for raising capital for investment of capital. The process of modernization necessitated the adoption of newer technologies for industry and agriculture. These technologies had to be borrowed from other developed countries. This in turn, needed foreign exchange, which could be earned by the increased exports of goods and raw materials from India.

The need for accelerating the export trade of India's developing economy can hardly be over emphasized. Export earnings enable a developing country to finance its massive requirements of growth, to maintain its essential imports and thereby stimulate the process of its economic developments. In the words of Prof. V.K. R.V. Rao: "In fact expansion of exports may well be described as an integral part of the development process, neglect of which can only be at the peril of development itself.

Increasing exports have been necessitated to meet the growing needs of defence. India is a country rich in natural resources. One of the approaches to combat its economic backwardness could be in large-scale production and maximization of its exports

Import that exports of goods and raw materials is a complex, complicated and intricate activity. It involves elaborate economic, fiscal, budgetary and monetary policy considerations. Export and import control policy is also closely connected with country's balance of payment position

The detailed procedures for imports and exports are provided in the Hand Book. The Union government used to declare its import and export policy for a three-year period. At present they declare that policy for five years. The controls on exports and imports are closely connected with the Foreign Trade Regulation Act 1992

Syllabus

1. Introduction

State control over import and export of goods- from rigidity to liberalization

Impact of regulation on economy

2. The Basic Needs of Export and Import Trade

Goods

Services

Transportation

3. International Regime

WTO arrangement

WTO and tariff restrictions

WTO and non- tariff restrictions

Investment and transfer of technology

Quota restriction and anti-dumping

Permissible regulations

Quarantine regulation

Dumping of discarded technology and goods in international market

Reduction of subsidies and counter measures

4. General Law on Control of Imports and exports

General scheme

Legislative control

Power of control: Central government and RBI

Foreign Trade Development and Regulation Act 1992

Restrictions under customs law

Prohibition and penalties

Export-Import formulation: guiding features

Control under FEMA

Foreign exchange and currency

Import of goods

Export promotion councils

Export oriented units and export processing zones

5. Control of Exports

1. Quality control

2. Regulation on goods

3. Conversation of foreign exchange

4. Foreign exchange management

5. Currency transfer

6. Investment in foreign countries

6. Exim policy: Changing Dimensions

Investment policy: NRIs, FIIs(foreign institutional investors), FDIs
Joint venture
Promotion of foreign trade
Agricultural products
Textile and cloths
Jewellery
Service sector

7. Law Relating to Customs

Prohibition on importation and exportation of goods
Control of smuggling activities in export-import trade
Levy of and exemption from, customs duties
Clearances of imported goods and export goods
Conveyance and warehousing of goods

8. Regulation on Investment

Borrowing and lending of money and foreign currency
Securities abroad-issue of
Immovable property-purchase abroad
Establishment of business outside
Issue of derivatives and foreign securities – GDR(global depositories receipts), ADR (American depository receipts) and Uro
Investment in Indian banks
Repatriation and surrender of foreign securities

9. Technology transfer

Restrictive terms in technology transfer arrangements
Automatic approval schemes

Selected bibliography

1. Government of India, Handbook of Import exports Procedures, (refer to the latest edition)
2. Government of India Import and Export Policy (1997-2002)
3. The students should consult the relevant volumes of the Annual Survey of Indian Law, Published by the Indian law Institute, New Delhi
4. Foreign Trade Development and Regulation Act 1992 and Rules
5. Foreign Exchange Management Act 1999
6. Marine Products Export Development Authority Act 1972
7. Customs Manual (Latest edition)
8. Final, Treaty of GATT, 1994

LL.M. Part – I – Semester- II

Max. Mark: 100

Min. Marks: 40

GROUP C BUSINESS LAW

BANKING LAW

Objective of the Course

A vitally important economic institution the banking system is deeply influenced by socio-political and economic changes. The emerging changes in India, particularly after the initiation of the planning process as an instrument of rapid economic development had moulded and affected the banking structure, policies, patterns and practices. A significant development in the banking system is diversification in banks financing. The commercial banks entered into the field of wide ranging financial assistance to industry, both large and small scale, requiring the need for social control of the banking system eventually leading to the nationalization of banks.

The conventional banking system, found to be deficient for planned developmental purposes paved the way for developmental banking. The fag end of the last millennium witness influx of foreign banking companies into India and a shift in the banking policy as part of the global phenomenon of liberalization. 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

Syllabus

1. Introduction

1. Nature and development of banking
2. History of banking in India and elsewhere-indigenous banking-evolution of banking in India- different kinds of banks and their functions
3. Multi-functional banks-growth and legal issues

2. Law Relating to Banking Companies in India

1. Controls by government and its agencies
2. On management
3. On accounts and audit
4. Lending

5. Credit policy
6. Reconstruction and reorganization
7. Suspension and winding up
8. Contract between banker and customer: their rights and duties

3. Social Control over Banking

Nationalization

Evaluation: private ownership, nationalization and disinvestments

Protection of depositors

Priority lending

Promotion of under privileged classes

4. Deposit Insurance

1. The deposit Insurance Corporation Act 1961: objects and reasons
2. Establishment of capital of DIC
3. Registration of banking companies insured banks, liability of DIC to depositors
4. Relations between insured banks, DIC and Reserve Bank of India

5. The Central Bank

1. Evolution of Central Bank
2. Characteristics and functions
3. Economic and social objectives
4. The Central Bank and the State – as bankers bank
5. The Reserve Bank of India as the Central Bank
6. Organizational structure
7. Functions of the RBI
8. Regulation of monetary mechanism of the economy
9. Credit control
10. Exchange Control
11. Monopoly of currency issue
12. Bank rate policy formulation
13. Control of RBI over non-banking companies
14. Financial companies
15. Non-financial companies

6. Relationship of Bankers and Customer

Legal character

Control between banker and customer

Banker's lien

Protection of bankers

Customers

Nature and type of accounts
Special classes of customers- lunatics, minor, partnership, corporations, local authorities
Banking duty to customers
Consumer protection: banking as service

7. Negotiable Instruments

Meaning and kinds
Transfer and negotiations
Holder and holder in due course
Presentment and payment
Liabilities of parties

8. Lending by Banking

Good lending to poor masses
Securities for advances
Kinds and their merits and demerits
Repayment of loans: rate of interest protection against penalty
Default and recovery
Debt recovery tribunal

9. Recent Trends of Banking System in India

New technology
Information technology
Automation and legal aspects
Automatic teller machine and use of Internet
Smart card
Use of expert system
Credit cards

10. Reforms in Indian Banking Law

Recommendations of committees: a review

Selected bibliography

1. Basu, A Review of Current Banking Theory and Practise (1998) Mac Millan
2. M. Hapgood (ed.), Pagets' Law of Banking (1989) Butterworths, London
3. R. Goode, Commercial Law, (1995) Penguin, London
4. Rose Cranston, principles of Banking Law (1947) Oxford
5. L.C. Goyle, The Law of Banking and Bankers (1995) Eastern

6. M.L. Tannan, Tannan's Banking Law and Practice in India (1997) India Law House, New Delhi, 2 Volumes
7. K.C. Shekhar, Banking Theory and Practice (1998) USB Publisher Distributors Ltd. New Delhi
8. M. Dassesses, S. Isaacs and G. Pen, E.C. Banking Law, (1994) Lloyds of Landon Press, Landon
9. V. Conti and Hamaul (eds.), Financial Makers' Liberalization and the Role of Banks' Cambridge University Press, Cambridge, (1993)
10. J. Dermine (ed.), European Banking in the 1990s' (1993) Blackewll, Oxford
11. C. Goodhart, The Central Bank and the Financial System (1995), Macmillan, Landon
12. S. Champon, The Rise of Merchant Banking (1984) Allen Unwin, Landon
13. K. Subrahmanyam, Banking Reforms an India (1997) Tata Maigraw Hill, New Delhi
14. Subodh Markandeya and Chitra Markandeya, Law Relating to Foreign trade in India: Being a Commentry on the Foreign Trade, (Development and Regulation) Act 1992, Universal Law Publishing Co. Pvt. Ltd. Delhi
15. R.S. Narayana, The Recovery of Debts due to Banks and Financial Institutes Act, 1993 (51 of 1993), Asia Law House, Hyderabad
16. M.A. Mir, The Relating to Bank Gurantee in India (1992), Metropolitan Book, New Delhi
17. Anthony Pierce, Demand Gurantee in International Trade (1993), Sweet and Maxwell
18. Ross Cranston (ed.) European Banking Law: The Bankers-Customer Relationship (1999) LIP, Landon
19. Mitra, The Law Relating to Bankers' Letters of Credit and Allied Laws, (1998) University Book Agency, Allahabad
20. R.K. Talwar, Report of Working Group on Customer Service in Banks
21. Jankiraman Committee Report on Securities Operation of Banks and Financial Institution (1993)
22. Narasimham Committee Report on the Financial System (1991)-Second Report (1999)

LL.M. Part – I – Semester- II

Max. Mark: 100

Min. Marks: 40

GROUP E ENVIRONMENTAL LAW AND LEGAL ORDER

PREVENTATION 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 prosonlod 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.

Syllabus

1. Pollution

1. Meaning
2. Kinds of pollution and their impact

2. Pollution of water

1. Definition
2. Ground water pollution
3. Sources
4. Critique of existing
5. Machinery
6. Powers
7. Function
8. Offences and penalties

3. Pollution of Air

1. Pollutants and effects
2. Modalities of control
3. Conflicts of jurisdiction of different control
4. Agencies
5. Critique of the existing legal framework

4. Noise Pollution

1. Sources and effects
2. Different legal controls
3. Need for specific law

5. Disposal of Waste

1. Kinds of wastes
2. Disposal agencies: local bodies and other agencies
3. Disposal and recycling of wastes

6. Sanctions against pollution

1. Efficacy of criminal and civil sanctions
2. Corporate liability, civil and criminal
3. Should penalties be prohibitive?
4. Civil liability, compensatory and penal
5. Administrative compensation system
6. Incentives to pollution control

Select bibliography

1. Kailash Thakur, Environmental Protection Law and Policy in India (1997), Deep & Deep Pub. New Delhi
2. Enid. M. Barson and Ilga Neilson (eds.), Agriculture and Sustainable Use in Europe (1998), Kluwer
3. John F.M.c. Eldownery and Sharron Mc. Eldownery, Environmental Law and Regulation (2000), Blackstone Press
4. Leelakrishan, P.et. al. (eds.), Law and Environment (1990)
5. Frodorick R.Anderson, et.al. Environmental Improvement Through Economic Incentives (1977)
6. David huges, Environmental Law (1999), Butterworths, London
7. Daniel R. Mandekar, Environmental and Land Controls Registration (1976), Bobbs – Merri, New York
8. Indian Law Institute, Mass Disasters and Multinational Liability: The Bhopal Case (1986)

LL.M. Part – I – Semester- II

Max. Mark: 100

Min. Marks: 40

GROUP E ENVIRONMENTAL LAW AND LEGAL ORDER

ENVIRONMENT AND INTERNATIONAL LEGAL ORDER

Objectives of the course

Through the centuries of their growth, Societies had done their best to keep their neighborhood clean and health. Industrialization 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 concepts of sustainable development is a significant tool both at the international level and at the domestic system for reconciliation of environmental values and development needs.

Syllabus

1. International Concern for Environment Protection

1. World environment movement
2. Natural and cultural heritage
3. Role of international and regional organizations

2. International Obligation towards Sustainable Development

1. International financing policy
2. World environment fund
3. Global environmental Facility (GEF)
4. International co-operation
5. Poverty alleviation

3. Marine Environment

1. Marine resources: conservation and exploitation
2. Scientific research and exploration
3. Antarctic environment
4. International Seabed Authority
5. Pollution from ships
6. Dumping of oil and other wastes into the sea

4. Trans- boundary Pollution Hazards

1. Oil pollution
2. Nuclear fallouts and accidents
3. Acid rain
4. Chemical pollution
5. Green house effect
6. Depletion of ozone layer
7. Space pollution

5. Control of Multinational Corporations and Containment of environmental Hazards

1. Problems of liability and control mechanisms
2. Disasters management at international level
3. Monopoly of biotechnology by MNCs

6. Disposal and Dumping of Hazardous Wasres: Transnational Problem and Control

Select bibliography

1. Priya Kanjan Trivedi, International Environmental Laws (1996), A.P.H. Pub. Corporation, New Delhi
2. Sir Elworthy and Jane Holder, Environmental Protection: Text and Materials (1997), Butterworths
3. Nathali L.T.J. Horbach, Contemporary Development in Nuclear Energy Law (1999), Kluwer
4. Henrick Ringbom (ed.), Competing Norms in the Law of Marine Environmental Protection (1997), Kluwer
5. Claus Bosseimann and Benjamin J. Richardson, Enviromental Justice and Market Mechanism (1999), Kluwer
6. Jean- Pierre Beuier, New Technology and Law of Marine Environment (2000), Kluwer
7. Richard L. Reversz et.al. (eds.), Environmental Law, the Economy and Sustainable Development (2000), Cambridge
8. Dovor Vidas, Protecting the Polar Marine Environment (2000), Cambridge
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LL.M. Part – I – Semester- II

Max. Mark: 100

Min. Marks: 40

GROUP -G UNION-STATE FINANCIAL RELATIONS

Objectives of the course

The Indian Constitution adopts federal government for various reasons. Power is divided between the Union and the States in such a way that matters of national importance are entrusted to the Centre and matters of local importance are left to the States. The constitution departs from the model of classical federalism in many ways. This departure was made the suit the peculiar Indian circumstances. However, the constitutional provisions were in practice further distorted so as to make the states totally subservient to the centre. Distribution of fiscal power is the nerve centre of the federal system. In this paper a student will be made conscious of various aspects of federal principle, and their working in the Indian context with a view to ultimately assessing the Indian experience critically. He must clearly understand various emerging forces such as regionalism, sub-national loyalties and nationalism. He should be able to see the working of the constitutional process as a vital element of the political economy

Syllabus

1. Federalism- Essentials

1. Models of Federal Government – U.S.A., Australia, Canada
2. Difference, Between Federation and confederation
3. Evolution of federal government in India

2. Distribution of Legislative Power/Administrative Power

1. Indian constitution
2. Centre-State relations
3. Factors responsible for subordination of States
4. Administrative relations

3. Distribution of Fiscal Power

1. Scheme of Allocation of taxing power
2. Extent of Union power of taxation
3. Residuary power- inclusion of fiscal power

4. Restrictions of Fiscal Power

1. Fundamental Rights

2. Inter-Government tax immunities
 3. Difference between tax and fee
- 5. Distribution of Tax Revenues**
1. Tax-sharing under the Constitution
 2. Finance Commission- Specific purpose grants (Article 282)
- 6. Borrowing Power of the State**
- Borrowing by the Government of India
Borrowing by the States
- 7. Inter-State Trade and Commerce**
- Freedom of Inter-State trade and commerce
Restrictions on legislative power of the Union and States with regard to trade and commerce
- 8. Planning and Financial Relations**
- Planning Commission
National Development Council
Plan grants
- 9. Co-operative Federalism**
- Full faith and credit
Inter- State Council
Zonal Councils
Inter- State disputes
- 10. Federal Government in India**
1. Model of Jammu and Kashmir
 2. Sarkaria Commission Report
 3. What Reforms is Necessary?

Select bibliography

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2. Sudha Bhatnagar, Union-State Financial Relations and Finance Commissions, (1979)
3. Ashok Chandra, Federalism: in India, (1965)
4. V.D. Sebastian, Indian Federalism: The Legislative Conflicts Chs. 6-7 and 8 (1980)

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LL.M. Part – I – Semester- II

Max. Mark: 100

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GROUP G CONSTITUTION AND LEGAL ORDER

CONSTITUTIONALISM: PLURALISM AND FEDERALISM

Objective of the course

Constitutionalism essentially means a limited government. Where government functions according to certain principles, it is said to be abiding by constitutionalism. Must it be a democracy or can it be an autocracy also. In ancient India, the king was supposed to act according to dharma. He was not absolute in the sense in which John Austin defined sovereignty. Constitutionalism may therefore be determined by a written constitution or by religion or tradition or by mere practice or convention as in England. In a plural society, where different religious as well as linguistic groups have to live together, various rules of accommodation and mutual recognition are incorporated in the Constitution. Usually these are contained in the bills of rights, which contain guarantees of individual liberty and equality against majoritarian rule. Constitutionalism does not merely imply majoritarian rules; it has to be a consensual rule. However, where there is not only such vertical pluralism but also horizontal pluralism reflected by sub nations/regional loyalties, power is not only required to be restrained but it has to be shared. This calls for a federal government. The purpose of this paper is to provide exposure to the students to various models of pluralism and forms of constitutional governments and federal structures.

Syllabus

Constitutionalism

1. Authoritarianism-Dictatorship
2. Democracy-Communism
3. Limited Government-concept-Limitations on government power
4. What is a constitution?
5. Development of a democratic government in England-Historical evolution of constitutional government
6. Convention of constitutionalism-law and conventions
7. Written Constitutions: U.S.A. Canada Australia Sweden South Africa and India
8. Separation of powers: Montesquieu
9. Rule of Law: Concept and new horizons
10. Marxist concept of constitutionalism
11. Dictatorship of the proletariat
12. Communist State from Stalin to Gorbachov

13. Fundamental Rights: Human rights
14. Judicial Review: European Court of Human Rights
15. Human Rights: International conventions
16. Limits & doctrine of domestic jurisdiction in international law

Federalism

1. What is federal government?
2. Difference, between confederation and federation
3. Conditions requisite for federalism
4. Patterns of federal government –U.S.A., Australia, Canada, India
5. Judicial review- for federal umpiring
6. New trends in federalism: Co-operative federalism
7. India – Central Control v State Autonomy
8. Political factors influencing federalism
9. Plural aspects of Indian Federalism: Jammu & Kashmir, Punjab, Assam
10. Dynamic of federalism

Pluralism

1. What is pluralistic society?
2. Ethnic, linguistic, cultural, political pluralism
3. Individual rights- right to dissent
4. Freedom of speech and expression
5. Freedom of the press
6. Freedom of association
7. Rights to separateness
8. Freedom of religion
9. Rights of the religious and linguistic minorities
10. Compensatory discrimination for backward classes
11. Women – rights to equality and right to special protection
12. Scheduled Tribes, Distinct Identity-protection against exploitation- NSIS- exclusion from Hindu Law
13. Uniform Civil Code
14. Non State law (NSLS) and State Law System- problem of a Uniform Code v personal laws- vertical federalism

Equality in plural Society

1. Right to equality and reasonable classification
2. Prohibition of discrimination on ground of religion, caste, sex, language
3. Abolition of untouchables
4. Secularism – constitutional principles
5. Tribal Groups and Equality

Pluralism and International Concerns

1. International Declaration of Human Rights
2. Conventions against genocide
3. Protection of religious, ethnic and linguistic minorities
4. State intervention for protection of human rights
5. Right of self-determination

Selected bibliography:-

1. Upendra Baxi, "Law, Democracy and Human rights" – 5 Lokyan Bulletin 4 (1987)
2. V.M. Dandekar "Unitary Elements in a federal Constitution" 22 E.P.W. 1865 (1988)
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5. M.P. Jain Indian Constitutional Law (1994). Wadhwa
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7. Rhett Ludwkowski, "Judicial Review in the socialist Legal System: Current Development" 37 I.C.L.D. 89-108 (1988)
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9. H.M. Seerval, Constitutional Law of India (1993), Tripathi, Bombay
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LL.M. Part – I – Semester- II

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Group J HUMAN RIGHT LAW

PROTECTION AND ENFORCEMENT OF HUMAN RIGHTS IN INDIA

Objective 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 jurisprudences. 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 familiarizing students with the judicial activism in protecting human rights and enables them to evaluate the adequacy of the methods of enforcement.

Syllabus

History and Development of Human rights in Indian Constitution

1. Constitutional philosophy- preamble
2. Fundamental Rights
3. Directive principles of State policy
4. Fundamental Duties

Judicial Activism and Development of Human Rights Jurisprudence

Enforcement of Human Rights

1. Formal enforcement mechanisms
2. Role of Supreme Court
3. Role of High Courts
4. Role of Civil and Criminal Courts
5. Statutory Tribunals
6. Special Courts

Role of India in Implementing International Norms and Standards

Selected bibliography:-

1. D.D. Basu, Human Rights in Indian Constitutional Law, (1994)
2. Vijay Chitnis, (et.al.). Human Rights and the Law: National and Global Perspectives, (1997)
3. B.P. Singh Seghal, Law, Judiciary and Justice in India, (1993)
4. James Vadakkumchery, Human Rights and the Politics in India, (1996)
5. D.R. axena, Tribals and the Law, (1997)
6. Poomima Advani, Indian Judiciary: A Tribute, (1997)
7. Justice Venkataramiah, Human rights in the changing World, (1998)
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LL.M. Part – I – Semester- II

Max. Mark: 100

Min. Marks: 40

Group J HUMAN RIGHT LAW

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

Objective 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. Violations of human rights of these groups are 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.

Syllabus

1. Concepts of Disadvantaged Groups
2. Emerging Human Rights Jurisprudence and the Role of the Judiciary

3. Rights of women
4. Rights of child
5. Rights of prisoners
6. Rights of dalits
7. The tribal and other Indigenous people
8. The mentally ill
9. The stateless persons
10. The unorganized labour
11. Aids victims
12. Rights of minorities

Enforcement of Human Rights

Protection Laws of the disadvantaged Groups: problems and Issues

Future Perspectives of Human Rights of the Disadvantaged

Selected bibliography

1. G.S. Bhargava and r.M. Pal, Human Rights of Dalit Societal Violation, (1999)
2. Geraidine Van Bueren, The International Law on the Rights of the Child, (1998)
3. Prabhat Chandra Trapathi, Crime Against Working Women, (1998)
4. Paras Diwan and Piyush Diwan, Women and Legal Protection
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8. Rebecca Wallace, International Human Rights, Text and Materials, (1997)
9. Janki Nair, Women and Law in Colonial India, (1996)
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