

**M.G.S. UNIVERSITY, BIKANER**

# **SYLLABUS**

**SCHEME OF EXAMINATIONS**

**AND COURSES OF STUDY**

**FACULTY OF LAW**

**LL.M.**

**LL.M PART – I EXAMINATION 2018**

**LL.M PART – II EXAMINATION 2019**

### **LL.M. Part-I Examination 2018**

**Every Candidate offering himself/herself for LL.M. Part – I Examination shall be examined in the following papers. Each paper shall be of three hours duration and carry 100 marks.**

Paper – I	Law & Social Transformation in India
Paper - II	Indian Constitutional Law & the New Challenges
Paper – III	Judicial Process
Paper – IV	Legal Research and Research Methodology

### **LL.M. Part-II Examination 2019**

**Every Candidate offering himself/herself for the LL.M. Part – II Examination shall be examined in five papers belonging any of the following branches. Each paper shall be of 3 Hours duration and carry 100 Marks**

#### **Branch –I: International Law & Organization**

Paper – I	International law and Organization: Law, Practice and Future
Paper – II	Disarmament & Peace Strategies
Paper – III	International Humanitarian Law
Paper-IV	International law: Diplomacy & Contemporary Issues
Paper – V	Law of the Sea

#### **Branch II Criminal Law**

Paper – I	Comparative Criminal Procedure
Paper – II	Penology & Victimology
Paper – III	Drug Addiction, Juvenile Delinquency
Paper – IV	Privileged Class deviance and Criminal Justice
Paper – V	Collective Violence

#### **Branch III Business Law**

Paper – I	Law of Industrial and Intellectual Property
Paper – II	Legal Regulation of economic enterprises including export & import regulation
Paper – III	Banking Law
Paper – IV	Insurance Law
Paper V	Corporate Finance

#### **Branch IV Human Rights Law**

Paper – I	Concept and Development of Human Rights
Paper – II	Human Rights in International and Regional Perspective
Paper – III	Human Rights: Enforcement Mechanism
Paper – IV	Human Rights of disadvantaged Groups: Women, Children, elderly Persons and Refugee.
Paper – V	Science, Technology and Human Rights

### **Examination and Teaching Scheme**

1. Examination will be of three hours per paper. Maximum marks of each paper will be of 100 Marks.
2. The syllabus has been divided into five units. Questions will be set from each unit.
3. The questions paper shall contain three sections. Section A shall contain 10 questions two from each unit of 2 marks each. The Candidate is required to answer all the questions. The answers should not exceed 50 words. Section B shall contain 5 questions one from each unit with internal choice each question shall be of 7 marks. The answers

should not exceed 200 words. The candidate is required to answer all the questions. Section C shall contain 5 questions of 15 marks each, one from each unit. The candidate is required to answer any three questions. The answers shall not exceed 500 words.

4. In order to ensure that students do not leave out important portions of the syllabus, examiners shall be free to repeat the question set in the previous examination.
5. In the case of discrepancies between English and Hindi Version, English Version will prevail.
6. Acts are to be read with their Amendments

A Candidate may offer Case study/ Survey Report/ Field work in lieu of a paper at the LL.M. Part II examination. The Case study/ Survey Report/ Field work shall be of 70 marks, and viva-voce 30 marks. The Case study/ Survey Report/ Field work shall be hand written and shall not be of more than 100 pages and is to be submitted in triplicate so as to reach the office of the Registrar at least 3 weeks before the commencement of the theory examination. Only such candidates who shall be permitted to offer Case Study/Field Work/ Survey Report (If provided in the scheme of examination) in lieu of a paper as those who have secured at least 55% marks in the aggregate, irrespective of the number of papers in which a candidate actually appeared at the examination.

Students will have to appear before a board of Examination for viva-voce on the subject/topic of their submission. The Board of Examiners will consist of one External Examiner and one Internal Examiner. The Examiners must have at least 7 years teaching Experience out of which 3 years PG classes teaching experience.

A candidate who is declared failed at the LL.M. Part II Examination may on his request, be exempted from fresh submission of Case study/ Survey Report/ Field work at the time of his subsequent appearance at the LL.M. Part II Examination, provided he had secured pass marks in Case study/ Survey Report/ Field work submitted by him last time and provided further the examiner of the Case study/ Survey Report/ Field work or the Dean of the Faculty of Law of the University certifies that no important changes have been made in Law to justify a re-submission and the revaluation of the Case study/ Survey Report/ Field work. The candidate shall, by October 1st of the year preceding the examination send his request for exemption from fresh submission of Case study/ Survey Report/ Field work, duly endorsed and forwarded by the Head of the Institution concerned. The University will as early as possible, inform the candidate about his exemption from resubmission of a fresh Case study/ Survey Report/ Field work. An evaluated Case study/ Survey Report/ Field work shall not be re-submitted for evaluation until the guide or the supervisor certifies that important changes of style, presentation of matter etc. have been incorporated in the Case study/ Survey Report/ Field work which justifies its evaluation.

## **LL.M. PART I EXAMINATION**

Every candidate offering himself for LL.M. Part I Examination shall be examined in the following papers; each paper shall be of three hours duration and carry 100 marks.

### **PAPER – I**

#### **LAW & SOCIAL TRANSFORMATION IN INDIA**

##### **Objective of the course**

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

##### **Unit - I**

- Law as a means of Social change: A Theoretical Perspective
  - a. Relationship of Law with social change
  - b. Law as an instrument of social change
  - c. Law as the product of traditions & culture: Evaluation in the light of colonization & common law system.
  - d. Impact of Social movements on social change.
- Religion and the Law
  - a. Religion : Meaning, relationship with law
  - b. Religion as an integrative or divisive factor
  - c. Secularism: meaning and its contribution in Indian society.
  - d. Freedom of religion and non-discrimination on the basis of religion
  - e. Religious minorities and the law

##### **Unit - II**

- Languages and the Law
  - a. Formation of linguistic States and its impact on policy in governance.
  - b. Constitutional guarantees to linguistic minorities
  - c. Language policy and the Constitution: Official languages, multi language system.
  - d. Non discrimination on the ground of language
- Community and the Law
  - a. Caste System in Indian Society
  - b. Caste : Socio-Cultural reality as a divisive and integrative factor
  - c. Non-discrimination on the ground of caste
  - d. Acceptance of caste as a factor to undo past injustices: An Analysis.
  - e. Protective discrimination: Scheduled Castes, Tribes and Backward Classes.
  - f. Reservation Policy : Statutory Commission Statutory Provision

##### **Unit - III**

- Regionalism and the Law
  - a. Regionalism : A Divisive or an integrative factor
  - b. Concept of India as one Unit
  - c. Freedom of movement, residence and business, impermissibility of state or regional barriers.

- d. Equality in matters of employment: the slogan ‘son of the soil’ and its practice.
- e. Admission to educational institutions: preference to residents of a State.
- f. Women and the Law
- Women and the Law
  - a. Status of Women in Indian Society
  - b. Crimes against Women
  - c. Gender injustice: forms, causes and remedies.
  - d. Women’s Commission
  - e. Empowerment of Women: Constitutional and other legal provisions.

#### **Unit – IV**

- Children and the law
  - a. Child Labour
  - b. Sexual Exploitation
  - c. Adoption, maintenance and related problems
  - d. Child and Education
- Modernization and the Law
  - a. Modernization as a value : Constitutional perspective reflected in Fundamental Duties
  - b. Modernization of Social Institution through Law
  - c. Reform of Family Law
  - d. Agrarian Reform
  - e. Industrial Reforms: Free Enterprise v. State Regulation, industrialization v environmental protection.
  - f. Reform of Court Processes
    - i Criminal Law : Plea Bargaining, Compounding & Payment of Compensation to Victim
    - ii Civil Law : (ADR) Confrontation v. Consensus, mediation & conciliation, Lok Adalats.

#### **Unit – V**

- Alternative approaches to Law
  - a. Jurisprudence of Sarvodaya, Gandhiji, Vinoba Bhave, Jai Prakkash Narain
  - b. Socialist thought on Law & Justice: An enquiry through Constitutional debates on the right to property.
  - c. Indian Marxist Critique of Law & Justice
  - d. Nexalite movement : Causes & Cure

#### **SELECT BIBLIOGRAPHY**

Marc Galanter (ed.) : Law and Society in Modern India (1997), Oxford  
 Robert Lingat : The Classical Law of India (1998), Oxford  
 U. Baxi : The Crisis of the Indian Legal System (1982). Vikas, New Delhi  
 U. Bax; (ed.): Law and Poverty Critical Essav (1988) Tripathy, Bombay  
 Manushi : A Journal About Women and Society

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

H.M. Seervai : Constitutional Law in India (1999) Tripathi

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

Sunil Deshta and Kiran Deshta : Law and Menace of Chied Labour; (2000) Anmol Publications, Delhi

Savitri Gurasekirare : Children, Law and Justice (1997), Sage

Indian Law Institute : Law and Social Change : Indo-American Reflection; (1988). Tripathi, Mumbai.

J. B. Kriplani : Gandhi-His Life and Thought 1970, Ministry of Information and Broadcasting, Government of India

M.P. Jain : Outlines of Indian Legal History (1993), Tripathi, Bombay Aguas, Flavia : Law and Gender Inequality : The Politics of Women's Rights in India (1999), Oxford

## **PAPER – II**

### **INDIAN CONSTITUTIONAL LAW & THE NEW CHALLENGES**

Objective of the Course

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

#### **Unit – I**

Federalism

- a. Creation of new states
- b. Allocation and Share of resource – Distribution of grants in aid, the inter-state disputes on resources
- c. Rehabilitation of internally displaced persons
- d. Centre's Responsibility and internal disturbance within state
- e. Direction of centre to the state under Article 356, 365
- f. Federal Comity: Relationship of trust and faith between Centre & States.
- g. Special status of certain states, Tribal Areas, Scheduled Areas

#### **Unit – II**

State: Need for Widening the definition in the wake of liberalization; Accountability of State : Joint Parliamentary Committee & Public Account Committee

Right to equality : Privatization and its impact on affirmative action

#### **Unit – III**

Freedom of Press and Challenges of new scientific development

- h. Freedom of Speech and right o broadcast and telecast
- i. Right to strike
- j. Emerging regime of new rights and remedies –

- a. Reading Directive Principles and Fundamental Duties into Fundamental Rights
- b. Compensatory Jurisprudence
- c. Right to Education : Commercialization, Brain Drain
- d. Right to life, liberty and criminal jurisprudence
- e. Right to Information

#### **Unit – IV**

##### Separation of Powers

##### Stresses and Strains of Governance

- i. Judicial activism and Judicial restraint
- ii. PIL : Implementation
- iii. Judicial independence
- iv. Appointment, transfer and removal of judges
- v. Accountability : Executive and judiciary
- vi. Tribunals : Need, Necessity and Constitutionality

#### **Unit – V**

##### Democratic Process

- Nexus of politics with criminals and the business
- Election : mechanism and Procedure
- Election Commission : Constitution and Status
- Electoral Reforms : Transparency, Free and Fair election
- Coalition Government, Stability, durability, corrupt practice
- Grass root democracy : Democratic decentralization and local self government

##### Protection of minorities

- Religious and linguistic minorities
- Right to establish and administer educational institutions
- State Control

##### SELECT BIBLIOGRAPHY

No specific bibliography is suggested for this course since the course materials depends upon the latest developments. These developments in the areas specialized in course can be gathered from the recent material 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.

### **PAPER – III JUDICIAL PROCESS**

#### **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 juristic perspective. Hence a compulsory paper on judicial process is essential in the LL.M. curriculum. The objective of this paper is to study the nature of judicial process as an instrument of social ordering. It is intended to highlight the role of court as policy maker participant in the power process and as an instrument of social change. This paper further intends to expose the intricacies of judicial creativity and the judicial tools and techniques.

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.

### **Unit – I**

- Nature of Judicial Process
  - a. Judicial process as an instrument of social ordering
  - b. Judicial process and creativity in Law : Common law model, legal Reasoning and growth of law, change and stability
  - c. The tools and techniques of judicial creativity and precedent
  - d. Legal development and creativity through legal reasoning under statutory and codified system.

### **Unit – II**

- Special dimensions of judicial process in Constitutional adjudication.
  - a. Notion of Judicial Review
  - b. Role in constitutional adjudication : various theories of judicial role
  - c. Tools and techniques in policy making and creativity in constitutional adjudication.
  - d. Varieties of judicial and juristic activism.
  - e. Problems of accountability & Judicial Law making.

### **Unit – III**

- Judicial Process in India
  - a. Indian debate on the role of judges and on the notion of judicial review.
  - b. The “independence” of judiciary and the “political” nature of judicial process
  - c. Judicial activism and creativity of the Supreme Court : the tools and techniques of creativity
  - d. Judicial process in pursuit of constitutional goals and values : New dimensions of judicial activism and structural challenges.
  - e. Institutional liability of courts its scope and limits

### **Unit – IV**

- The Concept of Justice
  - a. The concept of justice and Dharma in Indian thought
  - b. Dharma as the foundation of legal ordering in Indian thought
  - c. The concept and various theories of justice in the western thought
  - d. Various theoretical bases of justice: The liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

### **Unit – V**

- Relation between law and Justice
  - a. Equivalence Theories – Justice as nothing more than the positive law of the stronger class
  - b. Dependence theories: for its realization, Justice depends on law, but justice is not the same as law.
  - c. The independence theories of justice as a means to an end, the relationship in the context of the Indian Constitutional ordering
  - d. Analysis of selected cases of Supreme Court where the Judicial Process can be seen as influenced by theories of Justice.



## **SELECT BIBLIOGRAPHY**

- Julius Stone : The Province and Function of Law, Part II, Chs. 1-8-16 (2000), Universal, New Delhi
- Cardozo : The Nature of Judicial Process (1995), Universal, New Delhi
- Henry J. Abraham : The Judicial Process (1998), Oxford
- J.Stone : Precedent and the Law : Dynamics of Common Law Growth (1985), Butterworths
- W. Friedmann : Legal Theory (1960), Stevens, London
- Bodenheimer : Jurisprudence - The Philosophy and Method of the Law (1997), Universal, Delhi 10
- J. Stone : Legal System and Lawyer's Reasoning (1999), Universal, Delhi
- U. Baxi : The Indian Supreme Court and Politics (1980), Eastern, Lucknow
- Rajeev Dhavan : The Supreme Court of India - A Socio-Legal Critique of its Juristic Techniques (1977), Tripathi, Bombay
- John Rawls : A Theory of Justice (2000), Universal, Delhi
- Edward, H. Levi : An Introduction to Legal Reasoning (1970), University of Chicago

## **PAPER – IV**

### **LEGAL EDUCATION AND RESEARCH METHODOLOGY**

#### **Objective 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 organizations 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 familiarize himself along 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, discussion method, problem seminar method and combination of all methods.

The student has to be exposed to those 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 also designed to develop skills in research and writing in a systematic manner.

#### **Unit – I**

- Legal Education : Methods & Objective
  - a. Lecture Method of Teaching : merits and Demerits
  - b. The problem method
  - c. Discussion method and its suitability at postgraduate level teaching
  - d. The seminar method of teaching
  - e. Examination system and problems in evaluation external and internal assessment
  - f. Student participation in law school programmes, organizations of seminars, publication of journal and assessment of teachers
  - g. Clinical legal education – legal aid, legal literacy, legal survey and law reform

#### **Unit – II**

- Research Method
  - a. Socio-Legal Research
  - b. Doctrinal and non doctrinal research
  - c. Relevance of empirical research
  - d. Induction and deduction

- e. Identification problem of research – what is a research problem.
- f. Survey of available literature and preparation of bibliography
- g. Legislative materials including subordinate legislation, notification and policy statements.

### **Unit – III**

- Research Materials
  - a. Decisional materials including foreign decisions; methods of discovering the “rule of the case”
  - b. Juristic writings: A Survey of juristic literature, its relevance in selection of problems in India and foreign periodicals.
  - c. Compilation of list of reports or special studies conducted relevant to the problems.
  - d. Formulation of the Research Problem, hypothesis
  - e. Devising tools and techniques for collection of data
  - f. Methods for the collection of statutory and case material and juristic literature
  - g. Use of historical and comparative research material
  - h. Use of observation studies
  - i. Use of the Case Studies
  - j. Use of questionnaires/interview
  - k. Sampling procedures, design of sample, types of sampling to be adopted
  - l. Use of scaling techniques
  - m. Jurimetrics

### **Unit –IV**

- Data Collection
  - a. Computerized Research : A study of legal research programmes such as lexis and West law coding
  - b. Classification and Tabulation of Data : use of cards for data collection, Rules for tabulation, Explanation of tabulated data
  - c. Analysis of Data – Qualitative and Quantitative

### **Unit – V**

- Report writing

#### **SELECT BIBLIOGRAPHY**

- High Brayai, Negel Dunean and Richard Crimes : Clinical Legal Education : Active Learning in, your Law School (1998), Blackstone Press Ltd., London
- S.K. Agarwal (ed.) : Legal Education in India (1993), Tripathi, Bombay
- N.P. Madhava Menun (ed.) : A Handbook of Clinical Legal Education (1998). Eastern Book Company. Lucknow
- M.O. Price, H. Bitner and Bysicqicz : Effective Legal Research (1978)
- Pauline V. Young : Scientific Social Survey and Research (1962)
- William, J. Grade and Paul, K. Hatt : Methods in Social Research, McGraw Hill Book Company, London
- H.M. Hymae : Interviewing in Social Research (1965)
- Payne : The Art of Asking Questions (1965)
- Erwin, C., Surrency, B. Field, J. Crea : A Guide to Legal Research
- Morris, L. Cohan : Legal Research in Nutshell (1996), West Publishing Company
- Harvard Law Review Association : Uniform System of Citations 1L1 Publication : Legal Research and Methodology

**BRANCH-I**  
**INTERNATIONAL LAW AND ORGANIZATION**

Objectives of the course

The years following the Second World War have witness 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 Organization over the years to cope up with their numerous responsibilities have been handicapped with non-availability 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 UNDF 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. The following syllabus prepared with this perspective will be spread over a period of one year.

**PAPER – I**  
**INTERNATIONAL LAW AND ORGANIZATION: LAW, PRACTICE AND FUTURE**  
**UNIT -I**

- Evolution of International Organization: The Concept of Europe, the League of Nations and the United Nations.
- United Nations as a Constitutional and Political System.
  - Organs and Their functions
  - Law Creating processes
  - Amendment process
  - Secretary General of the United Nations

**Unit - II**

- The Political Process
  - Blocks and Alliances
  - Non aligned movement and its impact on voting in the various organs of the United Nations.
  - India and the United Nations

**Unit - III**

- Peace-Keeping
  - UN Peace keeping functions.
  - UN peace keeping force case studies
  - Problems of peace enforcement through the UN

## Unit - IV

- Special Agencies and Non Governmental Organizations
  - Constitution and functions of specialized agencies
  - Amnesty International
  - International Commission of Jurists.

## Unit - V

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- Peaceful Change through United Nations
  - Dispute settlement machinery of the United Nations
  - The Role of ECOSOC in bringing about peaceful change
  - UN operational programmes in the Social Field & Economic field

### 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.Walters, 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 Changmg World (1974).  
Rosalyn Higgins, Development of International Law through Political Organs of the United Nations (1963)  
Hans Kelsen, Law of the United Nations (1954)  
Rahmattullah Khan, Implied Powers of the United Nations (1970)  
Edward Macwhinney, United Nations Law Making (1984)  
M.S. Rajan, United Nations and Domestic Jurisdiction (1961)

## PAPER – II 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 year.

#### **Unit - I**

- Concept of Disarmament
  - Meaning and changing concept
  - Disarmament and world security, military alliances arms trade

#### **Unit - II**

- Arms Race: Reasons, Consequences especially in terms of resource economic development and its International implications.

#### **Unit - III**

- United Nations Disarmament : History, its achievements and limitations, Negotiations leading to the signing of SALT I and SALT II

#### **Unit - IV**

- Nuclear Disarmament: Problems and Perspectives: Nuclear Non-Proliferation treaty & Intermediate range missile Treaty, International Regulation of Nuclear weapons.
- International Regulations: Biological and chemical or weapons of Mass Destruction; Control of Militarization of Outer Space and the Ocean Bed.

#### **Unit - V**

- Conserving the world's resources: peace research and its significance; Protection of Human Rights Assisting the economic development of less developed countries; Towards a balanced world Trade; Peaceful settlement of International Disputes.

#### **Select Bibliography**

Burns H. Weston, Toward Nuclear Disarmament and Global 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. Waizer, 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.1 55-276 (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. 1(1969)

## **PAPER – III**

### **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 a new 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 year.

#### **Unit - I**

- International Movement : History and various conventions : 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

#### **Unit - II**

- International Efforts: Slave Trade and Similar Practices; Forced Labour and Trafficking in human beings.

#### **Unit - III**

- United Nations and Humanitarian Law: Role of ECOSOC and ILO; Genocide Convention.

#### **Unit - IV**

- International Refugees: Organization and various related conventions.

#### **Unit - V**

- Right of Self-determination: Implementation and declaration after independence to colonial countries.
- Discrimination against Women: International co-operation.

#### **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.11)  
J.Stone, Legal Controls of International Conflicts (1959)  
R.Falk, "The Shimoda Case" 69 International Law (1965)  
T.Taylor, Nuremberg and Vietnam: An American Tragedy (1971)

## PAPER IV

### INTERNATIONAL LAW: DIPLOMACY AND CONTEMPORARY ISSUES

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 year.

1. Contemporary International system: International stratifications and geopolitical considerations.
2. Beginning of diplomacy: Various Diplomatic Traditions, Golden age of classical diplomacy of 18<sup>th</sup> & 19<sup>th</sup> centuries in Europe.
3. Impact of the First World War and the Russian Revolution: Transition from "Old" to "New" diplomacy; Technology on conduct of diplomacy; Nuclear weapons; Military Alliance; Secret v. Open Diplomacy, Democratic control of Foreign Policy.
4. Diplomacy in contemporary World: Cold War and its impact; summit; U.N.; Mass Media and propaganda.
5. Crisis Management: Diplomacy new human rights conceptions; diplomacy and right to development, The Stockholm Declaration on Environment.

#### Select Bibliography

- A.BaII, Modern Intentional Negotiations (1969)  
I.Clark, Reform and Resistance in International Order (1980)  
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 – V**

### **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.

#### **Unit - I**

- Historical Introduction: Contributions of Seldon, Grotius, Bynkershock and others; to development of the early law; the Anglo Norwegian Fishers Case and its aftermath; the technological revolution and the utilization of the new resources of the sea; population explosion and its impact on the law, the U.N. conference on the law of the sea; Developing nations and the uses of the sea. New resources of the sea and its impact on the Law.

#### **Unit - II**

- Changing Concepts of Maritime Frontiers: territorial waters and contiguous zone, continental shelf; Rights of States over, exclusive economic zone. Principles for determination of maritime frontiers and maritime boundaries under the customary and Conventional law.

#### **Unit - III**

- Exploitation of Deep Sea – Bed Resources : 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.

#### **Unit - IV**

- Conservation of living Resources: Problems of Maritime Pollution.

#### **Unit - V**

- Land Locked states and sea as common heritage of mankind : the future of the Law of the Sea
- 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), Croom Helm, London
- Nagendra Singh, International Maritime law Conventions, Vol.1 Navigation (1983) Stevens & Maxwell, London.
- Myron H. Nordquist and John Norton Moor (eds.), Ocean Policy - New Institutions, Challenges and Opportunities (1999), Kluwer
- R.P. Anand, 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. PConnel, International Law of the Sea, Vols. 1 & 11(1982)

## **BRANCH – II CRIMINAL LAW**

### Objectives of the course

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

## **PAPER - I COMPARATIVE CRIMINAL PROCEDURE**

### **Unit - I**

- Organization of Courts and Prosecuting Agencies
  - Criminal Courts – Hierarchy and their Jurisdiction
  - Nyaya Panchayats in India including Panchayats in Tribal areas.
  - Organization of prosecuting agencies for prosecuting Criminals: Prosecutors and the Police.
  - Withdrawal of Prosecution.

### **Unit - II**

- Pre Trial Procedures
  - Rights of the accused
  - Arrest and questioning of the accused; Evidentiary value of statements/articles seized/collected by the Police.
  - Right to counsel
  - Role of Prosecutor and judicial officer in investigation.

### **Unit - III**

- Trial Procedures
  - Trial : Accusatory and inquisitorial systems.
  - Role of the Prosecutor, Defence attorney and the Judge in the trial.
  - Evidence: Admissibility, Inadmissibility; Expert Evidence.
  - Appropriate punishment; plea Bargaining

### **Unit - IV**

- Correction and After care services
  - Institutional correction of offenders
  - After-care services in India and France General Comparison
  - Role of court in correctional programmes in India.
  - Preventive measures in India: Provisions in the Criminal Procedure Code; special enactments.

### **Unit - V**

- Public Interest Litigation : Directions for Criminal Prosecution
- Preferably the Paper should be taught with reference to India, England, US, France, China and Russia wherever necessary. The Malimath Committee Commission Report is to be referred for teaching this paper.
- Patric Devlin, The Criminal Prosecution in England
- American Series of Foreign Penal Codes Criminal Procedure Code of People s Republic of China.
- John N. Ferdico, Criminal Procedure (1996), West
- Sanders & Young, Criminal Justice (1994)
- Christina Van Den Wyngart, Criminal Procedure Systems in European Community Joel Samaha, Criminal Procedure (1997), West
- Criminal Procedure Code, 1973 The French Code of Criminal Procedure, 14th and 41st Reports of Indian Law Commission.

## **PAPER – II**

### **PENOLOGY & VICTIMOLOGY**

This course offers a specialist understanding of criminal policies including theories of punishment, their supposed philosophical and sociological justifications and the problematic of discretion in the sentencing experience of the developing societies, a focus normally absent in law curricula so far.

The expert work of the U.N. Committee on Crime Prevention and Treatment of Offenders will be availed of in this course. Especially, at each stage, the three D's will be explored as offering a range of alternatives: decriminalisation, dependization, deinstitutionalization. Broadly, the course will concern itself with:

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

## **Unit - I**

1. Penology and Theories of Punishment
  - a. Definition of Penology
  - b. Theories of Punishment : Retribution, Utilitarian Prevention- Deference, Utilitarian: Intimidation, Behavioural Prevention :Incapacitation, Rehabilitation, Expiation
  - c. Classical Hindu and Islamic approaches to Punishment
  - d. Capital Punishment – Its Constitutionality, Problems related to capital punishment, Judicial attitude in India towards Capital punishment- An inquiry through the statute Law and case law.
  - e. Law Reforms Proposals

## **Unit - II**

2. Approaches to sentencing
  - a. Alternatives to Imprisonment, Probation
  - b. Corrective labour
  - c. Fine ; Collective fines
  - d. Reparation by the offender/by the court

## **Unit - III**

3. Sentencing
  - a. Types of sentences – Indian Penal code and Special Laws
  - b. Sentencing in white collar crimes
  - c. Pre-sentence hearing ; Summary punishment
  - d. Sentencing for habitual offender
  - e. Plea Bargaining

## **Unit - IV**

4. Imprisonment
  - a. Rights of prisoners and duties of custodial staff, deviance by custodial staff
  - b. State of Jails in India today; Disciplinary regime of Indian Prisons
  - c. Classification of Prisoners
  - d. Open Prisons
  - e. Judicial Surveillance, basis, development, reforms

## **Unit - V**

5. Victimology
  - a. Victims of Crime
  - b. Compensation to victims under Cr.P.C. and other statues
  - c. Compensation under Public Law Remedy

### **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)  
Alt 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. Shukia, “Sociology of Deviant Behaviour” in *3 ICSSR Survey of Sociology and Social Anthropology 1969-179* (1986)  
Tapas Kumar Banerjee, *Background to Indian Criminal Law* (1990), R.Campray & Co., Calcutta.

### **PAPER – III** **DRUG ADDICTION & JUVENILE DELINQUENCY**

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 question 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, 1985

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.

Syllabus

#### **Unit - I**

1. Basic Concepts and social characteristics of drug users
  - a. Basic Concepts: Drugs, Narcotics, Psychotropic Substances; Dependence, Addiction, Crimes without Victims, Trafficking in Drugs, Primary Drug abuse.
  - b. Ana graphic and social characteristics of Users: Gender, Age, Age at First Use, Religiousness, single individuals/cohabitation.

- c. Socio-economic level of family, Residence Patters urban/rural, occupation, education levels.
- d. Reasons given as cause of first use; Type of Drug Use , Method of Intake, Pattern of the use, Average quantity and cost, consequence on addicts health (physical Psychic)

## **Unit - II**

- 2. Legal Regime : International and Indian
  - a. Single convention on narcotic Drugs, 1961, Convention on Psychotropic Substances, 1972
  - b. International Collaboration in combating Drug Addiction, SAARC and South South co-operation ; Profile of International Market for psychotropic substances.
  - c. Indian Regulatory System: Approaches to Narcotic trafficking during colonial India: Nationalist thought towards regulation of drug trafficking and usage.
  - d. Penal Provisions – Indian Penal Code and the Customs Act; India’s role in the evolution of the two International conventions
  - e. The Narcotic Drugs and Psychotropic substances Act, 1985; Judicial approaches to sentencing in Drug Trafficking and Abuse
  - f. Patterns of resource investment in India: Policing adjudication, Treatment, after care and Rehabilitation.

## **Unit - III**

- 3. Juvenile Delinquency : Concepts and Determining Factors
  - a. Child in Indian Constitution and Penal Code
  - b. Delinquent Juvenile; Neglected Juvenile; Overall situation of children/young persons in India including crime statistics- of crimes by and against children.
  - c. Differential Association; Anomie; Economic Pressure; peer group influence; Gang Sub culture; class differentials
  - d. Indian Context of Juvenile delinquency : child population (percentage to total sex ratio, urban/rural/ rural-urban); neglected below poverty line, physically and Mentally disabled orphans, Destitutes, Vagrants
  - e. Labourers – In organized industries (e.g. zari, Carpet, bidi, glass) and unorganized sectors (e.g. domestic servant, shops and establishment, rag pickers, family trade etc.)
  - f. Delinquent-number, sex ratio, ratio to adult crime types of offences committed recidivism,
  - g. Drug Addicts, victims of violence: sexual abuse battered, killed by parents; of criminal activities like bootlegging, drug pollution as a response of protective approach.

## **Unit - IV**

- 4. Legislative Approaches and Judicial contribution
  - a. Legislative approaches: Late colonial era, children Act, Position in various states; Juvenile Justice Act; Constitutional aspects; Distinction: Neglected and Delinquent.
  - b. Competent authorities; Procedural safeguards; Powers given to government; community participation under the Juvenile Justice Act.

## Unit - V

- c. Social action litigation concerning Juvenile Justice: Salient Judicial decisions; Role of Legal profession in Juvenile Justice Systems.
- d. Implementation – Institutions, bodies, personnel; recruiting and Funding agencies; Recruitment qualifications and salaries or fund; other responsibilities of agency/person.
- e. Coordination among related agencies; Accountability-annual Reports and accessibility of public to juvenile justice institution.
- f. Preventive strategies; State welfare programme health, nutrition, ICWS, grants in aid; compulsory education; role of community family, voluntary bodies, individuals

### 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)

A. 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* 7 *Indian Journal of Criminology*, 65-68 (1979)

## PAPER IV

### PRIVILEGED CLASS DEVIANCE

This course focuses on the “Criminality of the “Privileged classes”. The definition of “privileged classes” in a society like India should not pose major problem at all; the expression nearly includes wielders of all forms of state and social (including religious) power. Accordingly, the course focuses on the relation between privilege power and deviant behaviour. The traditional approaches which highlight “white-collar offences”, “socio-economic offences” or “crimes of the powerful” deal mainly with the deviance of the economically resourceful. The dimension of deviance associated with bureaucracy, the new rich (*nouveau riche*), religious leaders and organizations, professional classes and the higher bourgeoisie are not fully captured here.

In designing teaching materials for this course, current developments in deviance, as reflected in newspapers/journals, law reports, and legislative proceedings should be highlighted.

It should be stressed that the objectives of the course include:

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

### Syllabus

## Unit - I

- Conceptions of white-collar crimes and class deviance
  - Indian approaches to socio economic offences.
  - Conception of white collar crime; notions of privileged class deviance as providing a wider categorization of understanding Indian development.

## Unit - II

- Typical forms of deviance : Official deviance (by legislators, judges/bureaucrats); Professional deviance (journalists, doctors, teachers, lawyers, engineers, architects, publishers); Trade Union deviance (including lawyers, urban property owners); Landlord deviance (class/caste based deviance); Police deviance; Deviance on electoral process (rigging, booth capturing, impersonation, corrupt practices).
- Gender-based aggression by socially, economically and politically powerful

## Unit - III

- Official Deviance
  - Concept of Official deviance: permissible limit of discretionary power.
  - The Chambal valley dacoit, Vinoba Mission and Jai Prakash Narain Mission – in 1959 and 1971
  - The Chagla Commission Report on LIC- Mundhra Affair; The Das Commission Report on Pratap Singh Kairon
  - The Grover Commission Report on Dev Raj Urs; The Maruti Commission Report; the Ibakkar Natarajan Commission Report on Fair fax.

## Unit - IV

- Police Deviance and professional Deviance
  - Structures of legal restraint on police powers in India; unconstitutionality of third degree methods and use of fatal force by police.
  - Police atrocities; encounter killings; plea of superior order; Rape and related forms of gender based aggression by police and Para military forces.
  - Reform suggestions especially by National Police Commission.
  - Unethical practices at the Indian Bar; Medical malpractice.
  - The Lentin Commission Report; the press council on unprofessional and unethical journalism.

## Unit - V

- 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

### 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 Dwivedi and G.S. Bbargava, Political Corruption in India (1967)

AR. 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; KS. Shukla ed.).

Indira Rothermund, 'Patterns of Trade Union Leadership in Dhanbad Coal fields 23 J.I.L.I (1981)

## **PAPER – V**

### **COLLECTIVE VIOLENCE**

Objectives of the course

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

It is not very helpful in such contexts, to mouth the generalities such as 'criminalization' or 'lumpenization' of Indian politics. Closer scientific investigation of these phenomena is crucial, which should help us understand both the aetiology and the prognosis of CPV. Instead of 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.

#### **Syllabus**

#### **Unit - I**

- Notions and their understanding
  - Notions of force, coercion, violence
  - Distinctions between “ symbolic, institutionalized and structural violence
  - Legal order as a coercive normative order; Force-monopoly of modern Law
  - Constitutional and Criminal speech; speech as incitement to violence
  - Collective political violence and legal order; Notion of legal and extra legal repression

#### **Unit - II**

- Approaches to violence in India
  - Religious by sanctioned structural violence : caste and gender based
  - Ahimsa in Hindu, Jain, Buddhist, Christian and Islamic traditions in India; Gandhiji's approach to non-violence
  - Discourse on political violence and terrorism during colonial struggle
  - Attitudes towards legal order as possessed of legitimate monopoly over violence during the colonial period.

#### **Unit - III**

- Agrarian violence and Repression
  - The nature and scope of agrarian violence
  - Colonial Legal order as a causative factor of collective political (agrarian) violence
  - The Telangana struggle and the legal order
  - The Report of the Indian Human Rights Commission on Arwal Massacre



#### **Unit - IV**

- Communal violence and violence against the scheduled castes
  - Communal violence : Incidence and courses
  - Role of police and Para military systems in dealing with communal violence; operation of criminal justice system in relation to communal violence
  - Findings of various commissions of enquiry

#### **Unit - V**

- Violence against the scheduled castes, Notion of Atrocities, Incidence of Atrocities; uses of criminal law to combat atrocities or contain aftermath of Atrocities; violence against women.

#### **Select Bibliography**

- U. Baxi, "Dissent, Development and Violence in R. Meagher (ed.) Law and Social Change: mdc- American Reflections 92 (1988)
- U. Baxi (ed), Law and Poverty: Critical Essays, (1988)
- AR. 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 (1983-1 988)
- T. Honde rich, 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. Shukia, 'Sociology of Deviant Behaviour, in 3 ICSSR Survey of Sociology and Social Anthropology 1969-1979 (1986)

### **BRANCH – III BUSINESS LAW**

#### **PAPER - I**

#### **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 arena as well as in the nation to nation relations. The impact of IPR regime on the economic front is emphasized 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 should receive special attention. Evidentiary aspects of infringement and human right dimensions of the regime of intellectual property law will also be addressed.

#### **Unit - I**

- IPR and International Perspective
- Trademarks and Consumer Protection (Study of UNCTAD report on the subject)

## **Unit - II**

- The Legal Regime of Unfair Trade Practices and of Intellectual Industrial Property
  - United Nation approaches (UNCTAD, UNCITRAL)
  - EEC approaches
  - Position in U.S.
  - The Indian Situation
- Special Problems of the Status of Computer Software in Copyright and Patent Law: A Comparative Study.

## **Unit - III**

- Biotechnology Patents :
  - Nature and type of biotechnology patents
  - Patent over new forms of life : TRIPS obligations
  - Plant patenting
  - Sui generis protection for plant varieties
  - Multinational ownership
  - Regulation of environment and health hazards in biotechnology patents
  - Indian policy and position.
- Patent Search, Examination and Records :
  - International and global patent information retrieval systems (European Patent Treaty)
  - Patent Co-operation Treaty (PCT)
  - Differences in resources for patent examination between developed and developing societies
  - The Indian situation

## **Unit - IV**

- Special Problems of Proof of Infringement
  - Status of intellectual property in transit – TRIPS obligation- Indian Position
  - The evidentiary problems in action of passing off.
  - The proof of non anticipation, novelty in inventions protected by patent law
  - Evidentiary problems in piracy: TRIPS obligation – reversal of burden of proof in process patent.
  - Need and Scope of Law Reforms.

## **Unit - V**

- Intellectual Property and Human Rights
  - Freedom of speech and expression as the basis of the regime of intellectual property right copyright protection on internet – WCT (WIPO copyright Treaty, 1996)
  - Legal status of hazardous research protected by the regime of intellectual property law.
  - Human right of the impoverished masses intellectual property protection of new products for healthcare and food security
  - Traditional knowledge – protection-biodiversity convention- right of indigenous people.

## **Select Bibliography**

Special attention should be given to literature of the UN system, WIPO and the UNESCO  
Terenee P. Stewart (ed.) The GATT Uruguay Round: A Negotiating History (1986-1994) the  
End game (Part – I) (1999) Kluwer  
Iver P. Cooper Biotechnology and Law, (1998) Clerk Boardman Callaghan, NEW York  
David Bainbridge, Software Copyright Law (1999) Butterworth  
Sookman, Computer Law (1998) Carswell  
W.R. Cornish, Intellectual property Law (1999) Sweet and Maxwell

## **PAPER - II**

### **LEGAL REGULATION OF ECONOMIC ENTERPRISES INCLUDING EXPORT AND IMPORT REGULATION**

Objectives of the course:

After independence we have placed greater emphasis on the growth of our economy. The focus is on growth, both in public and private sectors, so as to cope up with the problems of population explosion. We have found that there is now almost a circle from laissez faire to welfare state and again back to laissez faire. Adoption of the concept of global economy in the presence of the socialistic perspectives in the Constitution presents a dilemma. The trends of liberalization starting in the early nineties and continuing to this day bring a shift in focus of regulation in diverse fields of economic activities.

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 in maximization of its exports.

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

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

## **Unit - I**

### **1. The Rationale of Government Regulation:**

Constitutional Perspectives, The New economic policy – Industrial policy resolutions, declarations and statements, the place of public, small scale, co operative, corporate, private and joint sectors in the changing context, Regulation of economic activities, Disclosure of information, Fairness in competition, Emphasis on consumerism

### **2. Development and Regulation of Industries**

Take over of Management and Control of industrial Units, Sick Undertakings : Nationalization or Winding up, Licensing Policy and Legal Process – Growing

Trends of Liberalization , Deregulation of essential commodities : developmental sign or a social mishap, Financial Services : Changing Techniques of Regulation

### **Unit - II**

3. Critical Issues Regarding the Capital Issues: Equity and debt finance; global, depositories and dematerialized securities.
4. Problems of Control and Accountability: Regulation of Hazardous Activity: Mass disaster and environmental degradation: legal liability and legal remedies; Public Liability Insurance: adequacy; Issues in zoning and location of industrial units.

### **Unit - III**

5. Legal Regulation of Multi Nationals
  - a. Collaboration agreements for technology transfer
  - b. Development and regulation of foreign investments
  - c. Investment in India : FDIs and NRIs
  - d. Investment abroad
6. State Control over import and Export of goods from rigidity to liberalization. Impact of regulation of economy.

### **Unit - IV**

7. The Basic Needs of Export and Import Trade
  - a. Goods
  - b. Services
  - c. Transportation
8. International Regime
  - a. WTO agreement
  - b. WTO and tariff restrictions
  - c. WTO and non-tariff restrictions
  - d. Investment and transfer of technology
  - e. Quota restriction and anti dumping
  - f. Permissible regulations
  - g. Quarantine regulation
  - h. Dumping of discarded technology and goods in international market
  - i. Reduction of subsidies and counter measures.

### **Unit - V**

9. General Law on Control of Imports and Exports
  - a. General Scheme
  - b. Legislative Control
  - c. Power of Control : Central Government and RBI
  - d. Foreign Trade Development and Regulation Act 1992
  - e. Restriction under Custom Law
  - f. Prohibition and penalties
  - g. Export – Import formulation : guiding features
  - h. Control under FEMA

- i. Foreign Exchange and currency
- j. Import of goods
- k. Export promotion councils
- l. Export oriented Units and Export processing zones.

### **Select Bibliography**

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

## **PAPER - III BANKING LAW**

### **Objectives of the course**

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

### **Unit - I**

#### **1. Introduction**

- a. Nature and development of banking
- b. History of banking in India and elsewhere – indigenous banking-evolution of banking in India – different kinds of banks and their functions.
- c. Multi-functional banks – growth and legal issues

#### **2. Law Relating to banking Companies in India and Recent Trends**

- a. Controls by government and its agencies : On management, On accounts and audit, Lending, Credit Policy, Reconstruction and reorganization, Suspension and winding up, Contract between banker and customer : their rights and duties

## Unit - II

3. Recent Trends of Banking System in India
  - a. New technology
  - b. Information technology
  - c. Automation and legal aspects
  - d. Automatic teller machine and use of internet
  - e. Smart Card
  - f. Use of expert system
  - g. Credit Cards
4. Social Control over banking
  - a. Nationalization
  - b. Evaluation : private ownership, nationalization and disinvestment
  - c. Protection of depositors
  - d. Priority lending
  - e. Promotion under privileged classes

## Unit - III

5. The Central Bank
  - a. Evolution of Central Bank
  - b. Characteristics and functions
  - c. Economic and social objectives
  - d. The Central Bank and the State – as bankers bank
  - e. The Reserve Bank of India as the Central Bank : Organizational structure, Function of the RBI  
Regulation of monetary mechanism of the economy, Credit Control, Exchange control, Monopoly of currency issue, Bank rate policy formulation, Control of RBI over non banking companies, financial companies, Non financial companies

## Unit - IV

6. Relationship of Banker and Customer
  - a. Legal character
  - b. Contract between banker and customer
  - c. Banker's lien
  - d. Protection of bankers
  - e. Customers : Nature and type of account, Special classes of customers – lunatics, minor, partnership, corporations, local authorities
  - f. Banking duty to customers
  - g. Consumer protection : banking as service
7. Negotiable Instruments
  - a. Meaning and kinds
  - b. Transfer and negotiations
  - c. Holder and holder in due course
  - d. Presentment and payment
  - e. Liabilities of parties

## Unit - V

8. Lending by Bank
  - a. Good lending principles
  - b. Lending to poor masses
  - c. Securities for advances
  - d. Kinds and their merits and demerits
  - e. Repayment of loans : rate of interest, protection against penalty
  - f. Default and recovery
  - g. Debt recovery tribunal
9. Reforms in Indian Banking Law
  - a. Recommendations of committees: A review.

### Select Bibliography

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- Janakiraman Committee Report on Securities Operation of Banks and Financial Institution (1993)
- Narasimhan Committee report on the Financial System (1991)- Second Report (1999)

## **PAPER - IV INSURANCE LAW**

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 lightest 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 rigours 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.

### **Unit - I**

1. Introduction
  - a. Nature of insurance contract, various kinds of insurance, proposal, policy, parties, consideration, need for utmost good faith, insurable interest, indemnity
  - b. Insurance policy, law of contract and law of torts-future of insurance: need, importance and place of insurance
  - c. Constitutional perspective – The entries 24, 25, 29, 30, 47 of List 1 Union List; 23, 24 of List III
2. General Principles of Law of Insurance
  - a. Definition, nature and history
  - b. The rise – commencement, attachment and duration
  - c. Assignment and alteration
  - d. Settlement of claim and subrogation
  - e. Effect of war upon policies.
3. Indian Insurance Law : General
  - a. History and development
  - b. The Insurance Act 1938 and the Insurance Regulatory Authority Act 2000
  - c. Mutual insurance companies and cooperative life insurance societies
  - d. Double Insurance and re insurance



## **Unit - II**

4. Life Insurance
  - a. Nature and scope
  - b. Event insured against life insurance contract
  - c. Circumstances affecting the risk
  - d. Amounts recoverable under life policy
  - e. Persons entitled to payment
  - f. Settlement of claim and payment of money

## **Unit - III**

5. Marine Insurance
  - a. Nature and Scope
  - b. Classification of Marine policies
  - c. The Marine Insurance Act, 1963
    - I. Marine Insurance
    - II. Insurable interest, insurable value
    - III. Marine insurance policy – condition-express warranties construction of terms of policy
    - IV. Voyage-deviation
    - V. Perils of the sea
    - VI. Assignment of policy
    - VII. Partial laws of ship and of freight, salvage, general average, particular charges
    - VIII. Return of premium

## **Unit - IV**

6. Insurance Against Accidents
  - a. The Fatal Accident Act, 1855
    - Object and reasons
    - Assessment of compensation
    - Contributory negligence
    - Apportionment of compensation and liability
  - b. The personal Injuries (compensation Insurance ) Act 1963
    - Compensation payable under the Act
    - Compensation insurance scheme under the Act-Compulsory insurance

## **Unit - V**

7. Insurance Against Third Party Risks
  - a. The Motor Vehicles Act, 1988
    - I. Nature and Scope
    - II. Effect of insolvency or death on claims of insolvency and death of parties, certificate of insurance
    - III. Claims tribunal : constitution, function, application for compensation, procedure, powers and award
  - b. Liability Insurance
    - I. Nature and kinds of such insurance
    - II. Public liability insurance
    - III. Professional negligence insurance
8. Miscellaneous Insurance Schemes : New Dimensions
  - a. Group life insurance
  - b. 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
- Banerjee, Law of Insurance (1994), Asia Law House, Hyderabad.
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- ER. Hardy Ivamy, General Principles of insurance Law (1979)
- Edwin W. Patterson, Cases and Materials on Law of insurance (1955)
- M. N. Sreenivasan Law and the Life Insurance Contract (1914)

### **PAPER – V CORPORATE FINANCE**

Industrialization 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 cause may be formulated as follows :

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

### **Unit - I**

#### **1. Introduction**

- a. Meaning, importance and scope of corporate finance
- b. Capital needs-capitalization working capital-securities borrowings-deposits debentures
- c. Objectives of corporation finance-profit maximization and wealth maximization
- d. Constitutional perspectives- the entries 37, 38, 43, 44, 45, 46, 47, 52, 82, 85 and 86 of List 1 Union List entry 24 of List 11- State List

## **Unit - II**

2. Equity Finance
  - a. Share Capital
  - b. Prospectus information disclosure
  - c. Issues and allotment
  - d. Shares without monetary consideration
  - e. Non-opting equity share
  
3. Debt Finance
  - a. Debentures
  - b. Nature, issue and class
  - c. Deposits and acceptance
  - d. Creation or charges
  - e. Fixed and floating charges
  - f. Mortgages
  - g. Convertible debentures

## **Unit - III**

4. Conservation of Corporate Finance
  - a. Regulation by disclosure
  - b. Control on payment of dividends
  - c. Managerial remuneration
  - d. Payment of commissions and brokerage
  - e. Inter corporate loans and investments
  - f. pay back of share
  - g. other corporate spending

## **Unit - IV**

5. Protection of creditors
  - a. Need for creditor protection
  - b. Preference in payment
  - c. Rights in making company decisions affecting creditors interests
  - d. Creditors self protection
  - e. Incorporation of favorable terms in lending contracts
  - f. Right to nominate directors
  - g. Control over corporate spending
  
6. Protection of Investors
  - a. Individual share holder right
  - b. Corporate membership right
  - c. Derivative actions
  - d. Qualified membership right
  - e. Conversion, consolidation and re organizations of shares
  - f. Transfer, and transmission of securities
  - g. Dematerialization of securities

## Unit - V

7. Administrative Regulation on Corporate Finance
  - a. Inspection of accounts
  - b. SEBI
  - c. Central government control
  - d. Control of registrar of companies
  - e. RBI control

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Alastair Hundson, The Law on Financial Derivatives (1998), Sweet & Maxwell EII's Ferran, Company Law and Corporate FThance (1999), Oxford.

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Altman and Subrahmanyam, Recent Advnces in Corporate Finance (1985) LBC

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Y.D. Kulshreshta, Government Regulation of Financial management of Private Corporate Sector in India (1986)

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Statutory Materials - Companies Act and laws relating SEBI, depositories, industrial financing and information technology.

## BRANCH – IV HUMAN RIGHTS LAW

### 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.

**PAPER – I**  
**CONCEPT AND DEVELOPMENT OF HUMAN RIGHTS**

**Unit - I**

1. Human Rights : Concept
  - a. Human Rights Meaning and Nature
  - b. Human rights in Indian tradition : ancient, medieval and modern
  - c. Human rights in western tradition
  - d. Development of natural rights
  - e. Human Rights in international law and national law

**Unit - II**

2. Classification of Human Rights – First, Second and Third Generations : Historical Development

**Unit - III**

3. Human Rights : Politics and Society
  - a. Colonization, imperialism and human rights
  - b. Power, practices, accountability and transparency
  - c. Globalization and Human Rights Perspective
  - d. Human duties : responsibilities and obligations

**Unit - IV**

4. Human Rights and Judicial Process
  - a. Judicial Activism

**Unit - V**

5. Human Rights Protection Agencies.

**Select Bibliography**

Angela Hegarty, Siobhan Leonard, Human Rights an Agenda for the 21st Century (1999)

Lalit Parmer, Human Rights, (1998).

Rama Jois, Human Rights: Bharatiya Values, (1998).

David P. Forsythe, Human Rights in International Relations.

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.

## **PAPER – II**

### **HUMAN RIGHTS IN INTERNATIONAL AND REGIONAL PERSPECTIVE**

Objectives of the course

Human rights have universal application. They gathered importance when the United Nations adopted the Universal Declaration of Human Rights in 1948. The role of international organizations 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 Organizations watch and monitor human rights violations in every country. However, in the absence of national legislation, the enforcement of the rights will be difficult.

#### **Unit - I**

1. Development of the Concept of Human Rights Under International Law
  - a. Role of International Organization and Human Rights
  - b. Universal Declaration of Human Rights (1948)

#### **Unit - II**

- c. Covenant of Political and Civil Rights (1966)
- d. Covenant of Economic, Social and Cultural Rights (1966)
- e. ILO and other conventions and protocols dealing with human rights.

#### **Unit - III**

2. Role of Regional Organizations
  - a. European Convention of Human Rights
  - b. European Commission on Human Rights/Court of Human Rights
  - c. American Convention on Human Rights
  - d. African Convention of Human Rights
  - e. Other Regional Conventions.

#### **Unit - IV**

3. Protection agencies and mechanisms
  - a. International Commission of Human Rights
  - b. African Commission on Human and Peoples Rights
  - c. Amnesty International
  - d. Non Governmental Organizations (NGOs)

#### **Unit - V**

- e. U.N. Division of Human Rights
- f. International Labour Organization
- g. UNESCO
- h. UNICEF
- i. Voluntary Organizations
- j. National and State Human Rights Commissions

### **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).
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- R.S.Sharma and R.K.Sinha, Perspectives in Human Rights Development, (1997).
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- B.P.Singh Seghal, Human Rights in India, (1996).
- Chandan Bala, International Court of Justice: Its Functioning and Settlement of International Disputes, (1997).

### **PAPER - III**

#### **HUMAN RIGHTS: ENFORCEMENT MECHANISM**

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

#### **Unit - I**

1. History and development of Human Rights in Indian Constitution
  - i. Constitutional Philosophy – Preamble
  - ii. Fundamental Rights : History of inclusion of fundamental rights in the constitution of India and their development afterwards
  - iii. Directive Principles of State Policy : History of inclusion of directive principles of state policy and their development afterwards
  - iv. Fundamental Duties

#### **Unit - II**

2. Judicial activism and Development of Human Rights Jurisprudence

#### **Unit - III**

3. Enforcement of Human Rights
  1. Formal enforcement mechanisms
  2. Role of Supreme Court
  3. Role of High Courts

## Unit - IV

4. Role of Civil and Criminal Courts
5. Role of NHRC and State Human Rights Commissions
6. Statutory Tribunals
7. Special Courts

## Unit - V

4. Implementation of International Human Rights norms and standards in Indian domestic law.

### Select Bibliography

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

## PAPER – IV

### HUMAN RIGHTS OF DISADVANTAGED GROUPS: WOMEN, CHILDREN, ELDERLY PERSONS AND REFUGEE

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.

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 humanizing 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 create the problem of refugees. There have been some endeavors 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

### Syllabus



## **Unit - I**

1. Concept of Disadvantaged Groups
2. Emerging Human Rights Jurisprudence and the Role of the Judiciary
  - a. Right of Women
  - b. Rights of the Child
  - c. Rights of Elderly Persons
  - d. Rights of Prisoners

## **Unit - II**

- e. Rights of dalits
- f. The tribal and other indigenous people
- g. The mentally ill
- h. The stateless persons
- i. The unorganized labour
- j. Aids victims
- k. Rights of minorities

## **Unit - III**

3. Enforcement of Human Rights
  - a. Protection Laws of the Disadvantaged Groups : Problems and Issues
4. Future Perspectives of the Human Rights of the Disadvantaged.

## **Unit - IV**

5. The Concept of refugee
  - a. Definition of refugee and displaced persons – their problems
  - b. The UN Relief and Rehabilitation Administration and other International Refugee organizations: international protection.
  - c. Protection under national laws.

## **Unit - V**

6. Strategies to combat refugee problem
  - a. Repatriation, resettlement local integration and rehabilitation.
  - b. UNHCR- Role
  - c. UNHCR and India

### **Select Bibliography**

- G.S Bhargava and R.M.PaI, 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 Aiston (et.aI.), Children, Rights and the Law.  
Kelly D. Askin, Dorean M. Koening, 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).

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

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

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

## **PAPER – V** **SCIENCE, TECHNOLOGY AND HUMAN RIGHTS**

### Objectives of the course

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

### Syllabus

#### **Unit - I**

1. Interrelationship of Science, Technology and Human Rights
2. Implication of Development of Science and Technology on Human Rights
  - a. Rights to environment in the development of science and technology
  - b. Right to development in the advancement of science and technology
  - c. Right to human health and impact of developments in medical sciences.

#### **Unit - II**

3. Medicine and the Law
  - a. Organ transplantation
  - b. Experimentation on human beings
  - c. Euthanasia (mercy killing)
  - d. Gene therapy

#### **Unit - III**

4. Issues of Human Rights Ethics in Scientific and Technological Development
  - a. Sex determination test
  - b. Induced abortion
  - c. Reproductive technology
  - d. Cloning
  - e. Invitro fertilization
  - f. Artificial insemination
  - g. Surrogate motherhood

#### **Unit - IV**

5. Development in information Technology and Human Rights

#### **Unit - V**

6. Impact of Scientific and Technological Progress on Human Rights : Normative Response of the International Community
  - a. Right to life
  - b. Right to privacy
  - c. Right to physical integrity
  - d. Right to information
  - e. Right to benefit from scientific and technological progress
  - f. Right to adequate standard of living

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Madhavtirtha, Human Rights, (1953)  
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Swarup J., Human Rights and Fundamental Freedoms, (1975)  
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Khare S.C., Human Rights and United Nations, (1977)  
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Drost, Human Rights as Legal Rights, (1965)  
Garling M., Human Rights Handbook, (1979)  
Andrews J.A., Human Rights/n Criminal Procedure, (1982)  
Kalaiah A.B., Human Rights in International Law, (1986)  
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