

SOLAPUR UNIVERSITY
SOLAPUR

**RULES, REGULATIONS AND
SYLLABUS FOR TWO YEARS
POST GRADUATION LL.M COURSE
(FOUR SEMESTERS)**

**CHOICE BASED CREDIT SYSTEM (CBCS) WITH
CUMULATIVE GRADE POINT AVERAGE (CGPA)
FROM ACADEMIC YEAR 2015-2016 AND ONWARDS**

w.e.f. JUNE 2015

SOLAPUR UNIVERSITY, SOLAPUR

CHOICE BASED CREDIT SYSTEM (CBCS) WITH CUMULATIVE GRADE POINT AVERAGE (CGPA) FROM ACADEMIC YEAR 2015-2016 AND ONWARDS

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1. **Duration of the Programme of LL.M Post Graduate Degree Course:** - The duration of the programme is of two academic years which spread over four semesters with the University Examination at the end of each semester. Each Academic year shall be divided into Two Semesters. The academic session for odd semester (1st&3rd) will commence as far as possible from 1st July, while for even semester (2nd&4th) will commence from 1st January every year. The courses/papers and credits assigned to the each course shall be as given in the LL.M. Post Graduate Course Structure
2. **Medium of instruction:** The medium of instruction and Examination shall be in English.
3. **Eligibility for admission :-**
 - A) LL.M. 1st Year – For admission to the LL.M.I, the candidate must have passed, the LL.B. three years degree course after graduation, or five years LL.B. course after 12th standard or equivalent qualifications, of this university or any other recognised university. Admission will be in accordance with the merit in the qualifying examination. (LL.B. or B.A.LL.B)
 - B) LL.M. Course shall be a full-time and of semester pattern. The LL.M. course cannot be done externally i.e. without keeping regular terms in Law College.
 - C) No two regular courses (i.e. LL.B. + Graduate /Post Graduate/Diploma Courses) shall be done simultaneously.
 - D) Admissions are completely governed by rules and regulations made by university made by time to time.
4. **Attendance:-**
 - (i) Regular 100% attendance is expected to all students for LL.M. course and shall be monitored in the semester rigorously. Students shall be informed at the end of every month if they are falling short of attendance requirement.
 - (ii) A Maximum of 25% absence for the attendance may be permitted only on valid grounds such as illness, or other emergency reason which is beyond control of a students and shall be approved by the concerned affiliated college.
5. **Rules of Promotion/ ATKT: - LL.M Course.**
 1. **To promote a student in to 2nd, 4th Semester:** A student is being eligible for promotion to the 2nd, 4th Semester must have successfully kept the terms for the 1st, 3rd Semester respectively, irrespective of the result of these Semester examination.
 2. **To promote a student in to 3rd Semester:** A student is being eligible for admission to the 3rd Semester must have either passed in the 1st and 2nd Semester or must have got exemption in at least five Papers of the 1st and 2nd Semesters.

6. Interpretation Clause: Unless the context otherwise require, the following words shall have the meaning as assigned to them in this clause.

a) Choice Based Credit System (CBCS):

Choice Based Credit System provides choice for students to select from the prescribed courses (core, elective or minor or soft skilled courses)

b) Credit: Credit means the unit by which the course work is measured. It is measured in terms of weekly class hours assigned to a Course. In this Direction one Credit means one hour of teaching work or two hours of practical work per week for 15 weeks in a semester.

c) Credit Point (CP): It is the value obtained by multiplying the Grade Point by the Credit i.e. No. of Credits assigned for the course x Grade Points secured for that course.

d) Cumulative Grade Point Average (CGPA): CGPA means the value obtained by dividing total number of credit points in all the semesters by the total number of credits in all the semesters.

d) Grade Letter: Grade Letter means an index to indicate the performance of a student in a Particular course/Paper. It is the transformation of actual marks secured by a student in a course/paper into a letter grade i.e. O, A, B, C, D, E and F. There shall be a range of marks for each Grade

e) Grade Point: Grade Point means weightage allotted to each grade letter.

f) Programme: It means the Two Year Post Graduate Programme of study and examination spread over four semesters, the successful completion of which would lead to the award of Master of Laws (LL.M) degree

g) Semester Grade Point Average (SGPA): It means the value obtained by dividing the total credit points earned by a student in all the courses of a given semester by the total number of credits assigned to that semester.

h) Course: It is equivalent to a paper/subject in a programme. It is a complete unit of learning which will be taught and evaluated within a Semester. All courses need not carry the same weight. A course may be designed to comprise lecturing/tutorial/laboratory work/field work/outreachactivities/projectwork/vocationaltraining/viva/seminars/termpapers/assignments/presentations/self-study etc. or a combination of some of these.

The UGC guidelines on CBCS system prescribe three kinds of courses: Core, Elective and foundation in a programme.

Core Course:

This is the course/subject which is to be compulsorily studied by a student as a core requirement to complete the programme. It shall be related to the discipline of study.

Elective Course:

Elective course is a course which can be chosen from a pool of prescribed papers. An elective courses may be “*Generic Elective*” focusing on those courses which add generic proficiency to the students. An elective may be “*Discipline Centric*” or may be chosen from an unrelated discipline. It may be called as “*Open Elective*”.

Foundation Course:

The Foundation Courses may be of two kinds, *Compulsory Foundation* and *Elective Foundation*. “*Compulsory Foundation*” courses are the courses based upon the content that leads to Knowledge enhancement. They are mandatory for all disciplines. “*Elective Foundation*” courses are value based, and are aimed at man- making education.

7. Scheme of evaluation :-

7.1 The Students has to appear external evaluation (University Exam) for 70 Marks and Internal evaluation of 30 marks for each paper except **Legal Research Methodology & Clinical Legal Education II (Practical Paper) and Dissertation**. The internal evaluation is a process of continues assessment. The nature of internal evaluation is decided by the principal of the college and concerned subject teacher at the beginning of semester. The distribution of 30 marks (any three components) internal evaluation shall be as follows.

- | | | |
|---|---|-----------|
| a) Home Assignment | - | 10 Marks. |
| b) Test (Mid/Pre-Sem.) | - | 10 Marks. |
| c) Seminar & Presentation | - | 10 Marks. |
| d) Project Work (Doctrinal/Non Doctrinal) | - | 10 Marks. |
| e) Viva- Voce | - | 10 Marks. |
| f) Participation & Assistance in Lok-Adalat | - | 10 Marks. |
| g) Writing Case Comment (Two Cases) | - | 10 Marks. |

7.2. Legal Research Methodology & Clinical Legal Education- II (Practical Paper)

100marks are divided as follows:-

a) Research Methodology. Project Work

- | | | |
|-----------------------------|---|----------|
| (i) Doctrinal Research | - | 25 Marks |
| (ii) Non-Doctrinal Research | - | 25 Marks |

Student has to select a topic relating to law in consultation with subject teacher at the beginning of the semester. By using research methodology students has to submit report (Doctrinal and Non Doctrinal) at the end of the semester.

b) Viva-voce

Viva Voce will be conducted by Internal/External Examiners Relating to project Work/Teaching and Research Methodology - **20 Marks**

c) Law Teaching - **30 Marks**

A topic is assigned to the student in advance and student has to deliver three lectures on the assigned topic for 40 minutes in the presence of a subject teacher.

7.3 Dissertation: - **200 Marks**

Phase-I Synopsis Submission: At the beginning of the 3rd Semester students shall be expected to carry out intensive literature survey for a period of one month in the field of interest and to select topic for dissertation in consultation with assigned teacher. After one month. The student shall then submit report and deliver a seminar on the problem chosen by him/her to the panel of P.G. recognised faculty members.

Phase-II Term Work and Progress of the Research Work and Presentation: It is based on the efforts put by the student to carry out his / her work and submit a progress report and presentation of progress seminar before panel of P.G faculty members at the beginning of fourth semester

Phase III Final Evaluation: After completing the dissertation work to the satisfaction, the student shall submit three copies of dissertation in prescribed format along with soft copy to the college. Open defence or viva-of the student shall be arranged by the university in front of panel of examiners appointed by university authority.

7.4 Evaluation System on the basis of Credit based Award Pattern:

The academic performance of a student during a semester shall be graded on a Seven-point scale. The grade awarded to a student shall depend on his/her performance in external and internal examinations. The academic performance of a student during a semester and at the end of the programme, shall be evaluated on the basis of: **(i) Grade Point (GP) obtained in each subject (ii) Semester Grade Point Average (SGPA), (iii) Cumulative Grade Point Average (CGPA)** At the end of each semester examination, a student shall be awarded a Semester Grade Point Average (SGPA). A Cumulative Grade Point Average (CGPA) shall be awarded to each student at the end of Final Semester of the Programme. The details regarding method of calculating SGPA & CGPA is explained in Para 8.

8. Award of Grade Letter, Grade Points, Credit Points, SGPA, CGPA:

(a) Award of Grade Letter and Grade Points:

Each course/paper shall be valued in Seven Grades. The letter grades and their equivalent grade points are listed below.

Conversion of Marks into Grades

S. No	Range of % of Marks	Grade Letter	Grade Points
1	85 to 100	O	10
2	75 to 84	A	9
3	65 to 74	B	8
4	60 to 64	C	7
5	55 to 59	D	6
6	50 to 54	E	5
7	0 to 49	FU FI	0 Failed in University Exam (Ext) 0 Failed in Internal Exam

(b) Calculation of Credit Points :-

Credit Points for the course = (No. of Credits assigned for the course x Grade Point secured for that course.)

(c) Semester Grade Point Average (SGPA) :-

SGPA indicates the performance of a student in a given Semester. SGPA is based on the **total credit points earned by the student in all the courses and the total number of credits assigned to the courses/papers in a Semester.**

$$SGPA = \frac{\text{Total Credit Points Obtained in the Semester}}{\text{Total Number of Credits for the Semester}}$$

Provided that SGPA is computed only if the candidate passes in all the courses (gets a minimum 'E' Grade in all Courses).

(d) Cumulative Grade Point Average (CGPA): CGPA refers to the Cumulative Grade Point Average weighted across all the semesters.

$$CGPA = \frac{\text{Total Credit Points Obtained in all semesters}}{\text{Total Credits of All Semesters}}$$

Provided that CGPA is calculated only when the candidate passes in all the courses of all the semesters. Provided further, that, the final Grade Sheet shall show the Grade and Grade Points only.

9. Mode of University Examination Question Paper

- 1. Maximum Marks – 70**
- 2. Time – 2 ½ Hours**
- 3. Students should answer any FIVE out of EIGHT questions**
- 4. Out of EIGHT questions Q. NO. 1 is Compulsory**
- 5. All questions carry equal marks (5 X 14 = 70)**

10. Standard of Passing:

- A)** A candidate shall be declared 'Pass' in the examination of a Semester if he has secured at least aggregate of 50 marks in each paper in semester examination. And a minimum 15 marks in internal examination and 35 marks in external (University) examination in each of the subject in semester examination.
- B)** The Student has to secure minimum of 5-grade points (Grade E) in examination prescribed for a Particular semester.
- C)** A student who failed in University semester examination (Theory) and passed internal examination of paper (subject) Shall be given FU Grade. Such student will have to appear for term end examination only. A student who failed in internal examination and passed in University Examination (Theory) shall be given FI Grade. Such student will have to appear for term end examination as well as internal examination.

11. Award of the Degree:

A student will be eligible for the award of the Degree of Master of Laws (LL.M) with his specialization/s, after he has successfully completed all the four semesters i.e.12 courses with a total 78 cr obtained minimum CGPA of 5 out of 10 The degree shall specify the division and CGPA of successful candidate per the following criterion :

Conversion of Average grade points in to grades

CGPA/SGPA/FGPA/	Letter Grade
9.0- 10	O
8.0-8.99	A+
7.0 - 7.99	A
6.5 – 6.99	B+
6.0 – 6.49	B
5.5. – 5.99	C+
5.0 - 5.49	C
< 4.99	F

GROUP: 1 CORPORATE LAW

PART: I

LL.M-FIRST SEMESTER

S.NO.	PAPER NO. / COURSE	SUBJECT	NO.OF CREDITS	MAX.MARKS EXT.+INT.=TOTAL	MIN. MARKS
1	1.Compulsory Foundation Course	Indian Constitutional Law and New Challenges	04	70+30=100	35+15=50
2	2.Compulsory Foundation Course	Legal Education and Legal Research Methodology-I	04	70+30=100	35+15=50
3	3.Core Course	Law of Industrial and Intellectual Property	04	70+30=100	35+15=50
4	4.Core Course	Legal Regulation and Economic Enterprise	04	70+30=100	35+15=50

PART: II

LL.M-SECOND SEMESTER

S.NO.	PAPER NO. / COURSE	SUBJECT	NO.OF CREDITS	MAX.MARKS EXT.+INT.=TOTAL	MIN. MARKS
1	5. Compulsory Foundation Course	Law and Social Transformation in India	04	70+30=100	35+15=50
2	6. Core Course	Corporate Law	04	70+30=100	35+15=50
3	7.Core Course	Company and Securities Law	04	70+30=100	35+15=50
4	8. Elective Course (Any One)	A) Banking Law B) Cyber Law	04	70+30=100	35+15=50

PART: III**LL.M-THIRD SEMESTER**

S.NO.	PAPER NO. / COURSE	SUBJECT	NO.OF CREDITS	MAX.MARKS EXT.+INT.=TOTAL	MIN. MARKS
1	9.Compulsory Foundation Course	Legal Education and Legal Research Methodology-II (Practical Paper) A) Project Work B) Viva-voce C) Law Teaching Note: All the above three are being conducted by both Internal and External Examiners	04	50 Marks 20 Marks 30 Marks <hr/> 100 Marks	25 Marks 10 Marks 15 Marks <hr/> 50 Marks
2	10.Core Course	Corporate Finance	04	70+30=100	35+15=50
3	11.Core Course	Social Security Legislation	04	70+30=100	35+15=50
4	12.Elective Course (Any One)	A) Insurance Law B) Women and Child Labour	04	70+30=100	35+15=50

PART: II**LL.M-FOURTH SEMESTER**

S.NO.	PAPER NO. / COURSE	SUBJECT	NO.OF CREDITS	MAX.MARKS EXT.+INT.=TOTAL	MIN. MARKS
1	13.Compulsory Foundation Course	Dissertation Int./External Examiner	08	Written Work-150 Viva-voce - 50	100
2	14.Elective Course (Any One)	A) Judicial Process and Rule of Law B) Prevention and Control of Pollution	04	70+30=100	35+15=50

SOLAPUR UNIVERSITY, SOLAPUR

LL.M SYLLABUS - CORPORATE LAWS

SEMESTER – I

PAPER-I: COMPULSORY FOUNDATION COURSE

INDIAN CONSTITUTIONAL LAW AND NEW CHALLENGES

OBJECTIVES OF THE SUBJECT

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

1. Federalism

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

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

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

4. Empowerment of Women

5. Freedom of Press and challenges of new scientific development

- 5.1. Freedom of speech and right to broadcast and telecast.
- 5.2. Right to Strikes, Hartal and Bandh.

6. Emerging regime of new Rights and Remedies

6.1. Reading Directive Principles and Fundamental Duties into Fundamental Rights

6.1.1. Compensation Jurisprudence

6.1.2. Right to Education

6.1.2.1. Commercialization of education and its impact.

6.1.2.2. Brain drain by foreign education market.

7. Right of Minorities to establish and administer Educational Institutions and State control.

8. Secularism and Religious Fanaticism.

9. Separation of Powers: Stresses and Strain

9.1. Judicial activism and judicial restraint.

9.2. PIL: implementation.

9.3. Judicial independence.

9.3.1. Appointment, transfer and removal of judges.

9.4. Accountability: executive and judiciary.

9.5. Tribunals

10. Democratic Process

10.1. Nexus of politics with criminals and the business.

10.2. Election

10.3. Election commission: status.

10.4. Electoral Reforms

SELECT BIBLIOGRAPHY

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

PAPER-II: COMPULSORY FOUNDATION COURSE

LEGAL EDUCATION AND RESEARCH METHODOLOGY

OBJECTIVES OF THE SUBJECT

A post-graduate student of law should get an insight into the objectives of legal education. He should have an exposure to programmes like organization 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 with the different systems of legal education. The lecture

method both at LL.B level and LL.M level has many demerits. The existing lacunae can be eliminated by following other methods of learning such as case methods, problem method, discussion method, seminar method and a combination of all these methods. The student has to be exposed to these methods so as to develop his skills. Growth of legal science in India depends on the nature and career of legal research. The syllabus is designed to develop also skills in research and writing in a systematic manner.

- 1. Objectives of Legal Education**
- 2. Lecture Method of Teaching - Merits and demerits**
- 3. The Problem Method**
- 4. Discussion method and its suitability at Post-graduate level teaching**
- 5. The Seminar Method of teaching**
- 6. Examination system and problems in evaluation - External and Internal Assessment.**
- 7. Student participation in Law School Programmes - Organization of Seminars, publication of Journal and assessment of teachers**
- 8. Clinical Legal Education - Legal aid, Legal Literacy, Legal Survey and Law Reform**
- 9. Research Methods**
 - 9.1. Socio Legal Research
 - 9.2. Doctrinal and non-doctrinal
 - 9.3. Relevance of empirical research
 - 9.4. Induction and deduction

10. Identification of Problem of research

- 10.1. What is a research problem?
- 10.2. Survey of available literature and bibliographical research.
 - 10.2.1. Legislative materials including subordinate legislation, notification and policy Statements
 - 10.2.2. Decisional materials including foreign decisions; methods of discovering the "rule of the case" tracing the history of important cases and ensuring that these have not been over-ruled; discovering judicial conflict in the area pertaining to the research problem and the reasons thereof.
 - 10.2.3. Juristic writings - a survey of juristic literature relevant to select problems in India and Foreign periodicals
 - 10.2.4. Compilation of list of reports or special studies conducted relevant to the problem.

11. Preparation of the Research Design

- 11.1. Formulation of the Research problem
- 11.2. Devising tools and techniques for collection of data: Methodology

- 11.2.1. Methods for the collection of statutory and case materials and juristic literature
- 11.2.2. Use of historical and comparative research materials
- 11.2.3. Use of observation studies
- 11.2.4. Use of questionnaires/interview
- 11.2.5. Use of case studies
- 11.2.6. Sampling procedures - design of sample, types of sampling to be adopted.
- 11.2.7. Use of scaling techniques
- 11.2.8. Jurimetrics
- 11.3. Computerized Research - A study of legal research programmes such as Lexis and West Law Coding
- 11.4. Classification and tabulation of data - use of cards for data collection - Rules for Tabulation - Explanation of tabulated data.
- 11.5. Analysis of data

SELECT BIBLIOGRAPHY

- High Brayal, Nigel Dunnean and Richard Crimes, Clinical Legal Education: Active Learning in your Law School, (1998) Blackstone Press Limited, London**
- S.K.Agrawal (Ed.) Legal Education in India (1973), Tripathi, Bombay.**
- N.R. Madhava Menon, (ed) A Handbook of Clinical Legal Education, (1998) Eastern Book Company Lucknow.**
- M.O.Price, H.Bitner and Bysiewicz, Effective Legal Research (1978)**
- Pauline V. Young, Scientific Social Survey and Research, (1962)**
- William J. Grade and Paul K. Hatt, Methods in Social Research, Mc Graw-Hill Book Company, London**
- H.M.Hyman, Interviewing in Social Research (1965)**
- Payne, The Art of Asking Questions (1965)**
- Erwin C. Surrency, B.Fielf and J. Crea, A Guide to Legal Research (1959)**
- Morris L. Cohan, Legal Research in Nutshell, (1996), West Publishing Co.**
- Havard Law Review Association, Uniform System of Citations**
- ILI Publication- Legal Research and Methodology**

PAPER-III: CORE COURSE

LAW OF INDUSTRIAL AND INTELLECTUAL PROPERTY

OBJECTIVES OF THE SUBJECT

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 (biotechnology) should receive special attention. Evidentiary aspects of infringement, and human right dimensions of the regime of intellectual property law will also be ad

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

1. IPR and International Perspectives

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

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

- 3.1. United Nations approaches (UNCTAD, UNCITRAL)
- 3.2. EEC approaches
- 3.3. Position in U.S.
- 3.4. The Indian situation.

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

5. Biotechnology Patents:

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

6. Patent Search, Examination and Records:

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

7. Special Problems of Proof of Infringement:

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

8. Intellectual Property and Human Right

- 8.1. Freedom of speech and expression as the basis of the regime of intellectual property right – Copy right protection on internet - WCT (WIPO Copyright Treaty, 1996)
- 8.2. Legal status of hazardous research protected by the regime of intellectual property law.
- 8.3. Human right of the impoverished masses intellectual property protection of new products for Health care and food security
- 8.4. Traditional knowledge - protection- biodiversity convention- right of indigenous people.

SELECT BIBLIOGRAPHY

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

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

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

David Bainbridge, *Software Copyright Law* (1999), Butterworths

Sookman, *Computer Law* (1998), Carswell

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

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

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

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

PAPER-IV: CORE COURSE

LEGAL REGULATION OF ECONOMIC ENTERPRISES

OBJECTIVES OF THE SUBJECT

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. This course is designed to acquaint the students of the eco-legal perspectives and implications of such developments. It will comprise of about 42 units of one-hour duration each spread over a period of one semester.

1. The Rationale of Government Regulation

- 1.1. Constitutional perspectives
- 1.2. The new economic policy - Industrial policy resolutions, declarations and statements
- 1.3. The place of public, small scale, co-operative, corporate, private and joint sectors -in the Changing context
- 1.4. Regulation of economic activities
 - 1.4.1. Disclosure of information
 - 1.4.2. Fairness in competition
 - 1.4.3. Emphasis on consumerism

2. Development and Regulation of Industries

- 3. Take-over of Management and Control of Industrial Units**
- 4. Sick Undertakings: Nationalization or Winding Up?**
- 5. Licensing Policy and Legal Process - Growing Trends of Liberalization**
- 6. Deregulation of essential commodities: developmental sign or a social mishap?**
- 7. Financial Services: Changing Techniques of Regulation**
- 8. Critical Issues Regarding the Capital Issues**
 - 8.1. Equity and debt finance
 - 8.2. Global depositories
 - 8.3. De-materialized securities
- 9. Problems of Control and Accountability: Regulation of Hazardous Activity**
 - 9.1. Mass disaster and environmental degradation: legal liability and legal remedies
 - 9.2. Public Liability Insurance: adequacy
 - 9.3. Issues in zoning and location of industrial units
- 10. Special Aspects of Legal Regulation of Select Public Enterprises (Universities may select some such representative public enterprises for transport, mining and energy).**
 - 10.1. Telecom Regulatory Authority
 - 10.2. Insurance Regulatory Authority
 - 10.3. Broadcasting Regulatory Authority
- 11. Legal Regulation of Multi-Nationals**
 - 11.1. Collaboration agreements for technology transfer
 - 11.2. Development and regulation of foreign investments
 - 11.2.1. Investment in India: FDIs and NRIs
 - 11.2.2. Investment abroad

SELECT BIBLIOGRAPHY

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

Industrial Policy Resolutions of 1948, 1956, 1991

Industrial Licensing Policy 1970, 1975

Industrial Policy Statements 1973, 1977, 1980

Reports of Committees on Public Undertakings of Parliament

Industries (Development and Regulation) Act, 1951

U. Baxi (Ed.) Inconvenient Forum and Convenient Catastrophe the Bhopal Case, (1986) U. Baxi & T. Paul (Eds)

Mass Disasters and Multinational Liability (1986)

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

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

SEMESTER – II

PAPER: V COMPULSORY FOUNDATION COURSE

LAW AND SOCIAL TRANSFORMATION

OBJECTIVES OF THE SUBJECT

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 endeavour is to make the students aware of the role the law has played and has to play in the contemporary Indian society. The following syllabus prepared with this perspective will be spread over a period of one semester.

1. Law and Social Change

- 1.1. Law as an instrument of social change.
- 1.2. Law as the product of traditions and culture. Criticism and evaluation in the light of colonization and the introduction of common law system and institutions in India and its impact on further development of law and legal institutions in India.

2. Religion and the Law

- 2.1. Religion as a divisive factor.
- 2.2. Secularism as a solution to the problem.
- 2.3. Reform of the law on secular lines: Problems.
- 2.4. Freedom of religion and non-discrimination on the basis of religion.
- 2.5. Religious minorities and the law.

3. Language and the Law

- 3.1. Language as a divisive factor: formation of linguistic states.
- 3.2. Constitutional guarantees to linguistic minorities.
- 3.3. Language policy and the Constitution: Official language; multi-language system.
- 3.4. Non-discrimination on the ground of language.

4. Community and the Law

- 4.1. Caste as a divisive factor
- 4.2. Non-discrimination on the ground of caste.
- 4.3. Acceptance of caste as a factor to undo past injustices.
- 4.4. Protective discrimination: Scheduled castes, tribes and backward classes.
- 4.5. Reservation; Statutory Commissions., Statutory provisions

5. Regionalism and the Law

- 5.1. Regionalism as a divisive factor.
- 5.2. Concept of India as one unit.
- 5.3. Right of movement, residence and business; impermissibility of state or regional barriers.
- 5.4. Equality in matters of employment: the slogan "Sons of the soil" and its practice.
- 5.5. Admission to educational institutions: preference to residents of a state.

6. Women and the Law

- 6.1. Crimes against women.
- 6.2. Gender injustice and its various forms.
- 6.3. Women's Commission.
- 6.4. Empowerment of women: Constitutional and other legal provisions.

7. Children and the Law

- 7.1. Child labour.
- 7.2. Sexual exploitation.
- 7.3. Adoption and related problems.
- 7.4. Children and education.

8. Modernization and the Law

- 8.1. Modernization as a value: Constitutional perspectives reflected in the fundamental duties.
- 8.2. Modernization of social institutions through law.
 - 8.2.1. Reform of family law
 - 8.2.2. Agrarian reform - Industrialization of agriculture.
 - 8.2.3. Industrial reform: Free enterprise v. State regulation - Industrialisation v. environmental protection.
- 8.3. Reform of court processes.
 - 8.3.1. Criminal law: Plea bargaining; compounding and payment of compensation to victims.
 - 8.3.2. Civil law: (ADR) Confrontation v. consensus; mediation and conciliation; Lok adalats.
 - 8.3.3. Prison reforms.
- 8.4. Democratic de-centralization and local self-government.

9. Alternative approaches to Law

- 9.1. The jurisprudence of Sarvodaya--- Gandhiji, Vinoba Bhave; Jayaprakash Narayan-Surrender of dacoits; concept of Grama Nyayalayas
- 9.2. Socialist thought on law and justice: An enquiry through constitutional debates on the right to property.
- 9.3. Indian Marxist critique of law and justice.
- 9.4. Naxalite movement: causes and cure.

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PAPER-VI: CORE COURSE

CORPORATE LAW

1. Introduction:

- 1.1 Nature, purposes and types of business enterprises.
- 1.2 Economic themes in the development of modern company law.
- 1.3 Classification of companies.
- 1.4 Concept and theories of corporate personality .
- 1.5 Doctrine of Lifting the Corporate Veil
- 1.6 Administration of Company Law- Authorities, their composition, powers and jurisdiction.

2. Formation of company.

2.1 Promotion and pre-incorporation contracts.

- 2.1.1 Concept of Promotion
- 2.1.2 Rights and Duties of Promoters
- 2.1.3 Pre-incorporation contracts.

2.2 The Mechanics of Company Formation.

- 2.2.1 Formation formalities.
- 2.2.2 Memorandum of Association:
 - i) Meaning, nature and content (Requirements under company and other legislations)
 - ii) Doctrine of ultra virus - Scope, Effect, Remedies and Reform of the doctrine.
 - iii) Amendment of MOA.

2.3 Articles of Association:

- 2.3.1 Meaning and nature.
- 2.3.2 Doctrine of indoor management - Scope, Effect and Exceptions.
- 2.3.3 Amendment of AOA.

3. Concept of Capital and Financing of Companies

3.1 Economic and legal concept of capital

3.2 Sources of capital Depositories, Public Financial Institutions, Mutual Funds, FDI and NRI investments.

3.3 Kinds of Capital, Alteration, Reduction and Issue of Capital

3.4 Share - Definition, Kinds, Classes of Shares, Allotment, Transfer, Transmission of Shares and Buy back of Shares.

3.5 Debenture - Definition, Kinds and Rights of Debenture Holders, Charges, New Developments in Corporate Financing.

3.6 Inter- corporate Loans and Investments

4. Oppression & Mismanagement and Investigation

4.1 Rule in Foss v. Harbottle

4.2 Prevention of Oppression

4.3 Prevention of Mismanagement

4.4 Role & Powers of the Company Law Board

4.5 Role & Powers of Central Government

5. Corporate Liquidation

5.1 Winding up of Companies

5.2 Mode of winding up of the companies

5.3 Compulsory Winding up under the Order of the Tribunal

5.4 Voluntary winding up

6. Corporate Governance and Social Responsibility

6.1 Importance of Corporate Governance

6.2 Different system of Corporate Governance

6.3 Impact of Legal Traditions and the Rule of Law on Corporate Governance

6.4 Legal Reforms of Corporate Governance in India

6.5 Reports of the various Committees on Corporate Governance

7. Equity Finance

7.1. Share capital

7.2 Prospectus - information disclosure

7.3 Issue and allotment

7.4 Shares without monetary consideration

8. Debt Finance

8.1 Debentures

8.2 Nature, issue and class

- 8.3 Deposits and acceptance
- 8.4 Creation of charges
- 8.5 Fixed and floating charges

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- a) **Gover's Principles of Company Law, 5th Edn. 1992, Sweet and Maxwell**
- b) **Iyengar, T.R. Srinivasa : Company Promotion, Management & Incorporation ,2nd Ed. The Law Book Co (P) Ltd.**
- c) **Dr.K.R. Chandratre : Transfer and Transimission of Shares and Debentures 3rd Ed. 1996 Bharat Law House Publication.**
- d) **Badjatya : Model object Clause of Memorandum of Association of a Company, 1995 Ed. Orient Publishing co.**
- e) **Ramaiya : Guide to the companies Act- (1998)**
- f) **Boyle and Birds - Company Law 3rd Edn. 1997 Universal Law Publishing Co.Pvt. Ltd.**
- g) **J.H. Farrar and B.M. Hanniyan, Farrar's Company Law (1998) Butterworths**
- h) **Altman and subrahmanyam - Recent Advances in Corporate Finance (1985) LBC.**
- i) **Y.D. Kulshreshta, Government Regulation of Financial Management of private Corporate sector in India (1986) Journals - Journal of Indian Law Institute, Corporate Law Cases, Chartered Secretary, Law and Contemporary Problems. Statutory Materials - Companies Act**

PAPER-VII: CORE COURSE

COMPANY AND SECURITIES LAW

1. Introduction

2. Concept of Corporate Governance

2.1 Directors and other Managerial Personnel

2.2 Qualification, Disqualification, Appointment and Removal

2.3 Powers, Position, Duties, Liabilities and Remuneration of Directors

3. Managing Director

3.1 Manager and sole selling agents.

3.2 Meetings of company

3.3 Oppression and Mismanagement

3.4 Meaning of and Relief against Oppression and Mismanagement.

4. Regulation of companies by disclosure of information

4.1 Themes underlying disclosure of information.

4.2 Auditors - Appointment, Qualification, Disqualification and Removal

4.3 Audit committee.

4.4 Investigation of affairs of companies - inspectors and their powers, inspectors' report.

5. Amalgamation

5.1 Definition

5.2 Meaning

5.3 Take over

5.4 Mergers

6 Corporate collapses - Winding up of company

6.1 Meaning and kinds

6.2 Grounds for compulsory winding up

6.3 Appointment, Powers and Duties of Liquidator

6.4 Contributory

7 International Dimensions of Company Law

7.1 Multinational and Transnational Companies

7.2 Meaning, Growth and Regulation

7.3 Cross- frontier mergers

7.4 International Competition and International Co-operation.

8 Securities Laws in India

8.1 Security Contract (Regulation) Act, Control of Capital Market

8.2 National Stock Exchange /Recognized Stock Exchange / OTC Exchange

8.3 Contracts and Options in Securities, Derives, Listing of Securities

8.4 SEBI ACT and Guidelines.

8.4 Depositories Act - Demitting of Shares

SELECT BIBLIOGRAPHY

- a) Prof. I.C.B. Gover's Modern Principles of company law 5th Edn 1992, Sweet and Maxwell.
- b) Boyle and Birds- Company Law
- c) V.H. Farrar and B. M. Hanniyan, Farrar's Company Law (1998) Butter worth
- d) Ramaiya: Guide to the companies Act, (1998)
- e) Thayil Philip and Iyengar, T.R. Srinivasa - companies Director (their Rights, Duties, Power, Obligations, Appointments, Classifications, Removal, Resignation etc.) 2nd Edn - Law Book Co.(p) Ltd.
- f) Iyengar, T.R. Srinivasa : Company Promotion, Management and incorporation, 2nd edn. The Law Book co (p) Ltd.
- g) Dr. K.R. Chandratre, Bipin S. Acharya, Dr. S.D. Israni , K. Sethuraman: compendium on SEBI- Capital issues and Listing – 3rd Edn. 1996 Bharat law House publication
- h) Bharats Manual of SEBI, 2000, Bharat Law Journals: - Same as under Paper IV.

PAPER-VIII: ELECTIVE COURSE (STUDENT SHOULD SELECT ANY ONE)

A. BANKING LAW

OBJECTIVES OF THE SUBJECT

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

1. Nature and Development of Banking

- 1.1. History of banking in India-indigenous banking-evolution of Banking in India-
Different kinds of Banks and their functions
- 1.2 Multi-functional Banks - Growth and Legal issues.

2. Law Relating to Banking Companies in India

- 2.1. Controls by government and its agencies.
 - 2.1.1. On management
 - 2.1.2. On accounts and audit
 - 2.1.3. Lending
 - 2.1.4. Credit policy
 - 2.1.5. Reconstruction and reorganization
 - 2.1.6. Suspension and winding up
- 2.2. Contract between banker and customer: their rights and duties

3. Social Control over Banking

- 3.1. Nationalization
- 3.2. Evaluation: private ownership, nationalization and disinvestment
- 3.3. Protection of depositors
- 3.4. Priority lending
- 3.5. Promotion of under privileged classes

4. Deposit Insurance

- 4.1 The Deposit Insurance Corporation Act 1961: objects and reasons
- 4.1.2 Establishment of Capital of DIC
- 4.1.3 Registration of banking companies insured banks, liability of DIC to depositors
- 4.1.4 Relations between insured banks, DIC and Reserve Bank of India

5. The Central Bank

- 5.1. Evolution of Central Bank
- 5.2. Characteristics and functions
- 5.3. Economic and social objectives
- 5.4. The Central Bank and the State - as Bankers' bank
- 5.5. The Reserve Bank of India as the Central Bank
 - 5.5.1. Organizational structure
- 5.6. Functions of the RBI
 - 5.6.1. Regulation of monetary mechanism of the economy
 - 5.6.1.1. Credit control
 - 5.6.1.2. Exchange control
 - 5.6.1.3. Monopoly of currency issue
 - 5.6.1.4. Bank rate policy formulation
- 5.7. Control of RBI over non-banking companies
 - 5.7.1. Financial companies
 - 5.7.2. Non-financial companies

6. Relationship of Banker and Customer

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

7. Negotiable Instruments

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

8. Lending by Banks

- 8.1. Good lending principles
 - 8.1.1. Lending to poor masses
- 8.2. Securities for advances
 - 8.2.1. Kinds and their merits and demerits

- 8.3. Repayment of loans: rate of interest, protection against penalty
- 8.4. Default and recovery
 - 8.4.1. Debt recovery tribunal

9. Recent Trends of Banking System in India

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

10. Reforms in Indian Banking Law

- 10.1. Recommendations of committees: a review

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- Mitra, *The Law Relating to Bankers' Letters of Credit and Allied Laws*, (1998) University Book Agency, Allahabad.
- R.K. Talwar, *Report of Working Group on Customer Service in Banks*
- Janakiraman *Committee Report on Securities Operation of Banks and Financial Institution* (1993)
- Narasimham *Committee report on the Financial System* (1991)- *Second Report* (1999)

B. CYBER LAW

OBJECTIVES OF THE SUBJECT

The main objective of this course is to make students familiar with the developments that are being taking place in the different areas with the help of Computer Science and Information Technology. To acquaint the students with the national and international legal order relative to these

1. Fundamentals of Cyber Law

- 1.1 Conceptual and theoretical perspective of cyber law.
- 1.2. Computer and Web Technology
- 1.3 Development of Cyber Law – National and International Perspective

2. Cyber Law: Legal Issues and Challenges in India, USA and EU

- 2.1. Data Protection, Cyber Security,
- 2.2. Legal recognition of Digital Evidence
- 2.3 Recognition of liability in the digital world
- 2.4 Jurisdiction Issues in Transnational Crimes

3. Cyber Law: International Perspectives

- 3.1 Budapest Convention on Cybercrime
- 3.2 ICANN's core principles and the domain names disputes
- 3.3 Net neutrality and the EU electronic communications regulatory framework
- 3.4 Web Content Accessibility Guidelines (WCAG) 2.0

4. Cyber Law – Contemporary Trends

- 4.1 Impact of cyber warfare on privacy, identity theft
- 4.2 International law governing Censorship, online privacy, copyright regulations,
- 4.3 Online Intermediaries in the governance of Internet
- 4.4 Social Networking Sites vis-à-vis Human Rights.

5. Computer Security

- 5.1 Definition and Meaning
- 5.2 Network Security:
- 5.3 Email security
- 5.4 Web Security
- 5.5 Database Security
- 5.6 Operating System Security
- 5.7 E-commerce Security

6. Establishment of Authorities under IT Act

6.1 Controller

6.2 Certifying Authorities

6.3 Cyber Regulations Appellate Tribunal

6.4 Adjudicating officer

6.5 Functions and Powers of Authorities

7. Cyber and Computer Crimes

7.1 Introduction

7.2 Reasons for Cyber Crime

7.3 *Modes operandi* of Cyber Crime

7.4 Preventive measures of Cyber Crimes

7.5 Classification of Conventional and Cyber Crime

7.6 Distinction between Conventional and Cyber Crime

8. Information Technology Act, 2005 - Issues and Provisions

8.1 Evolution of I.T. Act - Genesis and Necessity

8.2 Digital/ Electronic Signature - Analysis in the background of Indian Laws

8.3 E-Commerce

8.4 E-Governance

8.5 E-Taxation

SELECT BIBLIOGRAPHY

1. **Yatindra Singh: Cyber Laws.**
2. **Ajit Narayanan and Bennum (ed.): Law, Computer Science and Artificial Intelligence.**
3. **Linda Brennan and Victoria Johnson: Social, ethical and policy implication of Information Technology.**
4. **Kamath Nandan : Law relating to Computer, Internet and E-Commerce.**
5. **Arvind Singhal and Everett Rogers: India's Communication Revolution: From Bullock Carts to Cyber Marts.**
6. **Lawrence Lessing: Code and other Laws of cyberspace.**
7. **Mike Godwin: Cyber Rights defencing free speech in the Digital Age.**
8. **Cyber Law in India by Farooq Ahmad- Pioneer Books**
9. **Information Technology Law and Practice by Vakul Sharma- Universal Law Publishing Co. Pvt. Ltd.**
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12. **Guide to Cyber Laws by Rodney D. Ryder- Wadhwa and Company, Nagpur**
13. **Digital Evidence and Computer Crime, 2nd ed. By Eoghan Casey- Academic Press, 2004**
14. **Scene of the Cybercrime: Computer Forensics Handbook by Syngress.**
15. **Introduction to Forensic Science in Crime Investigation By Dr. Smt. Rukmani Krishnamurthy**

SEMESTER – III

PAPER: IX COMPULSORY FOUNDATION COURSE

LEGAL RESEARCH METHODOLOGY AND CLINICAL LEGAL EDUCATION-II (PRACTICAL PAPER)

The paper on Legal Research Methodology and Clinical Legal Education will carry 100 marks. Totally this paper is Practical oriented Paper and for 100 Marks. Relating to Research Methodology, student will be required to submit two copies of the research project to the college one month before the examination of Third Semester.

a) Research Methodology. Project Work

- i) Doctrinal Research** - **25 Marks**
- ii) Non-Doctrinal Research** - **25 Marks**

Student has to select a topic relating to law in consultation with subject teacher at the beginning of the semester. By using research methodology students has to submit report (Doctrinal and Non Doctrinal) at the end of the semester.

b) Viva Voce

Viva Voce will be conducted by Internal/External Examiners Relating to project Work/Teaching and Research Methodology - **20 Marks**

c) Law Teaching - **30 Marks**

A topic is assigned to the student in advance and student has to deliver three lectures on the assigned topic for 40 minutes in the presence of subject teacher.

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

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

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

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

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

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

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ILI Publication- Legal Research and Methodology

PAPER: X CORE COURSE

CORPORATE FINANCE

OBJECTIVES OF THE SUBJECT

Industrialisation has played, and has to play, a very vital role in the economic development of India. In the post independent era, industrial development is regarded, and hence employed, as principal means in the strategy for achieving the goal of economic and social justice envisioned in the Constitution. Corporations, both public and private, are viewed as a powerful instrument for development. In a developing society like India enormous varieties of consumer goods are manufactured or produced. Obviously, the situation raises the issues of procuring, utilising and managing the finances. For this purpose a science of financial management techniques has been evolved. The faculties of commerce, business and management studies have since last decades started to impart instruction so as to turn out sufficiently well equipped and adequately trained financial personnel. However, the legal and juristic aspects of corporate finance have been more or less not effectively taken care of. In view of the above perspectives the broad objectives of this course may be formulated as follows- (i) To understand the economic and legal dimensions of corporate finance in the process of industrial development in establishing social order in the context of constitutional values (ii) To acquaint the students with the normative, philosophical and economic contours of various statutory rules relating to corporate finance (iii) To acquaint the students with the organisation, functions, lending, and recovery procedures, conditions of lending and accountability of international national and state financing institutions and also of commercial banks; and (iv) To acquaint the students with the process of the flow and outflow of corporate finance. The following syllabus prepared with the above perspective will be spread over a period of one semester.

1. Introduction

- 1.1. Meaning, importance and scope of corporation finance
- 1.2. Capital needs - capitalisation - working capital - securities-borrowings-deposits debentures
- 1.3. Objectives of corporation finance - profit maximisation and wealth maximization
- 1.4. Constitutional perspectives - the entries 37, 38, 43, 44, 45, 46, 47, 52, 82, 85, and 86 of List 1 – Union List; entry 24 of List 11 - State List

2. Equity Finance

- 2.1. Share capital
 - 2.1.1. Prospectus - information disclosure
 - 2.1.2. Issue and allotment
 - 2.1.3. Shares without monetary consideration
 - 2.1.4. Non-opting equity shares

3. Debt Finance

- 3.1. Debentures
 - 3.1.2. Nature, issue and class
 - 3.1.3. Deposits and acceptance

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

4. Conservation of Corporate Finance

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

5. Protection of creditors

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

6. Protection of Investors

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

7. Corporate Fund Raising

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

8. Administrative Regulation on Corporate Finance

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

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Jonathan Charkham, *Fair shares: the Future of Shareholder Power and Responsibility (1999)*,Oxford.

Ramaiya A, *Guide to the Companies Act (1998)*, Vol. I, II and III.

H.A.J. Ford and A.P. Austen, *Fords' principle of Corporations Law* (1999) Butterworths.
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 Y.D. Kulshreshta, *Government Regulation of Financial management of Private Corporate Sector in India* (1986)
 Journals - *Journal of Indian Law Institute, Journal of Business Law, Chartered Secretary, Company Law Journal, Law and Contemporary Problems.*
 Statutory Materials - *Companies Act and laws relating SEBI, depositories, industrial financing and information technology*

PAPER-XI: CORE COURSE

OBJECTIVES OF THE SUBJECT

SOCIAL SECURITY LEGISLATION

Social security is a necessary phenomenon of a welfare state. This course shall examine the various dimensions of labour security measures and seek linkages with social security would expose the students to the evolution and theory of concept of social security, social insurance and labour welfare. The objects to study this subject are: To study the laws regarding social security legislation in India and their judicial interpretation. To appreciate the legal problems connected with the coverage of the Statutes, nature and extent of the risks covered, types and extend of benefits, claims, settlement, procedures etc.

1. Labour Welfare and Security as a part of general Social Security from *laissez faire* to Welfare State

1.1 Origin and Development

1.2 Western Countries Charitable Institutions Professional Guilds Philanthropic Organizations
 Workmen's Compensation Law in England and USA

2.2 Eastern Societies in India: Collective Bargaining System

2.3 International norms on social security for labour: the ILO Measures

2. Constitutional Perspectives

2.1 Fundamental Rights: Realization of the rights through meaningful social security measures:
 Right to life

2.2 Right to adequate means of livelihood, free legal aid, public assistance in cases of unemployment, old age sickness and disablement

3. Towards an ideal Social Security Scheme:

3.1 Comprehensive and integrated social security: a utopian concept or a pragmatic approach

3.2 Funding

3.3 Benefits and beneficiaries

3.4 Role of Trade Unions

3.5 Social Security clauses in collective agreements

4. The Economics of Wages

4.1 Concepts of Minimum, Fair and Living Wages

4.2 Methods of Wages Fixation;

4.3 Wage Differentials Allowances and other Fringe Benefits

4.4 Minimum Wages Act, 1948: Aims, Objectives and Scope

5. Maternity Benefits Act, 1961

5.1 Definitions, Aims, Objective and Scope

5.2 Admissible Benefits and Eligibility

5.3 Criteria and Forfeiture

5.4 Powers and Duties of Inspectors

5.5 Offences and Penalties

6. Workmen's Compensation Act 1923

8.1 Aims, Objective and Scope

6.2 Definition, Substantive and Procedural Provisions regarding Compensation

6.3 Role of Workmen's Compensation Commissioner

7. Employees State Insurance Act, 1948

7.1 Aims, Objectives and Scope

7.2 Definition of Corporation

7.3 Standing Committee and Medical Benefit Council

7.4 Contribution, Kinds of benefits and eligibility

7.5 Conditions, Adjudication of Disputes and claims

8. Employees Provident Funds and Miscellaneous Provisions Act, 1952

8.1 Aims, Objectives and Scope

8.2 Definitions Central Boards and its Role Provident Fund Scheme

8.3 Deposit Linked Insurance Scheme

9.4 Family Pension Scheme

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4. T. A. Raj Gopal: Employees Provident Funds Act and Scheme (Laws of India Pvt Ltd., Madras, 1967)
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PAPER-XII: ELECTIVE COURSE (STUDENT SHOULD SELECT ANY ONE)

A. INSURANCE LAW

OBJECTIVES OF THE SUBJECT

As early as in 1601 one finds an excellent exposition of the insurance idea expressed in these words of an Act of British Parliament "the loss lighteth rather easily, upon many than heavily upon few". The insured person transfers from his own shoulders to the insurers, who, in return for agreeing to assume a potential risk of 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 rigors and financial losses. The function of insurance is to spread such loss arising from risks of life over a large number of persons. The operational framework of insurance idea is provided by the general principles of contract. The insurance policy, being a contract, is subject to all the judicial interpretative techniques. Besides, the insurance idea has a compensatory justice component. This brings it in the arena of the law of tort as well. It is even suggested that a fully grown and developed law of insurance may, if not totally displace, decrease the significance of the law of tort. This course is

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

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

1. Introduction

- 1.1. Nature of insurance contract, various kinds of insurance, proposal, policy, parties, consideration, need for utmost good faith, insurable interest, and indemnity.
- 1.2. Insurance policy, law of contract and law of torts-future of insurance: need, importance and place of insurance
- 1.3. Constitutional perspectives- the Entries 24,25,29,30,47 of List 1 Union List; 23, 24,of List III

2. General Principles of Law of Insurance

- 2.1. Definition, nature and history
- 2.2. The risk - commencement, attachment and duration
- 2.3. Assignment and alteration
- 2.4. Settlement of claim and subrogation
- 2.5. Effect of war upon policies

3. Indian Insurance Law: General

- 3.1. History and development
- 3.2. The Insurance Act 1938 and the Insurance Regulatory Authority Act 2000
- 3.3. Mutual insurance companies and cooperative life insurance societies
- 3.4. Double Insurance and re-insurance

4. Life Insurance

- 4.1. Nature and scope
- 4.2. Event insured against life insurance contract
- 4.3. Circumstances affecting the risk
- 4.4. Amounts recoverable under life policy
- 4.5. Persons entitled to payment
- 4.6. Settlement of claim and payment of money

5. Marine Insurance

- 5.1. Nature and Scope
- 5.2. Classification of marine policies
 - 5.2.1. The Marine Insurance Act, 1963
 - 5.2.2. Marine insurance
 - 5.2.3. Insurable interest, insurable value
 - 5.2.4. Marine insurance policy - condition. - express warranties construction of terms of policy
 - 5.2.5. Voyage-deviation
 - 5.2.6. Perils of the sea
 - 5.2.7. Assignment of policy
 - 5.2.8. Partial laws of ship and of freight, salvage, general average, particular charges
 - 5.2.9. Return of premium

6. Insurance Against Accidents

6.1. The Fatal Accidents Act, 1855

6.1.1. Objects and reasons

6.1.2. Assessment of compensation

6.1.3. Contributory negligence,

6.1.4. Apportionment of compensation and liability

6.2. The Personal Injuries (Compensation insurance) Act 1963

6.2.1. Compensation payable under the Act

6.2.2. Compensation insurance scheme under the Act-Compulsory insurance

7. Property Insurance

7.1. Fire insurance

7.2. The Emergency Risks (Factories) Insurance

7.3. The Emergency Risks (Goods) Insurance

7.4. Policies covering risk of explosion

7.5. Policies covering accidental loss, damage to property

7.6. Policies covering risk of storm and tempest

7.7. Glass-plate policies

7.8. Burglary and theft policies

7.9. Live stock policies

7.10. Goods in transit insurance

7.11. Agricultural insurance

8. Insurance Against Third Party Risks

8.1 The Motor Vehicles Act, 1988

8.1.1 Nature and scope

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

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

8.2 Liability Insurance

8.2.1 Nature and kinds of such insurance

8.2.2 Public liability insurance

8.2.3 Professional negligence insurance

9. Miscellaneous Insurance Schemes: New Dimensions

9.1 Group life insurance

9.2 Medi-claim, sickness insurance

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B. WOMEN AND CHILD LABOUR

OBJECTIVES OF THE SUBJECT

To impart knowledge to students about social status, legislative and judicial approach for the protection and empowerment of women at national and international level and to sensitize the students about issues relating to rights of women and their safety concern. To impart knowledge regarding the child rights and their protection at national and international level and also to sensitize the students about various issues and legal policies related to child rights.

1. Introduction

Status and Position of women: Vedic, Post Vedic, Medieval period and Contemporary India.

2. Rights and Protection of Women: International Perspective

Relevant provisions of: Universal Declaration on Human Rights (UDHR), Convention on Elimination of Discrimination Against Women (CEDAW), Convention Political Rights of Women, Convention on Nationality of Married Women, Convention on Elimination of Violence Against Women.

3. Rights and protection of women: National scenario

Position under general laws: Constitution of India, Criminal laws, Personal laws, Property laws, Industrial and Labour laws. Position under special laws: Dowry prohibition act, Domestic violence act, Pre-conception and prenatal diagnostic techniques (prohibition of sex selection) act, National Women Commission.

4. Contemporary issues and Special initiatives for women Law against Sexual harassment at workplace, National policies for girl child, National policies for the empowerment of women, Participation of women in politics, armed forces etc.

5. Acts and Statutes (As Amended)

1. The Constitution of India
2. The Indian Penal Code, 1860
3. The Indian Evidence Act, 1872
4. The Special Marriage Act, 1955
5. The Hindu Marriage Act, 1955
6. The Dowry Prohibition Act, 1961
7. The Medical Termination of Pregnancy Act, 1971
8. The Protection of Women from Domestic Violence Act, 2005

9. The Equal Remuneration Act, 1976
10. The National Commission for Women Act, 1990
11. The Prevention of Sexual Harassment Act, 2013
12. The Report of Justice Verma Committee

5. Legislative approach

Place of child in Indian Constitution with special reference to Article 15(3), Article 24, Article 39 (e) and (f), Article 45, Protection of child through different legislations, National Commission for Protection of Child Rights: mandate, constitution and powers.

6. International Regime

ILO Convention on Child Labour 1999, United Nation Conventions on the Right of Child 1989, UN Convention on Child Prostitution and Child Pornography 2000, Role of UNICEF for the protection of child rights.

7. **Educational Right:** Article 21-A of Indian Constitution, Right of children to free and compulsory education, Corporal punishment at school, Critical analysis of Mid-day meal scheme

8. Acts and Statutes (As Amended in India)

1. The Commissions for the Protection of Child Rights Act, 2005
2. The Prohibition of Child Marriage Act, 2006
3. The Juvenile Justice (Care and Protection of Children) Act, 2000
4. The Protection of child from sexual offences Act 2012

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SEMESTER – IV

PAPER: XIII COMPULSORY FOUNDATION COURSE

DISSERTATION

INTERNAL AND EXTERNAL EXANINERS

- A. WRITTEN WORK- DESSERTATION ON THE GIVEN TOPIC – 150 MARKS**
B. VIVA-VOCE – 75 MARKS

Dissertation Rules and Regulations

- 1] Student should submit 3 copies of dissertation along with 2 soft copies (CDs)
1st Copy to external
2nd Copy to Internal
3rd Copy to Library
[Student should keep one extra copy with him/her]

PAPER: XIV ELECTIVE COURSE (STUDENT SHOULD SELECT ANY ONE)

A. JUDICIAL PROCESS AND RULE OF LAW

OBJECTIVES OF THE SUBJECT

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 employed in the process. Since the ultimate aim of any legal process or system is pursuit of justice, a systematic study of the concept of justice and its various theoretical foundations is required. This paper, therefore, intends to familiarize the students with various theories, different aspects and alternative ways, of attaining justice. The following syllabus prepared with the above perspective will spread over a period of one semester Syllabus.

1. Nature of judicial process

- 1.1. Judicial process as an instrument of social ordering
1.2. Judicial process and creativity in law - common law model - Legal Reasoning and growth of

law – change and stability.

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

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

2. Special Dimensions of Judicial Process in Constitutional Adjudications.

2.1. Notions of judicial review

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

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

2.4. Varieties of judicial and juristic activism

2.5. Problems of accountability and judicial law-making.

3. Judicial Process in India

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

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

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

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

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

4. The Concepts of Justice

4.1. The concept of justice or Dharma in Indian thought

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

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

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

5. Relation between Law and Justice

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

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

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

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

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B. PREVENTION AND CONTROL OF POLLUTION

OBJECTIVES OF THE SUBJECT

Pollution hazards bring the worst harm to the environment. Legal measures are attempted to prevent or control various kinds of pollution. Can land, water, air and other pollution hazards be prevented or controlled effectively by criminal sanctions especially in a developing country like India? What other legal strategies can be adopted at this level? One has to be a critic of the existing laws and to look forward to desirable mechanism of control over pollution hazards. This paper aims at shedding light on these areas.

1. Pollution

- 1.1. Meaning, nature and definition
- 1.2. Kinds of pollution and their impact

2. Pollution of Water

- 2.1. Definition
- 2.2. Sources of water pollution
- 2.3. Critique of existing laws
 - 2.3.1. Machinery
 - 2.3.2. Powers
 - 2.3.3. Functions
 - 2.3.4. Offences and penalties

3. Pollution of Air

- 3.1. Pollutants and effects
- 3.2. Modalities of control
- 3.3. Conflicts of Jurisdiction of different control
- 3.4. Agencies
- 3.5. Critique of existing legal framework

4. Noise Pollution

4.1. Meaning, nature and definition

4.2. Sources and effects

4.3. Different Legal Controls.

4.4. Need for specific law

5. Disposal of Waste

5.1. Kinds of wastes

5.2. Disposal Agencies

5.3. Disposal and recycling of wastes

6. Land Pollution

6.1. Meaning and nature

6.2. Sources

6.3. Critique of existing laws

6.3.1. Machinery

6.3.2. Powers and functions

7. Radiation Pollution

7.1. Various sources of Radiation Pollution

7.2. Harmful effects of Radiation

8. Sanctions against pollution

8.1. Efficiency of criminal and civil sanction

8.2. Corporate liability, civil and criminal

8.3. Incentives to pollution control

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