# POST GRADUATE DIPLOMA IN AIR & SPACE LAW COURSE CONTENT

#### PAPER-I

# **INTRODUCTION TO AIR LAW**

- Definition, Nature, Scope and Sources of Air Law:Freedom and Sovereignty in the Air
- \* Development of Air Law: Origin of Air Law-Theories of Airspace-Aerial Navigation
- Basic Principles of Air Law: Principle of Exclusive and Total Sovereignty of State over their Air Space-Principle of theFreedom of the Fighters in International Air Space-Principle of Ensuring the Security of International Civil Aviation Organisition (ICAO)
- Conventions relating to Aerial Navigation: Paris Convention, 1919-Havana Convention, 1928-Warsaw Convention, 1929-Chicago Convention, 1944
- International Civil Aviation Organization(ICAO): Organizational Structure-Legislative-Administrative and Judicial Functions-Dispute Settlement Mechanism of ICAO

#### PAPER-II

#### **FUNDAMENTALS OF AVIATION LAW**

- \* International Air Law: Origin & Development of Aviation Law in USA, UK, & EU
- Chicago Convention and the Fundamental Principles: Scheduled and Non-Scheduled Air Traffic-Airline Cooperation-Nationality of Aircrafts-Rules on Airports-Jurisdiction
- Carriers' Liability under the Warsaw Convention: Applicability-Carriage Documents-Extent of the Liability of Carrier-Duration of the Liability-Jurisdiction and Procedural Aspects
- Domestic Air Law: Aircraft Regulations Pre & Post-Aircraft Act, 1934-Aircraft Rules, 1937&Related Amendments
- Development of International Legal Regime: Implementation of International Air Law in India

# **PAPER-III**

# AVIATION LIABILITY AND LAW ON AIR TRANSPORT

- Product Liability in Aviation: Concept of Product Liability-Strict Liability in Aviation-Crashworthiness-Punitive Damages-Codification of Product Liability
- Liability Insurance in Aviation: Development of Aviation Liability Insurance-Risk Evaluation-Aviation Hull Insurance-Carriers' Liability Insurance-Flying Personnel Insurance-Insurance against Hijacking of Aircrafts
- Liability for Damage Caused on Surface and During Collisions: Non-applicability of the Warsaw System-Relevance of the Rome Convention and Montreal Protocol-Risk Liability of the Operator-Liability for Noise, Sonic Boom and Crop-Dusting Air Collisions
- Carrier Liability: Air Carrier Liability for Passenger Death or Injury-Loss and Damage of Air Freight-Surface Liability-Manufacturer Liability
- Law on Air Transport:Bilateral Air Transport Agreements-Traffic Rights and Air Transport Agreements-Competition Law and Air Alliances

#### **PAPER-IV**

# AVIATION LAW ON SAFETY AND SECURITY

- Legal Regime Governing Crimes on Board Aircrafts: Problem of Jurisdiction and Applicable Lawsto try the Offenses on Board Aircrafts-Aviation Terrorism
- Aircraft Hijacking: The Tokyo Convention-The Hague Convention to Combat Hijacking-The Montreal Convention and the Safety of Civil Aviation- Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, 2010
- Security Regulations: ICAO &Directorate General of Civil Aviation (DGCA) Regulatory Approach on Safety
- Regulations in India: Air Safety Provisions, Air Space & Air Traffic Management-Airline Management-State obligation to Provide Air Navigation Services
- New Development in Air Law: Technological Development and Problem in Civil Aviation- Airport Management, Problems in Application of Air Laws-Liability in International Civil Aviation

# PAPER-V

### **INTRODUCTION TO SPACE LAW**

- Nature, Definition & Scope of Space Law: Development and Sources-Demarcation of Outer Space-Space Technology-Use of Space Technology-RemoteSensing-Disaster Prediction, Warning and Mitigation-Management of Earth Resources-Satellite Navigation and Location-Space Communication-Satellite Broadcasting and Telecommunication
- Development of the Space Law: UN General Assembly Resolutions-International Co-Operation for Peaceful Use-Shift from Air Law to Space Law
- Fundamental Principles: Province of all Mankind-Freedom of Exploration, Use and Scientific Investigation-Jurisdiction and Control-Cooperation between the States-Astronauts-Envoys of Mankind
- Space Treaties: Space Treaty,1967-Rescue Agreement, 1968-Liability Convention, 1975-Registration Convention, 1975-Moon Treaty, 1979-Partial Test Ban Treaty 1963-Weather Modification Convention,1977
- International and Inter-Governmental Organizations: Bilateral Agreement in Space Activity-Organization of Space Activities-Department of Space (DOS) and Indian Space Research Organisation (ISRO)

#### **PAPER-VI**

# **SPACE LAW AND OTHER REGULATORY ISUUES**

- Liability and Registration: Launching State and Registering State-Liability andResponsibility Regime under the Outer Space Treaty-Absolute Liability and Fault Liability- State Liability& Responsibility for Private Space Activities-Registration and Identification
- System of Financing Outer Space Activities: Increasing Private Space Activities-Asset-Based Financing-UNIDROIT Convention and Draft Space Protocol
- National Space Legislation: Need for National Space Legislation-Commerce Oriented Approach-US, Australian, Russian & UK Models-Indian Position
- Current Development in Space Law: International Space Law Regime and Protection of Environment-Property Rights in Outer Space-Intellectual Property Rights Created in Outer Space-Space tourism
- Emerging Issues of Space Settlements & Property Rights: Question of State Sovereignty and Claim of Property Rights-Human Habitation on the Moon and Other Celestial Bodies-Protection of the Space Environment-Demilitarization of the Outer Space-International Space Station-Inventions in Outer Space

# **Recommended Readings:**

- 1. Allan I. Mendelsohn, "The Warsaw Convention and Where We Are Today", 62 *Journal* of Air Law and Commerce 1071-1082 (1996-1997).
- 2. Andre Kaftal, "The Problem of Liability for Damages Caused by Aircraft on the Surface", V (3) *Journal of Air Law* 347-409 (1934).
- 3. Anthony J. Ortner, "Sonic Boom: Containment or Confrontation", 34 *Journal of Air Law and Commerce* 208-222 (1968).
- 4. Bin Cheng, Studies in International Space Law (Clarendon Press, Oxford, 1997).
- 5. Chia-Jui-Cheng and Doo Hwan Kim, *The Utilization of the World's Airspace and Free Outer Space in the 21st Century* (Kluwer Law International, Hague, 2000).
- 6. Donald M. Haskell, "The Aircraft Manufacturer's Liability for Design and Punitive Damages-The Insurance Policy and the Public Policy", 40 *Journal of Air Law and Commerce* 595-635 (1974).
- 7. Douglas A. Harrison, "Aviation 'Crashworthiness': An Extrapolation in Warranty, Strict Liability and Negligence", 39 *Journal of Air Law and Commerce* 415-432 (1973).
- 8. E. Howard Osterhout, "The Doctrine of Res Ipsa Loquitur as Applied to Aviation", 2 *Air Law Review* 9-28 (1931).
- 9. Elmar Giemulla, et al., Montreal Convention (Wolters Kluwer, Netherlands, 2010).
- 10. Eugene Pepin, "ICAO and Other Agencies Dealing with Air Regulation", 19 Journal of Air Law and Commerce 152-165 (1952).
- 11. Frederick B. Lacey, "Recent Developments in the Warsaw Convention", 33 Journal of Air Law and Commerce 385-401(1967).
- 12. George N. Tompkins, Jr., *Liability Rules Applicable to International Air Transportation as Developed by the Courts in the United States* (Wolters Kluwer, Netherlands, 2010).
- 13. Guy H. Riddle, "Aviation Insurance Coverage Issues: Beware the Renter Pilot", 70 *Journal of Air Law and Commerce* 407-428 (2005).
- 14. I. H. Ph. Diederiks-Verschoor, *An Introduction to Space Law* (Kluwer Law International, Hague, 2008).
- 15. I. H. Ph. Diederiks-Verschoor, *An Introduction to Air Law* (Kluwer Law International, Netherlands, 2006).
- 16. J. C. Batra, "Modernization of the Warsaw System Montreal 1999", 65 Journal of Air Law and Commerce 429-444 (1999-2000).
- 17. J. C. Batra, International Air Law (Reliance Publishing House, New Delhi, 2003).
- 18. J. G. Gazdik, "Nationality of Aircraft and Nationality of Airlines as Means of Control in International Air Transportation", 25(1) *Journal of Air Law and Commerce* 1-7 (1958).
- 19. Lawrence B. Goldhirsch, *The Warsaw Convention Annotated: A Legal Hand Book*, (Kluwer Law International, Hague, 2000).
- 20. Lord McNair, The Law of the Air (Stevens & Sons, London, 1964).
- 21. Mairin K. North, "Current State of the Law in Aircraft Noise Pollution Control", 43 *Journal of Air Law and Commerce* 799-822 (1977).
- 22. NandasiriJasentuliyana (ed.), Space Law-Development and Scope (Praeger, London, 1992).

- 23. P.P.C. Haanappel, *The Law and Policy of Air Space and Outer Space* (Kluwer Law International, Hague, 2003).
- 24. Paul Stephen Dempsey, "The Role of the International Civil Aviation Organization on Deregulation, Discrimination, and Dispute Resolution", 52 *Journal of Air Law and Commerce* 529-28 (1986-1987).
- 25. Peter Martin, et al., Air Law (Butterworths, London, 1977).
- 26. Rod D. Margo, "Aspects of Insurance in Aviation Finance", 62 Journal of Air Law and Commerce 423-478 (1996-1997).
- 27. Sa'idMosteshar (ed.), *Research and Inventions in Outer Space-Liability and Intellectual Property Rights* (MartinusNijhoff, London, 1995).
- 28. Sandeepa Bhat B. (ed.), *Space Law in the Era of Commercialization* (Eastern Book Company, Lucknow, 2010).
- 29. Sandeepa Bhat B. (ed.), *Outer Space Law: From Theory to Practice* (Icfai University Press, Hyderabad, 2009).
- 30. V. S. Mani et al., Recent Developments in International Space Law and Policy (Lancers Books, New Delhi, 1997).
- 31. V.S. Mani, S. Bhatt and V. Balakista Reddy (ed.), *Recent Trends in International Space Law & Policy* (Lancers Books, New Delhi, 1997).
- 32. Wallace E. Maloney, "Current Trends in Aviation Product Liability Law", 36 *Journal of Air Law and Commerce* 514-549 (1970).



Jamia Millia Islamia جامعة ملتيه اسامية

A Central University (NAAC Accredited 'A' Grade)

# **POST-GRADUATE DIPLOMA IN LABOUR LAW**

# **COURSE CONTENT**

# FACULTY OF LAW JAMIA MILLIA ISLAMIA NEW DELHI-25

# Paper - I

# **INDUSTRIAL RELATIONS AND THE LAW**

- Industrial Relations: Genesis, Concept and Emerging Patterns; Parties to Industrial Relations; Role and interaction of Trade Unions-Employers (Management) and the State in Labour Welfare.
- Trade Unions: Concept, Growth and Structure with special reference to India, UK, USA and Russia; Position of Trade Unions in India-Multiplicity of Trade Unions, Recognition of Trade Union movements, Central Trade Union Organisations, Role and functions, Role of Trade Union in Modern Industrial Society of India; Trade Union Rivalry.
- Industrial Disputes: Definitions Industry, Workman & Industrial Dispute; Concept of Collective Bargaining- Conditions Precedent, Merits & Demerits of Bargaining, Process-Collective Bargaining in India-Meaning; Nature and Scope - Strike and Lock Out: Definitions -Kinds of Strike - Legality and Illegality of Strike and Lockout; Lay off and Retrenchment- Concept & Procedure; Unfair Labour Practice.
- Workers Participation in Management: Indian and Foreign Experience-Historical Development in USA, UK and India
- \* Industrial Relation: Legislative and Judicial Perspectives

# **Relevant Legislations:**

- (a) The Indian Trade Union Act, 1926
- (b) The Industrial Disputes Act, 1947

### Leading Cases:

- (i) R.S. Ruikar v. Emperor A.I.R. 1935 Nag. 149
- (ii) Jay Engineering Work Ltd. v. State of West Bengal A.I.R.1968 Cal 406
- (iii) Rohtas Industries Ltd. v. Rohtas Industries Staff Union A.I.R. 1997S.C. 425
- (iv) L.I.C. of India v. D.T. Bahadur 1981 I.L.L. J.I. (S.C.)
- (v) Balmer Lawrie Worker Union Bombay v. Balmer Lawrie & Co. Ltd. 1984 I.L.L. J. 314 (S.C.)
- (vi) Bangalore Water Supply and Sewerage Board v. A. Rajappa A.I.R.1978 S.C. 548

# Paper II

# LABOUR WELFARE LEGISLATIONS AND INDUSTRIAL SOCIOLOGY

- Labour Welfare: Concept, Philosophy and Theories of Labour Welfare-The Industrial Employment (Standing Orders) Act, 1946- Application- Main Features of the Act-Definitions of Industrial Establishment & Standing Orders etc.-Submission of Draft Standing Orders-Duration and Modification -Powers of Certifying Officer.
- The Factories Act, 1948: Application-Main Features of the Act-Definitions-Factory, Hazardous Process, Manufacturing Process, Worker and Occupier-Approval-Licensing and Registration of Factories-Duties of the Occupier, Manufacturer & Importer etc.; Powers of Inspector; Provisions Relating to Health, Safety, Welfare, Hazardous Process, Employment of Adult and Young Persons, Role in Labour Welfare: Officers; Labour Welfare and Environment Pollution.
- Labour Welfare Legislations in India: The Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979-Need, Object, Aims & Scope; The Contract Labour (Regulation and Abolition) Act, 1970-Need, Object, Aims & Scope, Registration of Establishment Employing Contract Labour-Licensing of Contractors -Welfare and Health of Contract Labour-Penalties and Procedure.
- Industrial Sociology: Meaning, Scope and Development-Industrialization and Social Change- Social Problems of Industrial Relations.

### **Relevant Legislations:**

- (i) The Industrial Employment (Standing Orders) Act, 1946
- (ii) The Factories Act, 1948
- (iii) The Contract Labour (Regulation and Abolition) Act, 1970
- (iv) The Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

### Leading Cases:

- (i) Alembic Chemical Works v. The Workmen, A.I.R. 1961, S.C. 647
- (ii) V.P. Goplal Rao v. Public Prosecutor A.P. A. I.R. 1970 S.C. 66
- (iii) Labourers Working in Salal Hydro Project v. State of J.K. A.I.R. 1983 S.C. 177
- (iv) Rural Litigation and Entitlement Kendra Dehradun v. State of U.P. A.I.R. 1985. S.C. 652
- (v) Workmen of F.C.I. v. F.C.I. A.I.R. 1985 S.C. 670

# Paper III

# WAGES AND SOCIAL SECURITY LEGISLATIONS

- Wage Regulation: Genesis of Wage Regulation-Deduction Theory, Subsistence Theory, Cost of Production Theory, Wage Fund Theory, Theory of Marginal Productivity and Determinant Theory-Historical Development of Wage in India-Aims and Objectives of Minimum Wages Act, 1948- Constitutionality of the Act- National Commission on Labour
- Wages: Concepts of Minimum, Fair, Living and Need based Minimum Wages-Methods of Wage Fixation-Wages Differentials-Working of Wage Boards-Standardization of Wages-Factors in Wage Determination, Dearness Allowance and Fringe Benefits-National Wage Policy Protection of Wages- Fixation and Revision of Wages under Section 3 of the Act- Role of State and Central Advisory Boards, Social and Economic Factors
- Employers Liability: The Payment of Wages Act, 1936-Mode of Payment of Wages-Deduction from Wages-Penalty for Nonpayment of Wages; Employees Compensation Act, 1948 Disability and its Kinds-Loss of Physical Capacity-Loss of Earning Capacity-Employers Liability to Pay Compensation-Conditions in which employer may or may not pay compensation-Notional Extension of Employers Liability to Pay Compensation-Commissioner's Powers and Duties; The Equal Remuneration Act, 1976: Same Work or Work of Similar Nature-Obligations of Employer
- Bonus & Incentive Scheme: Development of the Concept of Bonus-Issue and Perspectives, Concepts of Profit-Staring; Meaning and Concept of Gratuity and Provident Fund
- Social Security Legislations: Meaning of Social Security, Social-Assistance and Social Insurance; Social Security and Social Justice and Main Characteristics of Social Security System; The Employer's State Insurance Act, 1948-Application and Scope-Constitutional Validity-Definitions-Employee, Family & Dependent, Employment, Injury and Workmen

### **Relevant Legislations:**

- (i) The Payment of Wages Act, 1936
- (ii) The Minimum Wages Act, 1948
- (iii) The Payment of Bonus Act, 1965
- (iv) The Equal Remuneration Act, 1976
- (v) The Employee Compensation Act, 1923
- (vi) The Employees State Insurance Act, 1948

- (vii) The Maternity Benefit Act, 1961
- (viii) The Payment of Gratuity Act, 1972

# Leading Cases:

- (i) B.E.S.T. Undertaking Bombay v. Mrs. Agens A.I.R. 1964 S.C. 193
- (ii) Royal Talkies Hyderabad v. E.S.I. Corporation F.J.R. 1978 S.C. 19
- (iii) Air India v. Nargesh Meerza A.I.R. 1981 S.C. 1830

### **Paper IV**

# LABOUR JURISPRUDENCE & INTERNATIONAL LABOUR ORGANISATION (ILO)

- International Labour Organization: Genesis, Development and Dimensions-Aims and Objectives-Organs of the International Labour Organization-ILO Legislative Procedure, Conventions, Recommendation-ILO Standard and Indian Ratification-ILO Conventions and Indian Labour Legislation with Special Reference to Labour Welfare Social Security, Human Rights and Social Justice
- Labour Jurisprudence: Concept & Growth of Labour Jurisprudence-Concept of Labour and Social & Natural Justice-Theory of Social Engineering and its Implementation through Labour Laws.
- Constitutional Philosophy & Labour Welfare Scheme: Constitution of India and Labour, Inter-relationship, Its Impact to Impart Justice to Weaker Sections, Children and Women
- Social Justice and Labour Laws: Labour Law and Public Interest Litigation, Legal Services Programme, Environmental Pollution and Human Rights Justice through Labour Laws
- Social Impact Assessment: Environmental Pollution Law & Procedure-The Environment Impact Assessment Notification, 2006-Regulation of Hazardous Industries: Legal and Institutional Framework; The National Green Tribunal Act 2010: Environmental Dispute Resolution and Machinery; The Public Liability Insurance Act, 1991: Need, Object, Aims & Scope-Compensation and Relief

### Leadings Cases:

- (i) Som Prakash v. Union of India A.I.R.1981 S.C. 212 (PF & Gratuity Case)
- (ii) Bandhua Mukti Morcha v. Union of India A.I.R. 1984 S.C. 802 (Bonded Labour & Child Labour (R&A)
- (iii) People Union for Democratic Rights & Others v. Union of India, 1982 II L.L.J. 454
  (S.C.) ISMW Act & Child Labour (R&A) Case
- (iv) National Textiles Workers Union v. Ram Krishna A.I.R. 1983 S.C. 759
- (v) Excel Wear v. Union of India 1978, L.C.J. 527 (S.C.) 25 (0) Industrial Dispute Act Case

# Paper V

# LABOUR ECONOMICS AND ORGANIZED AND UN-ORGANIZED LABOUR

- Labour Force in Organized and Unorganized Sector: Sources, Composition, Characteristics-Employment, Unemployment and Underemployment: Conceptual and Development Aspects; Unorganized Labour: Magnitude, Problems and Public Policy on Unorganized Labour
- Labour Legislations I: The Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979: Migrant Labour-Nature and Causes of Migration-Effect of Migratory Character-Registration of Establishments-Contractors-Licensing, Duties and Obligation of Contractors-Wages, Welfare and Facilities to Inter-State Migrant Workers
- Labour Legislations II: The Bonded Labour System (Abolition) Act, 1976: Aims, Object and Scope-Bonded Labour-Indian and International Scenario-Abolition of Bonded Labour-Implementation Authorities-Vigilance Committee-Offences and Procedure for Trail
- Employment Guarantee Scheme: Integrated Rural Development Programmes and Labour; Labour in Five-Year Plans-MNREGA
- Industrial Policy Resolutions and Development in Private and Public Sector: Industrial Development- Heavy, Large, Small- Scale; Cottage Industries, Location, Finance, Planning and Problems

# **Relevant Legislations:**

- (i) The Sales Promotion Employee's Act (Conditions of Service), 1976
- (ii) The Employment of Manual Scavengers and Construction of Dry Latrines Act, 1993
- (iii) The Dock Workers Act, (Regulation of Employment )1997
- (iv) The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013

# Paper VI

### PERSONNEL MANAGEMENT AND INDUSTRIAL PSYCHOLOGY

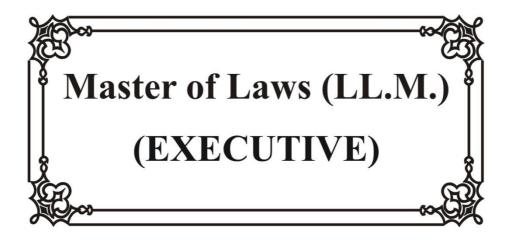
- Personnel Management: Concept, Definition, Scope and Purpose-Evolution and Schools of Management Thoughts-System Approach and Contingency Approach-Managerial Skills and Roles
- Personnel Policies: Man-Power Planning, Recruitment, Selection and Training, Induction, Job Placement including Worker's Education-Job Analysis and Evaluation and Performance Appraisal
- Role and Functions of Personnel Manager: Management of Discipline, Domestic Enquiry and Grievance Procedure; Scientific and Technical Advance vis-a-vis Personnel Management.
- Industrial Psychology: Nature, Scope and Functions; Motivation and Moral, Leadership Styles & Dynamics; Psychology of Attitudes-Hawthorne Experiment and their relevance in India
- Individual Behaviour in Formal Groups: Interpersonal and Inter-Group Relationship in Organization and their Impact on Organization

# Leading Cases:

- (i) North Brook Jute Co. Ltd v. Their Workmen A.I.R. 1960
- (ii) Monogram Mills Ltd. v. State of Gujarat 1976 II L.L.J. 174. (S.C.)
- (iii) Workmen of Willianmson vs Magor & Co. Ltd. v. Williamson Magor & Co. Ltd. 1982.
  L.L.J. 83 (S.C.)

#### **Selected Reference Books**

- 1. Aamodt, M.G., *Industrial/Organizational Psychology: An Applied Approach*, Thomson-Wadsworth, Belmont, California.
- 2. Monappa, Arun et. al., Industrial Relations & Labour Laws, Tata McGraw Hill, New Delhi.
- 3. Aswathappa, K., *Human Resource Management, Text and Cases*, Tata McGraw-Hill, New Delhi.
- 4. Bhargav A. (ed.), Labour Laws, Taxman Allied Services Pvt. Ltd., New Delhi.
- 5. Blum, M. L. & Naylor, J.C., *Industrial Psychology: Its Theoretical & Social Foundations*, CBS Publication, Harper & Row, New York.
- 6. Gisbert, Ascual S. J., *Fundamentals of Industrial Sociology*, Tata Mc Graw-Hill New Delhi.
- 7. Gomez, Meja & Balkin, Cardy, *Managing Human Resources*, Pearson Education, New Delhi.
- 8. Kapoor, N.D., *Elements of Industrial Law*, Sultan Chand & Sons, New Delhi.
- 9. Lester, R.A., Economics of Labour, Macmillan, New York.
- 10. Mamoria, C.B., Personnel Management, Himalaya Publishing House, New Delhi.
- 11. McConnell, C.R. and S.L. Brue, *Contemporary Labour Economics*, McGraw-Hill, New York.
- 12. Miner J.B., Industrial/Organizational Psychology, McGraw Hill, NY.
- 13. Nadkarni, Lakshmi, Sociology of Industrial Worker, Rawat Publications, Jaipur.
- 14. Padhi P.K., Industrial Laws, PHI Learning Pvt. Ltd., New Delhi.
- 15. Papola, T.S., P.P. Ghosh and A.N. Sharma (eds.), *Labour, Employment and Industrial Relations in India*, B.R. Publishing Corporation, New Delhi.
- 16. Ramaswamy, E. A., Industrial Relations in India, MacMillian, Delhi.
- 17. Sarma, A.M., *Industrial Jurisprudence and Labour Legislation*, Himalaya Publishing House, Mumbai.
- 18. Senapathi, R., Legal Systems in Business, ARS Publications, Chennai.
- 19. Sheth, N. R., Industrial Sociology in India, Rawat Publications, Jaipur.
- 20. Sinha, P.R.N., et. al., Industrial Relations, Trade Unions and Labour Legislation, Pearson Education, New Delhi.
- 21. Snell, Scott, & Bohlander, George, *Human Resource Management*, Cengage Learning, New Delhi.
- 22. Srivastava, S. C., *Industrial Relations and Labour Laws*, Vikas Publishing House Pvt Ltd, New Delhi.
- 23. Tripathi P.C et. al., Industrial Relations and Labour Laws, Sultan Chand &. Sons Publisher, New Delhi.



Applicable to the students admitted during Academic Session 2017-2018

# TEACHING AND EXAMINATION SCHEME FOR LL.M. (EXECUTIVE PROGRAMME)

# SEMESTER I

Core/ Elective	Title of the Course	Course	MM
		Code	
	Legal Methods & Research	Paper I	100
Core	Methodology		
	Comparative Jurisprudence	Paper II	100
Elective	Family Patriarchy and Gender Justice	Paper I	100
	or		
	Criminal Justice Administration		
Core	Research Paper	RP 1	100

# SEMESTER II

<b>Core/ Elective</b>	Title of the Course	Course	MM
		Code	
	Judicial Process	Paper III	100
Core	Law and Social Transformation	Paper IV	100
Elective	Conflict of Laws	Paper II	100
	or		
	Human Rights and Humanitarian Law		
Core	Research Paper	RP 2	100

# SEMESTER III

Core/ Elective	Title of the Course	Course	MM
		Code	
Core	Comparative Constitutional Law	Paper V	100
	Law and Justice in a Globalised	Paper VI	100
	World		
Elective	Law of Succession and Inheritance	Paper III	100
	Or		
	Cyber Laws		
Core	Research Paper	RP 3	100

# SEMESTER IV

Core	Dissertation	300 Marks	
	Teaching Assignment	100 Marks	

# **Objective of the Course**

The Two Year LL.M (Executive) programme offers graduates in law an opportunity to expand their knowledge of Comparative law and legal processes. The programme is especially designed to cater to the needs of practicing lawyers and law graduates who are interested in expanding the horizons of their knowledge of Constitutional Law, Family Laws, Criminal Law, Human Rights, Cyber Laws etc.

# Scheme of the Course:

The classes of LLM (Executive) will be conducted on weekends i.e., Saturday and Sunday from 9:30 a.m. to 5:00 p.m. The course shall be spread over four semesters in a period of two years.

# **Duration of the Course:**

Two Years (2 years)

# **Eligibility and Total Intake**

BA.LL.B (Hons.) or equivalent degree (with not less than 50% marks) from any University/Institution recognized by Bar Council of India as eligible for enrolment as an Advocate in India.

Total Intake: Thirty (30)

# Admission:

As per University Rules.

# LL.M. (Executive) Examination Rules

# **Core/Elective Papers**

# 100 Marks Each

The main components of the core and elective papers (except Legal Methods and Research Methodology and Research Paper) along with the marking scheme shall be as follows:

Internal Assessment	25 Marks	[(i) 20 marks- Research Assignment
		(ii) 5 marks - Presentation)]
Theory Paper	75 Marks	

# Legal Methods and Research Methodology

100 Marks

The main components of the Legal Methods and Research Methodology paper along with the marking scheme shall be as follows:

Internal assessment	25 Marks	[(i) 10 marks - Synopsis			
		(ii) 10 m	narks - Boo	ok Rev	view
		(iii) 5	marks	-	annotated
		bibliogr	aphy]		
Theory paper	75 Marks				

# Research Paper

#### <u>100 Marks</u>

Besides the core and elective papers, there shall be a research paper each in the first three semesters of the LLM (Executive Programme). Each student would choose a topic for the research paper from the elective papers he/she has chosen at the start of the first semester **or** any other area of law (Corporate Laws/Environmental laws/Civil Laws etc.) he/she is interested in specializing. The topic for the research paper shall be submitted to the office of the Dean. Within 15 days of approval of the topic, the student shall submit a synopsis of their proposed research paper to the concerned Faculty in-charge. Within a month of approval of synopsis, the student shall submit the first draft of his/her research paper to the Faculty in-charge. The second draft of the research paper shall then be submitted to the office of the Dean. Students shall attach Similarity Report generated by UGC approved software Turnitin with less than 20% similarity index along with the final draft of the research paper.

# Tentative Schedule Semester-I Research Paper-1

Submission of Proposed Topic Display of approved topics Synopsis Submission Submission of First Draft Second Saturday of September Third Saturday of September Second Saturday of October Last Saturday of November Submission of Second Draft Final Submission First Saturday of December Second Saturday of December

# Tentative Schedule Semester-II Research Paper-2

Submission of Proposed Topic	
Display of approved topics	
Synopsis Submission	
Submission of First Draft	
Submission of Second Draft	
Final Submission	

Last Saturday of January First Saturday of February Last Saturday of February Third Saturday of March Third Saturday of April First Saturday of May

# Tentative Schedule Semester-III Research Paper-3

Submission of Proposed Topic	Third Saturday of August
Display of approved topics	First Saturday of September
Synopsis Submission	Third Saturday of September
Submission of First Draft	Third Saturday of October
Submission of Second Draft	Third Saturday of November
Final Submission	First Saturday of December

The research paper shall be between 7000-10000 words on A-4 size paper with 1.5 line spacing, 12 font size for the body and 10 font size for footnotes in Times Now Roman. ILI Style of citation is to be followed for the footnotes (available at: http://www.ili.ac.in/cstyle.pdf).

# Marking Scheme for Research Paper:

Synopsis	20 Marks
Research Paper	60 Marks
Presentation	20 Marks

# **Dissertation**

### 300 Marks

Students appearing for the Post-Graduate Degree Programme in Law (Executive Program) Examination shall submit a Dissertation prepared under the guidance of a Research Supervisor [Allotted by the Office of the Dean]. The student shall select the topic for Dissertation in consultation with the Research Supervisor and submit the topic along with the research proposal for the approval of the Dean. Within 15 days of the approval of the topic, the student shall submit a synopsis of their proposed Dissertation to the supervisor concerned. Within a month of approval of synopsis, the student shall submit the first draft of his/her Dissertation to the supervisor concerned. The second draft of the Dissertation shall then be submitted to the supervisor on approval of which, the student shall submit the final dissertation to the Office of the Dean.

The Dissertation shall be submitted to the Office of Dean One Month prior to the date of viva-voce of the Dissertation Work or as notified by the Office of the Dean.

The Dissertation shall be between 120-150 type written pages on A4 size papers with 1.5 line spacing, 12 Font size for the body of the text and 10 Font size for the footnotes in Times New Roman and submitted in 4 copies.ILI Style of citation is to be followed for the footnotes (available at: <u>http://www.ili.ac.in/cstyle.pdf</u>). Students shall attach Similarity Report generated by UGC approved software Turnitin with less than 15% similarity index along with the final submission.

#### **Tentative Schedule:**

Submission of Proposed Topic:	Third Saturday of November
Allocation of Supervisor:	Second Saturday of December
Synopsis submission:	Last Saturday of January
Submission of First Draft:	Third Saturday of March
Submission of Second draft:	Third Saturday of April
Final Submission:	First Saturday of May

#### TEACHING ASSIGNMENT

#### 100 Marks

Since semester IV has been devoted towards practical-oriented understanding of Law in general, giving the students an opportunity to practice one's teaching skills is critical, the student would therefore be given teaching assignments. Each student will be assigned two topics in advance to deliver classroom teaching. Each student has to take up five teaching assignments of B.A.LL.B (H) course. Each class will be of one hour duration and shall be assessed on the basis of his/her teaching performance. The class taken will be supervised, observed and evaluated by the Course teacher. Students are supposed to prepare a teaching plan and take the classes accordingly. Students are also required to prepare teaching material on the basis of the classes taken.

# Marking scheme for Teaching Assignment

Teaching Plan	20 Marks
Classroom Teaching	80 Marks

# **COURSE CONTENT**

# [CORE PAPER]

#### Paper I LEGAL METHODS & RESEARCH METHODOLOGY 100 Marks

#### UNIT- I

Understanding Research: Meaning of Research-Legal Research and Socio Legal Research-Nature and Characteristics of Legal Research-Objectivity and Utility of Legal Research-Types of Research: Doctrinal, Non-Doctrinal, Empirical, Inter/ Multidisciplinary & Historical

#### UNIT- II

**Formulation of Research Problem:** Research Design-Hypothesis: Kinds of Hypothesis-Hypothesis Testing; Literature Review-Sampling in Legal Research-Methods and Tools for Data Collection in Legal Research

#### **UNIT-III**

**Data Processing and Data Analysis:** Use of Library, Internet and Legal Databases-Writing Techniques and Methodology: Reports Writing-Article Writing-Thesis/ Dissertation Writing-Use of Citations, Foot Notes, Reference, Bibliography, Indexes & Appendixes-Research Ethics

#### **UNIT-IV**

Law Reforms and Legal Research: Role of Judges and Jurists-Reflective Thinking and Value Neutrality in Research-Legal Reform Committee and Commissions-Research Funding and Rights of Funding Agency of Research-Publication and Copyright Issues in Research

#### **Suggested Readings:**

- 1. A. Bradney et. al.,: How to Study Law, Thomson, Sweets and Maxwell, London.
- 2. A. K. Koul: Legal Education in India in 21st Century, AILTC, Delhi.

- 3. Andrea B. Yelin and Hope Viner Samborn: *Legal Research and Writing Handbook: A Basic Approach for Paralegals*, Aspen Publishers, New York.
- 4. B. N. Ghosh: *Scientific Method and Social Research*, Sterling Publishers Pvt. Ltd., New Delhi.
- 5. C. K. Kothari: *Research Methodology: Method and Techniques*, Wiley Eastern Ltd., New Delhi.
- 6. C. K. Sharma: Research Methodology, Shree Publication, New Delhi.
- 7. Chris Hart: Doing Your Masters Dissertation, Vistaar Publications, New Delhi.
- 8. D. Thakur: *The Research Methodology in Social Sciences*, Deep and Deep Publications, New Delhi.
- 9. J. C. Johari (ed.): *Introduction to the Method of Social Sciences*, Sterling Publishers Pvt. Ltd., New Delhi.
- 10. John Khowles: Effective Legal Research, Thomson, Sweet and Maxwell, London.
- 11. Joseph Gibaldi: *MLA Handbook for Writers of Research* Papers, East West Press, New Delhi.
- 12. Julius Stone: Legal System and Lawyer's Reasoning, Maitland Publications, Sydney.
- 13. Mary Miler Prince: *The Blue Book: A Uniform System of Citation*, The Harvard Law Review Association, USA.
- 14. Morris L. Cohen: *Legal Research*, Minnesota, West Publishing Co., St. Paul, *Minnesota*, USA.
- 15. Nicholas Walliman: Your Research Project, Vistaar Publications, New Delhi.
- 16. P. K. Majumdar: Research Methods in Social Science, Viva Books Pvt. Ltd., New Delhi.
- 17. R. K. Verma: Research Methodology, Commonwealth, New Delhi.
- 18. Ranjit Kumar: Research Methodology, Pearsons Education Limited, New Delhi.
- 19. S. K. Verma and M. Afzal Wani (eds.): *Legal Research and Methodology*, Indian Law Institute, New Delhi.
- 20. Sushma Gupta: History of Legal Education, Deep and Deep Publications, New Delhi.
- 21. Upendra Baxi: Socio-Legal Research in India-A Programschrift, ICSSR, Occasional Monograph, New Delhi.
- 22. W. J. Goode and P. K. Hatt: *Methods in Social Research*, McGraw Hill Book Co., Singapore.
- 23. W. L. Neuman: *Social Research Methods: Qualitative and Quantitative Approaches*, Pearson Education Inc., New Delhi.
- 24. Y. K. Singh: Research Methodology, APH Publication, New Delhi.

#### [CORE PAPER]

# Paper II COMPARATIVE JURISPRUDENCE 100 Marks

#### UNIT- I

**Introduction to Legal Theory & Jurisprudence:** Legal Theory-Nature of Law- Natural Law Theory-Legal Positivism (Positivist Theories of Law)-Theoretical Alternatives to the Command Models of Law-Utilitarianism-Introduction to Comparative Jurisprudence-Schools of Jurisprudence

#### **UNIT-II**

**Philosophy of Law:** Problem of Rights-Freedom-Equality-Justice-Happiness and Welfare-Political Community-Theories of Justice-Jurisprudence of Difference, Caste, Class and Race-Class Character of the State and the Law

#### **UNIT-III**

**Post-Modern Jurisprudence:** Feminist Jurisprudence-Gender Justice and Feminism-Dalit Jurisprudence: Characteristic Features of Dalit Jurisprudence-Equality and Affirmative Actions

### Unit- IV

• Human Rights Jurisprudence: Universalism and Cultural Relativism-Jurisprudential Foundations of Liberal Democracy

### **Suggested Readings**

- A. M. González (ed.): Contemporary Perspectives on Natural Law, Ashgate Publishing Ltd., Aldershot.
- 2. B. Markesinis & J. Fedtke: *Engaging with Foreign Law*, Hart Publishing, Oxford.
- 3. B. Markesinis: *The Gradual Convergence*, Clarendon Press, Oxford.
- 4. C. Mallat: Introduction to Middle Eastern Law, OUP, Oxford.
- 5. D. B. Goldman: *Globalisation and the Western Legal Tradition: Recurring Patterns of Law and Authority*, Cambridge University Press, Cambridge.
- 6. E. Örücü: *The Enigma of Comparative Law*, Martinus Nijhoff Publishers, Leiden.

- 7. G. Teubner (ed.): *Global Law without a State*, Dartmouth Publishing Co. Ltd., Aldershot.
- 8. G. Yu (ed.): *The Development of the Chinese Legal System: Change and Challenges*, Routledge, New York.
- 9. H. P. Glenn: Legal Traditions of the World, OUP, Oxford.
- 10. J. Coleman and S. Shapiro (eds.): *The Oxford Handbook of Jurisprudence & Philosophy of Law*, OUP, Oxford.
- 11. J. Finnis: Natural Law and Natural Rights, Clarendon Press/OUP, Oxford
- 12. J. Goldsworthy: Interpreting Constitutions: A Comparative Study, OUP, Oxford.
- J. Gordley and A. T. von Mehren: An Introduction to the Comparative Study of Private Law, Cambridge University Press, Cambridge.
- 14. J. W. Harris: Legal Philosophies, OUP, Oxford.
- 15. J. W. Head: Great Legal Traditions: *Civil Law, Common Law, and Chinese Law in Historical and Operational Perspective*, Carolina Academic Press, Durham, North Carolina.
- 16. K. Zweigert and H. Kötz: An Introduction to Comparative Law, Clarendon Press, Oxford.
- 17. M. Gagarin and D. Cohen (eds.): *The Cambridge Companion to Ancient Greek Law*, Cambridge University Press, Cambridge.
- 18. M. Gagarin: Writing Greek Law, Cambridge University Press, Cambridge.
- 19. M. Reimann and R. Zimmermann (eds.): *The Oxford Handbook of Comparative Law*, OUP, Oxford.
- 20. M. D. A Freeman: Lloyd's Introduction to Jurisprudence, Sweet & Maxwell, London.
- 21. N. Davies: Europe: A History, OUP, Oxford.
- 22. N. MacCormick: Institutions of Law: An Essay in Legal Theory, OUP, Oxford.
- 23. P. De Cruz: Comparative Law in a Changing World, Cavendish, London.
- 24. P. du Plessis: Borkowski's Textbook on Roman Law, OUP, Oxford.
- 25. R. Cotterrell: Law, Culture and Society, Ashgate Publishing Ltd., Aldershot.
- 26. R. David and J. E. C. Brierley: *Major Legal Systems in the World Today*, Stevens, London.
- 27. R. Domingo: The New Global Law, Cambridge University Press, Cambridge.
- 28. R. Youngs: English, French & German Comparative Law, Routledge-Cavendish, London.
- 29. R. P. George (ed.): Natural Law, Liberalism and Morality, OUP, Oxford.

- 30. R. W. Lee: The Elements of Roman Law, Thompson/Sweet & Maxwell, London.
- T. J. Hochstrasser and P. Schröder (eds.): *Early Modern Natural Law Theories*, Kluwer, Berlin.
- 32. U. Mattei: Comparative Law and Economics, University of Michigan Press, Ann Arbor.
- 33. W. Menski: *Comparative Law in a Global Context: The Legal Systems of Africa and Asia*, Cambridge University Press, Cambridge.
- 34. W. Twining: *General Jurisprudence: Understanding Law from a Global Perspective*, Cambridge University Press, Cambridge.
- 35. W. Twining: Globalisation & Legal Theory, Cambridge University Press, Cambridge.
- 36. W. B. Hallaq: An Introduction to Islamic Law, Cambridge University Press, Cambridge.
- W. B. Hallaq: Sharī'a: Theory, Practice, Transformations, Cambridge University Press, Cambridge.
- 38. W. W. Buckland: *The Main Institutions of Roman Private Law*, Cambridge University Press, Cambridge.

#### [ELECTIVE PAPER]

# Paper I FAMILY PATRIARCHY AND GENDER JUSTICE 100 Marks

#### UNIT- I

**Concept of Patriarchy**: Notions of Discrimination and Paternalism-Different Forms of Patriarchy-Patriarchal Character of Legal Administration-Problems of Access, Custodial Institution-Perspective on Women and Law-Law as Protector and Law as an Instrument of Patriarchal Oppression

#### **UNIT-II**

**Family Patriarchy and Law:** Patriarchal Aspects of Indian Law with regard to the Family-Sexuality, Patriarchy and Social Reproduction-Patriarchy in Hindu, Christian, Islam and Parsi Law and Traditions-Matrilineal Systems

#### **UNIT-III**

Gender Equality and Constitution: Continuation of Separate Discriminatory Personal Laws-Conflict between the Right to Religion and the Right to Equality-Women's Right to Property-Spousal Property-Protective Legislations for Women-State Agencies and Women-National Commission for Women-Police-Judiciary

#### **UNIT-IV**

**Family and its Changing Patterns:** New Emerging Trends-Working Women and their Impact on Spousal Relationship-Retention of Restitution of Conjugal Rights as a Matrimonial Remedy-Concept of Matrimonial Home-Domestic Violence-Gender based Specifications of Offences-Adultery-Rape-Marital Rape-Wife Beating-Dowry Death

#### **Suggested Readings:**

 Bina Aggarwal: 'Patriarchy and the Modernizing State: An Introduction', in Agarwal Bina (ed.) *Structures of Patriarchy*, Kali for Women, New Delhi.

- 2. Sushila Aggarwal: Status of Women, Printwell Publishers, Jaipur.
- Flavia Agnes: 'Protecting Women against Violence? Review of a Decade of Legislation 1980-89' 27 (17) *Economic and Political Weekly* WS 19-WS 33 (25<sup>th</sup> April, 1992).
- 4. Ram Ahuja: Violence against Women, Rawat Publication, Jaipur.
- Olive Banks: Faces of Feminism: A Study of Feminism as a a Social Movement, Martin Robertson, Oxford.
- 6. Kamla Bhasin: What is Patriarchy, Kali for Women, New Delhi.
- 7. Monica Chawla: *Women, and Law in India,* Deep & Deep Publications Pvt. Ltd., New Delhi.
- 8. S. K. Ghosh: *Women in Changing Society*, Ashish Publishing House, New Delhi
- 9. Julia Cleves Mosse: Half the World, Half A Chance: An Introduction to Gender Development, Oxfam, UK.
- 10. Ratna Kapur (ed.): Feminist Terrains in Legal Domain : Interdisciplinary Essays on Women and Law in India, Kali for Women, New Delhi
- 11. Ratna Kapur and Brenda Crossman: *Subversive Sites: Feminist Engagements with Law in India*, Sage Publications, New Delhi.
- 12. Maithreyi Krishnaraj (ed.): *Feminist Concepts : Part 1,2 and 3, Contribution to Women's Studies Series-7*, Research Centre for Women's Studies, SNDT Women's University, Bombay.
- 13. Gerda Lerner: The Creation of Patriarchy, Oxford University Press, New Delhi.
- 14. Maria Mies: Indian Women and Patriarchy, Concept Publishing Company, New Delhi.
- Monica Chawla: Gender Justice-Women and Law in India, Deep & Deep Publications, New Delhi.
- 16. Ann Oakley and Mitchell, Juliet (ed.): Who's Afraid of Feminism Seeing Through the Backlash, Penguin, London.
- Pam Rajput & Manvinder Kaur: 'Women's Studies in Higher Education in India: Some Reflections', 3(1) Samyukta (January 2003).
- 18. Sheila Ruth: Issues in Feminism: An Introduction to Women's Studies, Mayfield Publishing Company, California.
- 19. R. K. Sapru: Women and Development, Ashish Publishing House, New Delhi.
- 20. Shamusuddin Shams: Women, Law and Social Change, Ashish Publishing House, New

Delhi.

- 21. Shulamith Firestone: *The Dialectic of Sex*, Bantam Books, N.Y.
- 22. M. N. Srinivas: *The Changing Position of Indian Women*, Oxford University Press, New Delhi.

# [ELECTIVE PAPER]

# Paper ICRIMINAL JUSTICE ADMINISTRATION100 Marks

#### Unit I

#### **Theoretical Foundations and Perspectives**

Conceptual understandings of Crime, Criminal Law and Criminal Justice Administration;Growth and Development of Criminal Justice Administration in India; CJA and the Indian Constitution

Models of CJA: Due Process and Crime Control; Systems of Trial: Adversarial & Inquisitorial

Human Rights and CJA: Various conceptions of the Concept of Justice

#### Unit II

#### **Pre-Trial Administration and Investigation**

FIR, Arrest, Medical Examination, Rights of the Accused: Theoretical underpinnings and comparative perspectives Rights of the Under-trial; Bail

Role of Investigating Agencies: Police, CBI, NIA etc.

### Unit III

#### **Administration during Trial**

Trial, Appreciation of Evidence during Trial: Contemporary perspectives on documentary, testimonial and electronic evidence Review Procedure Decision on Punishment: Concept of Maximum Punishment, Minimum Punishment, Mitigating and Aggravating Factors *etc*.

#### Unit- IV

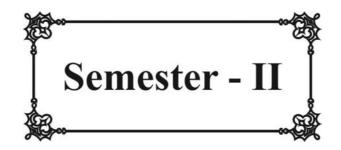
#### **Punishment and Prison Administration**

Custodial Measures: Punishments;Theories of Punishment;Forms of Punishment: Life Imprisonment, Capital Punishment, Solitary Confinement *etc.* Prison Administration in India; Rights of Prisoners; Prison Reforms; Open Prisons; Women Prisoners; Juvenile Homes Non-Custodial Measures: Probation of Offenders; Parole; Merits of Non-Custodial Measures

#### **Suggested Readings:**

- 1. Chris Crowther: Introduction to Criminology and Criminal Justice, Pargrave, New York.
- 2. Dean J. Champion: *Research Methods for Criminal Justice and Criminology*, Prentice Hall, New Jessey.
- 3. H.C. Daudistel: *Criminal Justice*, Holt Publisher, New York.

- 4. ManiyarMridula: Women Criminals and their Life-Style, Kaveri Books, New Delhi.
- 5. Mehraj-ud-din Mir: *Crime and Criminal Justice System in India*, Deep & Deep Publications, New Delhi.
- 6. Mike Brogden: Crime, Abuse and the Elderly, Lawman (Inc.) Pvt. Ltd, New Delhi.
- 7. MrinmayaChoudhuri: *Languishing for Justice: Being a Critical Survey of the Criminal Justice System*, Dattsons Printing Press, Nagpur.
- Nirmal Kant Chakrabarti: Probation System in the Administration of Criminal Justice, Deep & Deep Publications, New Delhi.
- 9. Obi N. Ignatius Ebbe: *Comparative and International Criminal Justice System: Policing, Judiciary and Corrections*, Butterworth, Boston.
- 10. P. K. Atri: Policy and Planning in Criminology, Anmol Publications, New Delhi.
- 11. Prabhat Chandra Tripathy: Crime against Working Women, APH Publishing Co., New Delhi.
- 12. R. Deb: Criminal Justice, Law Book Company, Allahabad.
- R. K. Bag: Supreme Court on Criminal Justice, Second Edition, Asia Law House, Hyderabad.
- 14. Roger Hopkins Burke: Introduction to Criminological Theory, Lawman (Inc.) Pvt. Ltd., New Delhi.
- 15. S. S. Srivastava: Criminology and Criminal Administration, Central Law Agency, New Delhi.
- 16. S. Saxena: Crimes against Women and Protective Laws, Deep & Deep Publications, New Delhi.
- 17. Victor Jupp, Pamela Daries& Peter Francis: *Doing Criminological Research*, Sage Publications, New Delhi.



# COURSE CONTENT [CORE PAPER]

# Paper III

# JUDICIAL PROCESS

100 Marks

# UNIT- I

**Nature of Judicial Process:** Judicial Process as an Instrument of Social Ordering-Tools and Techniques of Judicial Creativity and Precedent: *Ratio Decidendi* and *Obiter Dicta* of a Case-Method of Determining *Ratio Decidendi-Stare Decisis* and Exceptions-Precedents in Common Law and Civil Law Countries

### UNIT-II

Legal Development and Creativity through Legal Reasoning under Statutory and Codified Systems: Notions of Judicial Review-Dimensions of Judicial Process in Constitutional Adjudications; Institutional Liability of Courts: Scope and Limits

# UNIT-III

**Rule of Law:** Doctrine of Independence of the Judiciary as an aspect of Separation of Powers-Notion of the Independence of the Judiciary and the Legal Profession: Appointment of Judges-Transfer of Judges; Judicial Accountability: Problems and Perspectives

#### **UNIT-IV**

**Judicial Reasoning:** Judicial Activism-New Dimensions of Judicial Activism and Structural Challenges-Judicial Overreach and Judicial Restraint-Interpretation of Statutes and Legal Reasoning-Principles of Constitutional Interpretation

- A. S. Anand: 'Judicial Review: Judicial Activism-Need for Caution', 42 Journal of Indian Law Institute 149 (2000).
- A. R. Blackshield, 'Fundamental Rights and the Economic Viability', 10 BLIJ 120 (1968).

- 3. A. R. Blackshield, 'Fundamental Rights and the Institutional Viability of the Indian Supreme Court', 8 *JILI* 139 (1966).
- 4. Benjamin Cardozo: The Nature of Judicial Process, Yale University Press, USA.
- 5. Edgar Bodenheimer: *Jurisprudence-The Philosophy and Method of the Law*, Universal Law Publishing-An imprint of LexisNexis, Delhi.
- 6. G. Gadbois, 'Supreme Court Decision-Making', 10 Banaras Law Journal 1 (1974)
- 7. Henry J. Abraham: The Judicial Process, OUP, USA.
- 8. John Rawls: A Theory of Justice, Harvard University Press, Cambridge.
- 9. Julius Stone: *Legal System and Lawyer's Reasoning*, Universal Law Publishing Co., New Delhi.
- 10. Julius Stone: Precedent and the Law: Dynamics of Common Law, Butterworth, Sydney.
- 11. Julius Stone: *The Province and Function of Law*, Universal Law Publishing Co., New Delhi.
- 12. Rajeev Dhavan: The Supreme Court of India-A Socio-Legal Critique of its Juristic Techniques, N. M Tripathi, Bombay.
- 13. S. P. Sathe: Judicial Activism in India: Transgressing Borders and Enforcing Limits, Oxford University Press, New Delhi.
- 14. Upendra Baxi: 'On How not to Judge the Judges: Notes towards Evaluation of the Judicial Role', 25 *Journal of Indian Law Institute* 211 (1983).
- 15. Upendra Baxi: *The Indian Supreme Court and Politics*, Eastern Book Company, Lucknow.
- 16. Virendra Kumar: 'Basic Structure of the Indian Constitution: Doctrine of Constitutionally Controlled Governance', 49 *Journal of the Indian Law Institute*, 365-395, (2007).
- 17. W. Friedmann: Legal Theory, Stevens & Sons, Ltd., London.

# [CORE PAPER]

# Paper IV LAW AND SOCIAL TRANSFORMATION 100 Marks

#### UNIT-I

Law and Social Change: Law as an Instrument of Social Change-Law as a Product of Traditions and Culture-Common Law System and Institutions in India-Impact on the Indian Social and Legal Order-Limits of Law in Bringing Out Social Change

#### UNIT-II

**Religion, Community and the Law:** Responses of Law to Religion through Secularism-Secularism in India; Response of Law to Language through Constitutional Guarantees-Constitutional Provisions and Judicial Response-Constitutional Protections to Religious and Linguistic Minorities; Response of Law to Community through Non-Discrimination-Caste as a Divisive Factor & Non-discrimination on the Ground of Caste-Acceptance of Caste as a Factor to undo Past Injustices-Protective Discrimination-Scheduled Castes, Tribes and Backward Classes-Reservation

#### UNIT-III

**Modernization and the Law:** Modernization as a Value-Constitutional Perspective Reflected in the Fundamental Duties; Modernization of Social Institutions through Law: Agrarian Reforms-Industrialization of Agriculture; Industrial Reforms: Free Enterprise v. State Regulation-Industrialization-Privatization-Displacement of Persons; Reform of Family Laws

#### **UNIT-IV**

**Constitutional Ideals:** Responses of Law to Regionalism through Unity-Concept of India as one Unit-Regionalism as a Divisive Factor-Directive Principles of State Policy-Women and the Law-Gender Injustice and the Constitution-Children and Law

#### **Suggested Readings:**

1. D. D. Basu: Constitution of India, Prentice Hall of India (Pvt.) Ltd., New Delhi.

- 2. Duncan Derrret: *The State, Religion and Law in India*, Oxford University Press, New Delhi.
- 3. Flavia Agnes: *Law and Gender Inequality: The Politics of Women's Rights in India*, Oxford University Press, New Delhi.
- 4. H. M. Seervai: Constitutional Law of India, N. M. Tripathi, Bombay.
- 5. J. B. Kripalani: *Gandhi-His Life and Thought, Ministry of Information and Broadcasting*, Government of India, New Delhi.
- 6. M. P. Jain: Outlines of Indian Legal History, N. M. Tripathi, Bombay.
- 7. M. P. Singh: Constitution of India, Eastern Book Company, Lucknow.
- 8. Marc Galanter (ed.): *Law and Society in Modern India*, Oxford University Press, New Delhi.
- 9. R. F. Meagher: *Law and Social Change: Indo-American Reflections*, Indian Law Institute, New Delhi.
- 10. Robert Lingat: The Classical Law of India, Oxford University Press, New Delhi.
- 11. Savitri Gunasekhare: Children, Law and Justice, Sage Publications, New Delhi.
- 12. Sunil Deshta and Kiran Deshta: *Law and Menace of Child Labour*, Anmol Publications, New Delhi.
- 13. Upendra Baxi (ed.): Law and Poverty: Critical Essays, N. M. Tripathi, Bombay.
- 14. Upendra Baxi: The Crisis of Indian Legal System, Vikas Publication, New Delhi.
- 15. Ved Kumari: 'Offences against Women', in Kamala Sankaran and Ujjwal Kumar Singh (ed.) Towards Legal Literacy-An Introduction to Law in India', Oxford University Press, New Delhi.
- 16. Virendra Kumar: 'Minorities' Right to Run Educational Institutions: T.M.A Pai Foundation in Perspective, 45 *Journal of the Indian Law Institute* 200-238 (2003).
- 17. Virendra Kumar: Dynamics of Reservation Policy: Towards a More Inclusive Social Order, 50 *Journal of the Indian Law Institute* 478-517 (2007).

#### <u>Paper II</u>

# [ELECTIVE PAPER] CONFLICT OF LAWS

100 Marks

#### UNIT- I

**General:** Conflict of Law-Private International Law-Definition and Scope- Theories of Private International Law-Characterization-Renvoi-Exception to Private International Law-Jurisdiction-Basis and Limitation-Classification and Waiver of Foreign Law-Procedure in Private International Law-Foreign Judgments and Arbitral Awards

#### UNIT-II

**Domicile & Nationality**: General Rules-Domicile of Origin-Domicile of Choice-Domicile of Married Woman-Domicile of Dependant-Consecutive Stages in Conflicts-Law Proceedings-Choice of Law-Jurisdiction of Courts-Forum Shopping-Stays-Injunction

## UNIT-III

**Marriage:** Nature of Marriage-Governing Law-Choice between Law of the Place of Celebration and Law of Domicile-Validity of Marriage-Classification of Rules of Marriage into Formal and Essential Conditions-Theories-Dual Domicile Theory-Intended Matrimonial Home Theory-Alternate Approaches-Matrimonial Causes-Divorce-Annulment-Recognition of Foreign Divorce Decrees

#### **UNIT-IV**

**Recognition and Enforcement of Foreign Judgments:** Conflict of Laws in Relation to Adoption-Jurisdiction-Recognition of Foreign Adoptions-Inter Country Adoption; Conflict of Laws in Relation to Guardianship and Custody of Minors: Recognition and Enforcement of Foreign Judgments-Child Custody and Guardianship Orders-Child Abduction-Legitimacy-Legitimation; Law of Property including IPR and Succession: Jurisdiction-Choice of Law

### **Suggested Readings:**

1. Atul M Setalvad: Setalvad's Conflict of Laws, LexisNexis India, New Delhi.

- 2. Chris Clarkson & Jonathan Hill: Conflict of Laws, Oxford University Press, Canada.
- 3. David Pearl: Inter-Personal Conflict of Law- India, Pakistan and Bangladesh, N.M. Tripathi, Bombay.
- 4. Flavia Agnes: *Family Law and Constitutional Claims*, Oxford University Press, New Delhi.
- 5. Geoffrey Chevalier Cheshire: Private International Law, Clarendon Press, Oxford.
- 6. J. H. C. Morris: Conflict of Laws, Sweet & Maxwell, London.
- 7. John P. Tiernan: Conflict of Laws, Callaghan & Co, Chicago.
- 8. Kumud Desai: Indian Law of Marriage and Divorce, LexisNexis, Gurgaon.
- 9. Laura E. Little: Conflict of Laws, Wolters Kluwer Law & Business, New York.
- 10. Paras Diwan: Indian and English Private International Law, Deep & Deep, New Delhi.
- 11. Robert A. Leflar: *The Law of Conflict of Law*, Bobbs-Merrill Company, Inc., Indianapolis.
- 12. Dean Symeon C. Symeonides: Choice of Law, Oxford University Press, USA.
- 13. Maebh Harding: Conflict of Law, Routledge, UK.

#### Case Laws:

- 1. Anokha v. State of Rajasthan, AIR 2004 SC 2829.
- 2. Apt v Apt, [1948] P. 83.
- 3. Arathi Bandi v. Bandi Jagdrakshara Rao, AIR 2014 SC 918.
- 4. Armitrage v Att-Gen, [1906] p. 135.
- 5. Bell v Kennedy, (1868) LR 1 Sc & Div 307.
- 6. Berkovits v Grinberg, [1995] fam. 142.
- 7. Berthiaume v Dastous, [1930] AC 79.
- 8. Boys v Chaplin, [1971] AC 356
- 9. Central Bank of India v. Ram Narain, AIR 1955 SC 36
- 10. Chaudhary v Chaudhary, [1985] Fam. 19.
- 11. D & D, [2008] EWHC 403 (Fam).

- 12. D P Joshi v. State of Madhya Bharat, AIR 1955 SC 334.
- 13. Hussain v Hussain, [1983] Fam. 26.
- 14. *Hyde v Hyde* (1866) LR 1 P & M 130.
- 15. Indyka v. Indyka, (1967) 2 All. E.R. 689.
- 16. Kyle Spencer Allen v. Soban Singh, 2014(3) UC 2335.
- 17. Lakshmi Kant Pandey v. Union of India, AIR 1984 SC 469.
- 18. Le Mesurier v Le Mesurier, [1895] AC 517.
- 19. Louis De Raedt v. Union of India, AIR 1991 (3) SC 1886.
- 20. May v May, [1943] 2 All ER 146.
- 21. McCabe v McCabe, [1994] 1 FLR 410.
- 22. McKee v. McKee, [1950] SCR 700.
- 23. MN (Non-Recognised Adoptions: Unlawful Discrimination?) India, UKAIT 00015.
- 24. Mrs. Mv. Mr. A, AIR 1993 Bom. 110.
- 25. Narsimha Rao Y. v. Venkata Lakshmi Y, (1991) 3 SCC 451.
- 26. Neha Saini v State of Uttrakhand, AIR 2010 Utt 36.
- 27. Ogden v. Ogden, (1947) All E.R. 86.
- 28. Perumal v. Ponnuswami, AIR 1971 SC 2352.
- 29. Philips v Eyre, (1870) LR 6 QB.
- 30. Pradeep Jain v Union of India, AIR 1984 SC 1420.
- 31. Prem Singh v. Dulari Bai, AIR 1973 Cal. 425.
- 32. Pugh v Pugh, [1951] P 482.
- 33. Quazi v Quazi, [1980] AC 744.
- 34. Ramsay v Liverpool Royal Infirmary, [1930] AC 588.
- 35. Ravichandran v. Union of India, AIR 2010 SC (Supp) 257.
- 36. Re. Evans, [1947] Ch. 695
- 37. Re. Jones' Estate, 192 Iowa 78.
- 38. Reynold Rajamani v Union of India, AIR 1982 SC 1261.
- 39. Robasa Khanum v. Khudabad Bomanji Irani, AIR 1947 Bom. 272.

- 40. Ruchi Majoo v. Sanjeev Majoo, AIR 2011 SC 1952.
- 41. Sandip Shankerlal Kedia v. Pooja Kedia, 2013 (4) Mh Lj 673.
- 42. Sanjay Mishra v. Eveline Jobe, AIR 1993 H.P. 7.
- 43. Satya v. Teja Singh, AIR 1975 SC 105.
- 44. Shabnam Hashmi v. Union of India, AIR 2014 SC 1281.
- 45. Shaw v Gould, (1868) L.R 3 HL 55.
- 46. Singh v Entry Clearance Officer New Delhi, [2004] Ewca Civ 1075.
- 47. Sinha Peerage Claim, (1946) 1 All E.R. 248.
- 48. SK ("Adoption" not recognised in UK) India, [2006] UKAIT 0068.
- 49. Smt. Surinder Kaur Sandhu v. Harbax Singh Sindhu, AIR 1984 SC1224.
- 50. Sondur Gopal v Sondur Rajini, (2013) 7 SCC 426.
- 51. Sottomayor v De Barros, (No. 1) (1877) 3 PD 1.
- 52. Starkowski v Att-Gen, [1954] AC 155.
- 53. Sulaiman v Juffali, [2002] 1 FLR 479.
- 54. Taczanowka v Taczanowki, [1957] P. 301.
- 55. Udny v Udny, (1869) LR 1 Sc & Div 441.
- 56. Vinisha Jitesh Tolani v Jitesh Kishore Tolani, AIR 2010 SC1915.
- 57. Winans v Att-Gen, [1904] AC 287.
- 58. Y. Narasimha Rao v. Y. Venkatalakshmi, (1991) 3 SCC 451.

# [ELECTIVE PAPER]

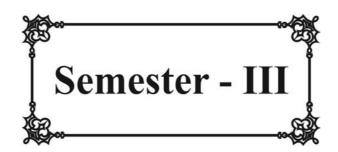
# Paper II HUMAN RIGHTS AND HUMANITARIAN LAWS 100 Marks

- Human Rights: Concept, Meaning, Nature and Scope-Historical Developments- First, Second, and Third Generation Human Rights -Human Rights in Relation to Politics, Culture and Religion-Universalism and Cultural Relativism
- Introduction to International Humanitarian Law: History and Development of IHL-Application of IHL-IHL and Human Rights-Human Rights under UN Charter-Universal Declaration of Human Rights-International Covenants-Regional Conventions-International Human Rights Institutions
- Disadvantaged Groups and Human Rights: Rights of Vulnerable Groups-Women-Children-Disabled Persons-Minorities-Refugees-Migrants-Displaced Person -Indigenous Persons
- Protection and Enforcement of Human Rights in India: Development of Human Rights Movement and Law-Constitutional Guarantees and Legislative Measures-Fundamental Rights under the Constitution-Derogation of Fundamental Rights-Directive Principles of State Policy-Contribution of Judiciary to Human Rights Law-Role of Human Rights Commissions and NGOs; Technology and Human Rights: Developments and Challenges

- 1. Abhimanyu Singh: Public International Law, Mahaveer Publications, Dibrugarh.
- Christopher McCrudden: 'Human Dignity and Judicial Interpretation of Human Rights', Vol. 19 (4) *The European Journal of International Law* 655-724 (2008).
- 3. Cranston Mourice: What are Human Rights?, Basic Books, Inc., Publishers, New York.
- 4. Dr. H. O. Agarwal: *A Concise book on International Law and Human Rights*, Central Law Publications, Allahabad.
- Dr. Jyoti Rattan & Dr. Vijay Rattan: *Public International Law*, United Nations & Human Rights, Bharat Law House, Jaipur.
- 6. Dr. S. K. Kapoor: *Human Rights under International Law & Indian Law*, Central Law Agency, Allahabad.
- 7. Dr. S. R. Myneni: Human Rights, Asia Law House, Hyderabad.

- 8. Dr. S. R. Myneni: Public International Law, LexisNexis India, Gurgaon.
- 9. Gunnar Beck: 'The Idea of Human Rights between Value Pluralism and Conceptual Vagueness', 25 *Penn State International Law Review* 615 (2008).
- 10. Ian Brownlie & James Crawford: *Brownlie's Principles of Public International Law*, Oxford University Press, Oxford.
- 11. Ian Brownlie & Guy S. Goodwin-Gill: *Brownlie's Documents on Human Rights*, Oxford University Press, Oxford.
- 12. Jayna Kothari: *The Future of Disability Law in India*, Oxford University Press, New York.
- 13. Jonathan Todres: 'Women's Rights and Children's Rights: A Partnership with Benefits for Both', 10 *Cardozo Women's L. J.* 603 (2004).
- Kara Abramson: 'Beyond Consent, Towards Safeguarding Human Rights: Implementing the United Nations Trafficking Protocol', 44 (2) *Harvard International Law Journal* 473 (2003).
- 15. Knut Dörmann: 'Detention in Non-International Armed Conflicts', 88 International Law Studies 347-366 (2012).
- 16. N.K. Jayakumar: International Law and Human Rights, LexisNexis India, Gurgaon.
- 17. R. P. Kataria & Salah Uddin: Commentary on Human Rights, Orient Publishing Company, Allahabad.
- Rakesh Kumar Singh: *Textbook on Public International Law*, Universal Law Publishing Co. Pvt. Ltd., New Delhi.
- 19. Rashee Jain: *Textbook on Human Rights Law and Practice*, Universal Law Publishing Co Pvt. Ltd., New Delhi.
- 20. Rhona K.M. Smith: *Textbook on International Human Rights*, Oxford University Press, Oxford.
- 21. Richard Stone: *Textbook on Civil Liberties & Human Rights*, Oxford University Press, Oxford.
- 22. S. K. Verma: An Introduction to Public International Law, Satyam Law International, New Delhi.
- 23. S. R. A. Rosedar: Public International Law, LexisNexis India, Gurgaon.
- 24. Sumbul Rizvi: *International Dimensions of Refugee Law*, ISIL Yearbook of International Humanitarian and Refugee Law (2004).
- 25. Upendra Baxi: The Future of Human Rights, Oxford University Press, Oxford.
- 26. V. K. Ahuja: Public International Law, LexisNexis India, Gurgaon.

- 27. Surya Deva: 'Globalization and its Impact on the Realization of Human Rights: Indian Perspective on a Global Canvas', in C. Raj Kumar & K. Chockalingam (eds.) *Human Rights, Justice and Constitutional Empowerment*, OUP, New York.
- 28. Thomas Farer: 'Humanitarian Law and Armed Conflicts: Towards the Definition of 'International Armed Conflict', 71 (1) *Columbia Law Review* 37-61 (1971).



# **COURSE CONTENT**

# [CORE PAPER]

# Paper VCOMPARATIVE CONSTITUTIONAL LAW100 Marks

## UNIT-I

**Introduction:** Concept of the Comparative Constitutional Law-Importance of the Study of Comparative Constitutional Law-Aims & Functions of Comparative Constitutional Law-Sources of the Comparative Constitutional Law-Constitutional Design, Drafting and Main Features of the United Kingdom, USA and India-Constitution and Its Relationship with Statehood, Territoriality and Citizenship

#### UNIT-II

**Forms of Government:** Federal and Unitary-USA, India, Australia, Canada, UK & France-Constitutionalism and the Rule of Law in the 21st Century-Transitional Justice and the Transformation of Constitutionalism-Supremacy of the Constitutions, Rule of Law & Due Process-Rights Regime and their Protection

#### UNIT-III

**Separation of Powers:** Executive, Legislature and Judiciary-Doctrine of the New Separation of Powers-Democratic Legitimacy-Functional Specialization-Fundamental Rights and the New Separationism; Judicial Review: Form of Judicial Constitutional Review and the Rise of Weak-Form of Judicial Review-Independence of Judiciary-Judicial Activism-Constitutional Provisions for the Protection of the Judiciary

#### **UNIT-IV**

**Constitutional Law and Millennium Development Goals:** Globalization and Constitutional Law-Amending Powers-Constitutional Amendment Rules in a Comparative Perspective-Functions of Amendment-Comparative Conundrum of

32

Amendment and Secession-Limits-Basic Structure Doctrine-Governance in Transition to Democracy in a Global World

- 1. Alexander M. Bickel: *The Least Dangerous Branch: The SC at the Bar of Politics*, Yale University Press, New Haven.
- Anata Kumar Giri: 'The Rule of Law and Indian Society: From Colonialism to Post Colonialism', in P. Costa and D. Zolo (ed.) *The Rule of Law: History, Theory and Criticism*, Springer, Netherlands.
- 3. Archibald Cox: Court and the Constitution, Houghton Mifflin, Boston.
- 4. B. Z. Tamanaha: 'Rule of Law in United States', in Randall Peerenboom (ed.) *Asian Discourses of Rule of Law*, Routledge, London.
- Charles Fried: Saying What the Law Is: The Constitution in the Supreme Court, Universal Publishing Co. Pvt. Ltd., New Delhi.
- 6. Charles L. Black: *The People and the Court: Judicial Review in a Democracy*, The Macmillan Company, New York.
- 7. D. D. Basu: Comparative Constitution Law, LexisNexis India, Gurgaon.
- 8. D. D. Basu: Introduction to the Constitution of India, LexisNexis India, Gurgaon.
- Donald Kommers: 'The Value of Comparative Constitutional Law', 9 J. Marshall J. Prac. & Pro. 685 (1976).
- Douglas V. Verney: 'The Struggle over Judicial Review: Supreme Court and Limited Government', in M. P. Singh *et. al.*, (eds.), *Indian Judiciary and Politics: The Changing Landscape*, Manohar Book, New Delhi.
- Ernest A. Young: 'Foreign Law and the Denominator Problem', 119 Harv. L. Rev. 148 (2005).
- Goolam E. Vahanvati: Rule of Law-The Sieges Within, in Constitutionalism, Human Rights and the Rule of Law: Essays in Honour of Soli J Sorabjee, Universal Book Publishing Co., New Delhi.
- 13. Granville Austin: The Indian Constitution: Cornerstone of a Nation, OUP, Oxford.
- Gustavo Fernades De Andrade: 'Comparative Constitutional Law: Judicial Review', 3(3) University of Pennsylvania Journal of Constitutional Law 989-997 (2001).
- 15. Jan Erk: *Explaining Federalism: State, Society and Congruence in Austria, Belgium, Canada, Germany and Switzerland*, Routledge, New York.

- Jan M. Smits (ed.): *Elgar Encyclopedia of Comparative Law*, Edward Elgar, Cheltenham, UK.
- 17. Jeffrey Jowell: 'The Rule of Law Today', in Jeffrey Jowell and Dawn Oliver (ed.) *The Changing Constitution*, OUP, Oxford.
- 18. M. P. Jain: Indian Constitutional Law, LexisNexis India, Gurgaon.
- 19. M. P. Singh: V. N. Shukla's Constitutional Law, Eastern Book Company, Lucknow.
- 20. Mark Tushnet: *The Constitution of the United States of America: A Contextual Analysis*, Hart Publishing Ltd., UK .
- Mark Tushnet: The Possibilities of Comparative Constitutional Law, 108 Yale. L. J. 1225 (1999)
- 22. Martha A. Field: 'The Differing Federalisms of Canada and the United States', 55 Law and Contemp. Probs. 107 (1992)
- 23. Mathuas Reimann and Reinard Zimmermann: *The Oxford Handbook of Comparative Law*, OUP, Oxford.
- 24. Michael Burgess: Comparative Federalism, Theory and Practice, Routledge, NewYork.
- 25. Nicholas Aroney: *The Constitution of a Federal Commonwealth: The Making and Meaning of the Australian Constitution*, Cambridge University Press, Cambridge.
- 26. Nuzhat Parveen Khan: *Comparative Constitutional Law*, Satyam Law International, New Delhi.
- 27. Roger P. Alford: 'In Search of a Theory for Constitutional Comparativism', 52 UCLA L. *Rev.* 639 (2005).
- 28. S. P. Sathe: Judicial Activism in India: Transgressing Borders and Enforcing Limits, OUP, Oxford.
- 29. Sujit Choudhry: 'Globalisation in Search of Justification: Toward a Theory of Comparative Constitutional Interpretation', 74 *Ind. L. J.* 819 (1999).
- 30. Tom Ginsburg: *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*, Cambridge University Press, Cambridge.
- 31. Tony Blackshield and George Williams: *Australian Constitutional Law and Theory Commentary and Materials*, Federation Press, Sydney.
- 32. Upendera Baxi: 'Rule of Law in India: Theory and Practice', in Randall Peerenboom (ed.), *Asian Discourses of Rule of Law*, Routledge, London.
  - 33. Vicki C. Jackson and Mark V. Tushnet: Comparative Constitutional Law, Foundation Press, New York.

# [CORE PAPER]

# Paper VI LAW AND JUSTICE IN GLOBALISED WORLD 100 Marks

# UNIT- I

**Globalization and Its Impact:** Meaning of Globalization-Facets of Globalization-Factors Effecting Globalization-Theory of Justice and State Sovereignty-Impact of Globalization on States and its Subjects-Meaning and Concept of Global Justice-Issues of Implementation of Law and Dispensation of Justice in a Globalized World

## UNIT- II

**Understanding Law from a Global Perspective:** Crimes under International Criminal Law-Genocide, War Crimes, Crimes against Humanity and Aggression; Globalization and International Environmental Law: Historical Evolution-Principles; Emergence of Transnational Law in a Globalizing World-Money Laundering and Drug Trafficking

## UNIT-III

**Role of States in a Globalised World:** Impact of Globalization on Sovereignty of States-Globalization and Social Justice-Global Distributive Justice-Impact of Globalization on Judicial Process and Administration of Justice

#### **UNIT-IV**

**Reformation of Global Institutions:** Role and Impact of Economic, Labour and Trade Institutions-World Trade Organisation-International Monetary Fund-United Nations & International Court of Justice; Multi-National Corporations and Corporate Social Responsibility

## **Suggested Readings**

 Ajit Pal Singh: 'Globalization and its Impact on National Policies with Reference to India: An Overview of Different Dimensions', 42 (1-2) *Journal of Constitutional and Parliamentary Studies* 62-78 (2008).

- Amit Kumar Sinha: 'Human Rights in the Era of Globalization', 245 (6) Madras Law Journal 124-136 (2010).
- 3. Andrew Kuper: *Democracy Beyond Borders: Justice and Representations in Global Institutions*, OUP, New York.
- 4. Anthony McGrew & David Held (eds.): *Governing Globalization: Power, Authority and Global Governance*, Polity Press, Cambridge.
- 5. Anupam Hazra: 'Indians in Need of Rehabilitation', 8(3) *Indian Journal of Public* Administration 29-35 (2009).
- Avani Bansal: 'Comparative Study of Special Economic Zones and Land Acquisition: Magical Similarity or Mere Eyewash', 4(2) *Company Law Journal* 49-58 (2010)
- B. S. Chimni: 'A Just World under Law: A View from South', 22 (2) Am. U. Int. Law. Rev. 199-220 (2007).
- 8. B. S. Chimni: 'International Institutions Today: An Imperial Global State in the Making', 15 *E.J.I.L.* 1 (2004).
- 9. Boauventura de Sousa Santos & Cesar A. Rodriguez-Garavito (eds.): *Law and Globalization from Below*, Cambridge University Press, Cambridge.
- D. R. Saxena: *Law, Justice and Social Change*, Deep and Deep Publications, Pvt. Ltd. New Delhi.
- 11. David B. Goldman: *Globalization and the Western Legal Tradition: Recurring Patterns of Law and Authority*, Cambridge University Press, Cambridge.
- 12. David Kinley: *Civilizing Globalization: Human Rights and the Global Economy*, Cambridge University Press, Cambridge.
- 13. David Schzeiderman: Constitutionalizing Economic Globalization: Investment Rules and Democracy's Promise, Cambridge University Press, Cambridge.
- Ismail Farooqi: 'Changing Paradigms of Development: Assessment', 28 IASSI Quarterly 5-26 (2009).
- James Kraska: 'Global and Going Nowhere: Sustainable Development, Global Governance and Liberal Democracy', 34(2) *Denver Journal of International Law* 1127-1200 (Summer 2006).
- James Thuo Gathii: 'Neo-liberalism, Colonialism and International Governance Decentering the International Law of Governmental Legitimacy', 98 Michigan Law Review 1996 (2000).
- Jean-Marc Coicaud, Michael W. Doyle *et. al.*, (eds.): *The Globalization of Human Rights*, United Nations University Press, Tokyo.

- 18. John Baylis, Steve Smith, et. al., (eds.): The Globalization of World Politics: An Introduction to International Relations, OUP, New York.
- 19. Julius Stone: Social Dimensions of Law and Justice, Universal Law Publishing Co. Pvt. Ltd., New Delhi.
- 20. Laura Valentini: Justice in a Globalizing World: A Normative Framework, OUP, New York.
- 21. M. Abouharb & David Cingranelli: *Human Rights and Structural Adjustment*, Cambridge University Press, Cambridge.
- 22. P. W. Birnie and A. E. Bogle: *International Law and the Environment*, Oxford University Press, New York.
- 23. Pablo De Greiff and Ciaran Cronin (eds.): *Global Justice and Transnational Politics: Essays on the Moral and Political Challenges of Globalization*, MIT Press, Cambridge.
- S. N. Sangita and T. K. Jyothi: 'Globalization, Participatory Democracy and Inclusive Governance: Experiences in India', 55(4) *Indian Journal of Public Administration* 813-828 (2009).
- 25. Shivani Singh: 'Globalization and the Issue of Social Citizenship', 55(2) *Indian Journal of Public Administration* 145-151 (April-June 2009).
- 26. Simon Coney: *Justice Beyond Borders: A Global Political Theory*, Oxford University Press, New York.
- Swapna Banerjee: 'Contemporary Globalization and the Politics of Space', 46(52) *Economic and Political Weekly* 41-44 (December 2011).
- 28. Timsthy Hillies: Principles of Public International Law, Cavendish Publishing Limited, UK.
- 29. Upendra Baxi: The Future of Human Rights, OUP, New Delhi.
- 30. W. Friedmann: Law in a Changing Society, Universal Law Publishing Company, New Delhi.
- 31. Warner Menski: *Comparative Law in Global Context: The Legal Systems of Asia and Africa*, Cambridge University Press, Cambridge.
- 32. William Twining: *General Jurisprudence: Understanding Law from a Global Perspective*, Cambridge University Press, Cambridge.

# [ELECTIVE PAPER]

# Paper III LAW OF SUCCESSION AND INHERITANCE 100 Marks

#### UNIT-I

**Testamentary & Intestate Succession**: Distinction between Testamentary & Intestate Succession-Wills and Codicils-Probate-Letters of Administration-Deed-*Donatio Mortis Causa*-Wasiyat-Laws of Intestate Succession & Inheritance in India

#### UNIT-II

**Muslim Law of Succession and Inheritance:** Testamentary-Intestate Succession-Succession & Administration-Inheritance-General Rules-Sunni Law of Inheritance & Shia Law of Inheritance-Criteria for their Applicability-Religion, Domicile, Sex & Forms of Marriage-Effect of Conversion on the Applicability of Laws of Inheritance

#### **UNIT-III**

**Hindu Law of Inheritance and Succession:** Ancient Concept of Inheritance-Aim and Object of the Hindu Succession Act, 1956-Succession-Testatamentary & Intestate-Succession to the Property of a Hindu Male-Succession to Mitakshara Coparcener's Interest-Succession to the Property of a Hindu Female-Disqualification to Succession-General Rules of Succession-Section 14 of the Hindu Succession Act 1956 and Its Effects-Distribution of Property after the Hindu Succession Act 1956-State Amendments-Amendment of 2005 and Its Impact- Hindu Women's Right to Property Act, 1937

#### **UNIT-IV**

**Succession and Inheritance:** Parsi Law of Intestate Succession-Indian Succession Act, 1925-Christian Law-Applicability-Testamentary Capacity-Definition of Wills, Codicil, Executor, Administration, Probate and Letters of Administrations-Distinction between Will, Deed and *Donatio Mortis Causa*-Execution of Unprivileged and Privileged Wills-Attestation, Revocation, Alteration and Revival of Wills-Construction of Wills and Technical Words-Lapse of Legacies, General Specific and Demonstrative Legacies-Representative Titles to the Property of a Deceased and Succession Certificate

#### **Suggested Readings:**

- 1. K. B. Agrawal: Family Law in India, Kluwer Law International, Netherlands.
- Kulwant Gill: *Hindu Women's Right to Property in India*, Deep & Deep Publications Pvt. Ltd., New Delhi.
- 3. Kumud Desai: Law of Marriage and Divorce, N.M. Tripathi Pvt. Ltd., Bombay.
- 4. M. A. Qureshi: *Muslim Law*, Central Law Publication, Allahabad.
- 5. P. K. Das: Handbook on Hindu Succession (Property Rights of Women and Daughters) Universal Law Publishing Co. Pvt. Ltd., Delhi.
- P. K. Das: New Law on Hindu Succession, Universal Law Publishing Co. Pvt. Ltd., Delhi .Paras Diwan: Law of Marriage and Divorce, Universal Law Publishing Co. Pvt. Ltd., New Delhi.
- 7. Paras Diwan: Modern Hindu Law, Allahabad Law Agency, Faridabad.
- 8. Poonam P. Sexena: Family Law Lectures-Family Law II, LexisNexis India, Gurgaon.
- 9. Prof Kusum: Family Law Lectures-Family Law I, LexisNexis India, Gurgaon.
- 10. R. K. Aggarwal: Hindu Law, Central Law Agency, Allahabad.
- 11. Ranganath Misra: Mayne's Treatise on Hindu Law & Usage, Bharat Law House, New Delhi.
- 12. Satyajeet A. Desai: *Mulla's Principles of Hindu Law, Vol. I & II*, LexisNexis India, Gurgaon.
- 13. Sir Dinshaw Fardunji Mulla: Principles of Mahomedan Law, LexisNexis India, Gurgaon.
- 14. Tahir Mahmood: *Fyzee's Outlines of Muhammedan Law*, Oxford University Press, New Delhi.

#### **Statutory Enactments**

1. The Constitution of India, 1950

- 2. The Hindu Succession Act, 1956
- 3. The Married Women's Right to Property Act, 1874
- 4. The Muslim Personal Law (Shariat) Application Act, 1937
- 5. The Indian Succession Act, 1925
- 6. The Family Courts Act, 1984

# [ELECTIVE PAPER]

# [ELECTIVE PAPER]

# Paper III

## CYBER LAWS

100 Marks

- Introduction to the Cyber World and Cyber Law: Scope of Cyber Laws; E-Commerce: Issues and Provisions in Indian Law-Online Contracts& Its Validity in India; E-Taxation issues in Cyberspace; E-Governance: Concept and Practicality in India-Digital/ Electronic Signature; Cyber law in India with Special Reference to Information Technology Act, 2000: Jurisdiction in Cyberspace- Regulatory Framework- International Legal Regime
- Constitutional & Human Rights Issues in Cyberspace: Freedom of Speech and Expression in Cyberspace- Right to Access Cyberspace-Access to Internet-Right to Privacy-Right to Data Protection
- Cyber Crimes & Their Regulation: Cyber Crimes against Individuals-Women-Children-Institutions-State; Types of Cyber Crime- Hacking-Cyber Stalking-Cyber Bullying-Cyber Pornography Digital Forgery, Identity Theft & Fraud-Cyber Terrorism; Regulation of Cyber Crimes: Adjudicating Officer-Appointment and Qualification-Powers of Adjudicating Officer-Constitution, Powers & Jurisdiction of Cyber Appellate Tribunals; Cyber Torts: Cyber Defamation- Cyber Torts- Types of Civil Wrongs under the IT Act
- Intellectual Property & Forensics Issues in Cyber Space: Interface with Copyright Law-Patent Law-Trademarks & Domain Names Related Issues-Cyber Squatting-Uniform Domain Name Dispute Resolution Policy; Digital Forensics: Computer Forensics-Mobile Forensics-Forensic Tools-Anti-Forensic Techniques

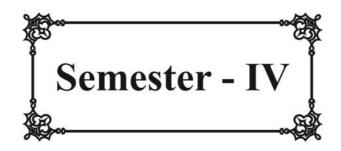
- 1. Advocate Prashant Mali: *Cyber Law and Cyber Crimes (Information Technology Act, 2000 with IT Rules, 2011)*, Snow White Publications Pvt. Ltd., Maharashtra.
- 2. Alwyn Didar Singh: E-Commerce in India: Assessments and Strategies for the Developing World, LexisNexis India, Gurgaon.
- 3. Anirudh Rastogi: *Cyber Law of Information Technology and Internet*, LexisNexis India, Gurgaon.

- 4. Apar Gupta (Revised by Akshay Sapre): Commentary on Information Technology Act-Along with Rules, Regulations, Orders, Guidelines, Reports and Policy Documents, LexisNexis India, Gurgaon.
- 5. Aparna Viswanathan: Cyber Law (Indian & International Perspectives on key topics including Data Security, E-commerce, Cloud Computing and Cyber Crimes), LexisNexis India, Gurgaon.
- 6. Barkha Bhasin & Rama Mohan Ukkalam: Cyber Law & Crimes, Asia Law House, Hyderabad.
- 7. Chris Reed & John Angel: Computer Law, OUP, New York.
- 8. Jonthan Rosenoer: Cyber Law, Springer, New York.
- 9. Justice Yatindra Singh: Cyber Laws, Universal Law Publishing Co. Ltd., New Delhi.
- 10. Karnika Seth: Computers, Internet and New Technology Laws (A Comprehensive Reference Work with Special Focus on Developments in India), Lexis Nexis India, Gurgaon.
- 11. Karnika Seth: *Protection of Children on Internet*, Universal Law Publishing An Imprint of LexisNexis; New Delhi
- Pavan Duggal: Cyber Law-An Exhaustive Section Wise Commentary on the Information Technology Act along with Rules, Regulations, Polices, Notifications etc., Universal Law Publishing Co. Pvt. Ltd., New Delhi.
- 13. S. R. Bhansali: Information Technology Act, 2000, University Book House Pvt. Ltd., Jaipur.
- 14. Sudhir Naib: The Information Technology Act, 2005: A Handbook, OUP, New York.
- Vakul Sharma: *Information Technology Law and Practice*, Universal Law Publishing Co. Pvt. Ltd., New Delhi.
- 16. Vasu Deva: Cyber Crimes and Law Enforcement, Commonwealth Publishers, New Delhi.

# **RESEARCH PAPERS**

Every student would choose a topic for research paper from the elective paper he/she has chosen for the semester and submit the same topic to the office of the Dean. On approval of the topic, the student would be allotted a Supervisor under whose guidance the student would write the paper. The Research paper shall be between 25-30 type-written pages on A4 size papers with 1.5 line spacing, 12 Font size for body of the text and 10 Font size for footnotes in Times New Roman.

The Research paper shall be submitted to the Office of the Dean two weeks prior to the date of viva-voce on the Research paper as notified by Office of the Dean.



# COURSE CONTENT [CORE PAPER]

# Semester IV

# **DISSERTATION**

300 Marks

To make the LL.M. Executive Program research oriented every student has to carry out Dissertation work selecting any topic from the subjects taught in the last three semesters applying Legal Research Methodology which is to be submitted for evaluation internally externally has to appear for viva-voce.

The evaluation of the Dissertation and Viva Voce will be conducted by a Board of Examiners comprising of Dean, Supervisor and an External Examiner

Students appearing for the Post-Graduate Degree Programme in Law (Executive Program) Examination shall submit a Dissertation prepared under the guidance of a Research Supervisor [Allotted by the Office of the Dean]

The student shall select the topic for Dissertation in consultation with the Research Supervisor and submit the topic along with the research proposal for the approval of the Dean

The Dissertation shall be between 125-150 type written pages on A4 size papers with 1.5 line spacing, 12 Font size for the body of the text and 10 Font size for the footnotes in Times New Roman and submitted in 4 copies.

# TEACHING ASSIGNMENT

#### 100 Marks

Since semester IV has been devoted towards practical-oriented understanding of Law in general, giving the students an opportunity to practice one's teaching skills is critical, the student would therefore be given teaching assignments. Each student will be assigned two topics in advance to deliver classroom teaching. Each student has to take up five teaching assignments of B.A.LL.B (H) course. Each class will be of one hour duration and shall be assessed on the basis of his/her teaching performance. The class taken will be supervised, observed and evaluated by the Course teacher. Students are supposed to prepare a teaching plan and take the classes accordingly. Students are also required to prepare teaching material on the basis of the classes taken.