

# UNIVERSITY OF DELHI

## MASTER OF LAWS (2Year/3 Year)

### LL.M. (2 Year/3 Year)

(Effective from Academic Year .....)

## PROGRAMME BROCHURE



LL.M. Revised Syllabus as approved by Academic Council on XXXX, 2019 and

Executive Council on YYYY, 2019

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## **I. About the Department**

The Faculty of Law was established in 1924 by University of Delhi. Dr. Hari Singh Gaur, was its first Dean and was also the Vice Chancellor of the University. The Faculty of Law was initially located in the Prince's Pavilion in the Old Vice Regal Lodge Grounds. In the year 1963 it was moved to its present location on Chhatra Marg, North Campus, University of Delhi and one more building, Umang Bhawan, near the old premise on the Chhatra Marg is allotted by university of Delhi in 2015 to the Faculty of Law.

In 1944, one year Master of Laws (LL.M.) was introduced. The LL.M. Course was made a full-time two-year Course in the year 1947. This course continues till date. Students taking admission in LL.M. (Two-years) course are required to file an affidavit declaring that they are not engaged in any trade, profession, business, or employment, etc. Mid-Sixties saw the introduction of two year course titled Master of Comparative Laws (M.C.L.) for foreign students. Around the same time LL.M. (Three Year) was introduced to enable working persons to acquire the LL.M. degree by studying the same courses of LL.M. (Two Year) spread over a period of three years.

# **UNIVERSITY OF DELHI**

**MASTER OF LAWS (2 Year)**

**LL.M. (2 Year)**

(Effective from Academic Year .....)

## **PROGRAMME BROCHURE**



LL.M. Revised Syllabus as approved by Academic Council on [XXXX](#), 2019 and  
Executive Council on [YYYY](#), 2019

## **II. Introduction to CBCS (Choice Based Credit System)**

### **Choice Based Credit System:**

The CBCS provides an opportunity for the students to choose courses from the prescribed courses comprising core, elective/minor or skill-based courses. The courses can be evaluated following the grading system, which is considered to be better than the conventional marks system. Grading system provides uniformity in the evaluation and computation of the Cumulative Grade Point Average (CGPA) based on student's performance in examinations which enables the student to move across institutions of higher learning. The uniformity in evaluation system also enable the potential employers in assessing the performance of the candidates.

### **Definitions:**

- (i) 'Academic Programme' means an entire course of study comprising its programme structure, course details, evaluation schemes etc. designed to be taught and evaluated in a teaching Department/ Centre or jointly under more than one such Department/ Centre.
- (ii) 'Course' means a segment of a subject that is part of an Academic Programme.
- (iii) 'Programme Structure' means a list of courses (Core, Elective, Open Elective) that makes up an Academic Programme, specifying the syllabus, Credits, hours of teaching, evaluation and examination schemes, minimum number of credits required for successful completion of the programme etc. prepared in conformity to University Rules, eligibility criteria for admission.
- (iv) 'Core Course' means a course that a student admitted to a particular programme must successfully complete to receive the degree and which cannot be substituted by any other course.
- (v) 'Elective Course' means an optional course to be selected by a student out of such courses offered in the same or any other Department/ Centre.
- (vi) 'Open Elective' means an elective course which is available for students of all programmes, including students of same department. Students of other Department will opt these courses subject to fulfilling of eligibility of criteria as laid down by the Department offering the course.
- (vii) 'Credit' means the value assigned to a course which indicates the level of instruction; One-hour lecture per week equals 1 Credit, 2 hours practical class per week equals 1 credit. Credit for a practical could be proposed as part of a course or as a separate practical course.
- (viii) 'SGPA' means Semester Grade Point Average calculated for individual semester.
- (ix) 'CGPA' is Cumulative Grade Points Average calculated for all courses completed by the students at any point of time. CGPA is calculated each year for both the semesters clubbed together.
- (x) 'Grand CGPA' is calculated in the last year of the course by clubbing together of CGPA of **two years, i.e., four semesters**. Grand CGPA is being given in Transcript form. To benefit

the student a formula for conversion of Grand CGPA into %age marks is given in the Transcript.

### **III. LL.M. Programme Details:**

#### **Programme Objectives (POs):**

The LL.M. Programme is aimed at:

- Familiarising students with laws and judicial interpretations at the national and international level and a comparative study of the same.
- Apprising students of the legal system, rule of law, and administration of justice.
- Imparting professionally and socially relevant legal education.
- Sensitising students towards the issues of access to justice of the deprived, marginalised and weaker sections of society.
- Producing internationally competent litigating lawyers, corporate lawyers, judges, judicial officers, legal officers, researchers, law reformers, law teachers, etc.
- Imparting skills of legal reasoning, problem solving, research, legal writing, oral and written communication, persuasion, leadership and teamwork.
- Promoting ethical practices in the profession of law.
- Promoting inter-disciplinary approach to legal profession.

#### **Programme Specific Outcomes (PSOs):**

At the end of the LL.M. course, the students will be able to:

- Do legal research.
- Understand, interpret, and apply law.
- Evaluate and compare domestic and international laws.
- Design, and formulate case theory and strategy.
- Analyze and differentiate facts and law.
- Solve problems by employing legal reasoning, research.
- Choose ethical practices in the profession of law and discharge their social responsibility.

#### **Programme Structure:**

The LL.M. programme is a two-year course divided into four-semester. A student is required to complete 82 credits for the completion of course and the award of degree.

		<b><i>Semester</i></b>	<b><i>Semester</i></b>
<b>Part – I</b>	First Year	Semester I	Semester II
<b>Part – II</b>	Second Year	Semester III	Semester IV

**Semester I/II/III/IV (individually for each semester)**

**Course Credit Scheme**

\* For each Core and Elective Course there will be 4 hours of teaching per week.

Semester	Core Courses			Elective Course			Open Elective Course			Total Credits
	No. of papers	Credits (L+T/P)	Total Credits	No. of papers	Credits (L+T/P)	Total Credits	No. of papers	Credits (L+T/P)	Total Credits	
I	02	06	<b>12</b>	02	06	<b>12</b>	00	00	00	<b>24</b>
II	01	06	<b>06</b>	03	06	<b>18</b>	00	00	00	<b>24</b>
III	00	00	<b>00</b>	03	06	<b>18</b>	00	00	00	<b>18</b>
IV	Dissertation (16)									<b>16</b>
<b>Total Credits for the Course</b>										<b>82</b>

\* Duration of examination of each paper shall be 3 hours.

\* Each paper will be of 100 marks out of which 80 marks shall be allocated for semester examination and 20 marks for internal assessment.

Number of core courses		Credits in each core course		
Course		Theory+ Term Paper/Class Presentation (4+2)	Tutorial	Credits
Semester I				
2YLM-CC-101	Comparative Constitution Law and Governance	6	0	6
2YLM-CC 102	Legal and Social Science Research Methods	6	0	6
Semester II				
2YLM-CC-201	Law and Justice in a Global World	6	0	6
Semester IV				
	Dissertation	16	0	16
Total credits in core courses		34		
Number of elective courses offered		Number of Elective Courses Opted		Credits in each Elective Course
(Semester I) 8		2		6
(Semester II) 10		3		6
(Semester III) 7		3		6
Credits in each elective course		Theory+ Term Paper/Class Presentation (4+2)		Credits
Semester I				
2YLM-EC-103	Law of International	6	6	



	Organizations and Human Rights		
2YLM-EC-108	Corporate Management and Social Responsibility	6	6
2YLM-EC-109	Intellectual and Industrial Property Laws-I	6	6
2YLM-EC-111	Comparative Labour and Wage Law	6	6
2YLM-EC-113	Criminal Justice and Human Rights	6	6
2YLM-EC-114	Comparative Law of Marriage, Divorce and Civil Code	6	6
2YLM-EC-116	Law of Women and Child Right	6	6
2YLM-EC-117	Administrative Law and Regulatory Mechanisms	6	6
<b>Semester II</b>			
2YLM-EC-202	Administrative Action and Judicial Review	6	6
2YLM-EC-204	Law of Corporate Finance and Securities Regulation	6	6
2YLM-EC-206	Intellectual and Industrial Property Laws-II	6	6
2YLM-EC-207	Insurance Law and Banking (New)	6	6
2YLM-EC-208	Cyber and Information Technology Law	6	6

	(New)		
2YLM-EC-209	Corporate and White Collar Crimes	6	6
2YLM-EC-210	Law of Torts and Disaster Management	6	6
2YLM-EC-211	Law, Media and Censorship	6	6
2YLM-EC-203	Law of Air and Space	6	6
2YLM-EC-205	Competition and Consumer Protection Law	6	6
<b>Semester III</b>			
2YLM-EC-104	Interpretation and Drafting of Treaties and Legislations	6	6
2YLM-EC-105	International Economic Law, Trade and Diplomacy	6	6
2YLM-EC-106	Environmental Law	6	6
2YLM-EC-107	Law of the Sea	6	6
2YLM-EC-110	Tax Policies and Tax Reforms	6	6
2YLM-EC-112	Criminology and Criminal Justice Administration	6	6
2YLM-EC-115	Laws of Inheritance and Succession	6	6
Total credits in Elective Courses		<b>(8 Elective Courses *6Credits) = 48</b>	

**Semester wise Details of LL.M. Course**

<u>S.No.</u>	<u>Paper No.</u>	<u>Subject Name</u>
<b><u>I TERM</u></b>		
1	2YLM-CC-101	Comparative Constitution Law and Governance
2	2YLM-CC-102	Legal and Social Science Research Methods
3	2YLM-EC-103	Law of International Organizations and Human Rights
4	2YLM-EC-108	Corporate Management and Social Responsibility
5	2YLM-EC-109	Intellectual and Industrial Property Laws-I
6	2YLM-EC-111	Comparative Labour and Wage Law
7	2YLM-EC-113	Criminal Justice and Human Rights
8	2YLM-EC-114	Comparative Law of Marriage, Divorce and Civil Code
9	2YLM-EC-116	Law of Women and Child Right
10	2YLM-EC-117	Administrative Law and Regulatory Mechanisms
<b><u>II TERM</u></b>		
1	2YLM-CC-201	Law and Justice in a Global World
2	2YLM-EC-202	Administrative Action and Judicial Review
3	2YLM-EC-204	Law of Corporate Finance and Securities Regulation
4	2YLM-EC-206	Intellectual and Industrial Property Laws-II
5	2YLM-EC-207	Insurance Law and Banking (New)
6	2YLM-EC-208	Cyber and Information Technology Law (New)
7	2YLM-EC-209	Corporate and White Collar Crimes
8	2YLM-EC-210	Law of Torts and Disaster Management
9	2YLM-EC-211	Law, Media and Censorship
10	2YLM-EC-203	Law of Air and Space
11	2YLM-EC-205	Competition and Consumer Protection Law
<b><u>III TERM</u></b>		
1	2YLM-EC-104	Interpretation and Drafting of Treaties and Legislations
2	2YLM-EC-105	International Economic Law, Trade and Diplomacy
3	2YLM-EC-106	Environmental Law
4	2YLM-EC-107	Law of the Sea
5	2YLM-EC-110	Tax Policies and Tax Reforms
6	2YLM-EC-112	Criminology and Criminal Justice Administration
7	2YLM-EC-115	Laws of Inheritance and Succession
<b><u>IV TERM</u></b>		
		Dissertation

### Selection of Elective Courses:

The LL.M (2 Year) course is divided into total four semesters. The Elective Courses shall be offered in the Semester I, II and III. The number of elective courses offered in Semester I is eight, Semester II is ten, Semester III is seven out of which the students will have to choose two, three and three respectively having 6 credits each. An Elective Course shall be taught only if minimum five students opt to study the course.

## **Teaching:**

- The primary mode of teaching in Law Faculty for LL.M. continues to be Lectures and Presentations. Use of multi-media has become common place in the teaching of LL.M. in the Faculty of Law, University of Delhi with the introduction of technology in the classrooms.
- For internal assessment, one term paper has to be submitted and presented in the class in each course in each term.
- Use of any tricks to subvert plagiarism check of dissertation will amount to use of unfair means and the same shall be reported to examination branch for necessary action.
- Penalties in case of plagiarism in submission of dissertation:  
Level 0: Similarities up to 10%- Minor similarities, no penalty.  
Level 1: Similarities above 10% to 40%- Such student shall be asked to submit a revised script within a stipulated time period not exceeding 6 months.  
Level 2: Similarities above 40% to 60%- Such student shall be debarred from submitting a revised script for a period of one year.  
Level 3: Similarities above 60%- Such student registration for that programme shall be cancelled.  
Note 1: Penalty on repeated plagiarism- Such student shall be punished for the plagiarism of one level higher than the previous level committed by him/her. In case where plagiarism of highest level is committed then the punishment for the same shall be operative.  
Note 2: Penalty is case where the degree/credit has already been obtained- if plagiarism is proved on a date later than the date of award of degree or credit as the case may be then his/her credit shall be put in abeyance for a period recommended by the IAIP and approved by the Head of the Institution.
- The dissertation in IV semester and VI semester of LL.M. (2 Year) and LL.M. (3 Year) respectively shall be for 200 marks: 150 marks for dissertation evaluation and 50 marks for viva voce examination.
- Prior to submission of the dissertation, the students shall make a pre-submission presentation in the department before the LL.M. Committee, which shall also be open to all faculty members and other students. The feedback and comments obtained from them may be suitably incorporated in the draft dissertation in consultation with the supervisor.
- The dissertation should be evaluated only by external examiner.
- The viva-voce examination, based among other things, on the critiques given in the evaluation report, shall be conducted by both the supervisor and External examiner together, and shall be open to all faculty members of the Department, other students and other interested experts/researchers.
- The students pursuing LL.M. 2 year/3 year courses shall submit synopsis for dissertation in the 3<sup>rd</sup>/5<sup>th</sup> semester respectively, by the 15<sup>th</sup> October. The supervisors may be appointed by the 15<sup>th</sup> November after successful defence of the synopsis by the candidate through an interview before a panel appointed by the LL.M. Committee.
- The students shall submit the dissertation on or before 30<sup>th</sup> April and upto 30<sup>th</sup> June with the permission of Dean, Faculty of Law, as a regular student. In case the dissertation is not submitted by 30<sup>th</sup> June, the student will have to register as an ex-student in accordance with the provisions of the Ordinance relating to ex-students of

the University.

- As an ex-students, a student may submit the dissertation as follows:
  - i. Last week of October,
  - ii. Last week of January,
  - iii. Last week of April and, with the permission of the Dean, last week of June of the year:

Provided that such of the students who register themselves as ex-students either for submission of dissertation or for clearing any of the papers may be given the degree of the academic year in which they clear all the requirements of the LL.M. examination.

Note: (a) In a case where a student fails to obtain the minimum of 50% marks in the dissertation submitted by him/her, he/she shall be permitted to revise and resubmit the dissertation on the same or on a fresh topic, to be approved by the Faculty of Law, if he/she so desires.

Further, if the student desires to revise and resubmit the Dissertation on the same topic, extracts from the report of the examiner as to the defects in the Dissertation be made available to the student to enable him/her to revise and re-submit the same.

- The dissertation must have the PLAGIARISM CHECK CERTIFICATE duly signed by the Librarian of the Faculty of Law and the Supervisor.
- Supervisor for dissertations: Any regular professor of the department with at least five research publications in refereed journals and any regular Associate/Assistant Professor of the department with a Ph.D. degree and at least two research publications in refereed journals may be recognized as a Supervisor. Provided that in areas/disciplines “where there is no/a limited number of refereed journals, LL.M. Committee may relax the above condition for recognition of a person as Research Supervisor with reasons recorded in writing.”

Only a full-time regular teacher of Department can act as a Supervisor. External supervisors are not allowed. However, co-supervisor can be appointed in inter-disciplinary areas from other Department of the University or other related institutions with the approval of the LL.M. Committee.

An eligible faculty member would ordinarily be allotted only one LL.M. student for dissertation supervision. In exceptional circumstances, where no subject expert is available, more than one but not exceeding three students may be allotted to a faculty member.

### **Eligibility for Admissions:**

- LL.M. is for Indian students.
- LL.M. (Two Year) is a full time course and students seeking admission in this course are required to file an affidavit stating that they are not engaged in any trade, business, occupation, profession, or employment and will be studying the course on full time basis as per rules contained in the Delhi University Ordinances. LL.M. (Three year) course is open to working persons also.
- The admissions to Master of Laws (Two and Three year program) are made strictly on the basis of merit in the LL.M. Entrance Test. The Entrance Test shall be of two hours duration. The Test Paper will consist of one question paper containing 100 objective-type questions with multiple choice answers relating to Constitutional Law of India,

Jurisprudence, Law of Contracts, Sale of Goods, Law of Torts, Consumer Protection, Criminal Law, Family Law, Public International Law, Intellectual Property Law, Cyber Law, Environment Law, Company Law and Partnership. In addition a few questions may address contemporary legal issues. The language of the Entrance Test shall be English. Each question shall carry four marks. For every correct answer, four marks will be awarded and for every incorrect answer, one mark will be deducted. No mark will be awarded or deducted for a question which is left unanswered. The general instructions to the candidates will be supplied on the University website.

- A Three year/Five year LL.B. Degree from the University of Delhi or any other Indian or Foreign University recognized as equivalent by the University of Delhi is the qualifying degree for appearing in the LL.M. Entrance Test. Candidates appearing in the qualifying degree examination are also eligible to appear in the LL.M. Entrance Test.
- No candidate on the rolls of LL.M. or ex-student of any University shall be allowed to take admission in the LL.M. course unless they get their admission cancelled.
- For Unreserved and EWS Category candidates at least 50% marks or an equivalent grade point in the aggregate in the qualifying degree examination.
- For SC/ST/OBC/CW/PwD Category Candidates at least 45% marks or an equivalent grade point in the aggregate in the qualifying degree Examination.
- Rounding of a fraction of marks is not allowed.

### **Assessment of Students' Performance and Scheme of Examinations:**

1. English shall be the medium of instruction and examination.
2. Assessment of students' performance shall consist of: 80 marks (End Semester Written Examination) and 20 marks (Internal Assessment).
3. The duration of the End Semester Written Examination in Core Courses and Elective Courses shall be three hours for 80 marks. Each Question Paper will have six questions of 20 marks each. The student shall be required to answer four questions.
4. For internal assessment, one term paper has to be submitted and presented in the class in each course in each term.
5. Use of any tricks to subvert plagiarism check of dissertation will amount to use of unfair means and the same shall be reported to examination branch for necessary action.
6. Penalties in case of plagiarism in submission of dissertation:  
Level 0: Similarities up to 10%- Minor similarities, no penalty.  
Level 1: Similarities above 10% to 40%- Such student shall be asked to submit a revised script within a stipulated time period not exceeding 6 months.  
Level 2: Similarities above 40% to 60%- Such student shall be debarred from submitting a revised script for a period of one year.  
Level 3: Similarities above 60%- Such student registration for that programme shall be cancelled.  
Note 1: Penalty on repeated plagiarism- Such student shall be punished for the plagiarism of one level higher than the previous level committed by him/her. In case where plagiarism of highest level is committed then the punishment for the same shall be operative.  
Note 2: Penalty is case where the degree/credit has already been obtained- if

plagiarism is proved on a date later than the date of award of degree or credit as the case may be then his/her credit shall be put in abeyance for a period recommended by the IAIP and approved by the Head of the Institution.

7. The dissertation in IV semester and VI semester of LL.M. (2 Year) and LL.M. (3 Year) respectively shall be for 200 marks: 150 marks for dissertation evaluation and 50 marks for viva voce examination.
8. Prior to submission of the dissertation, the students shall make a pre-submission presentation in the department before the LL.M. Committee, which shall also be open to all faculty members and other students. The feedback and comments obtained from them may be suitably incorporated in the draft dissertation in consultation with the supervisor.
9. The dissertation should be evaluated only by external examiner.
10. The viva-voce examination, based among other things, on the critiques given in the evaluation report, shall be conducted by both the supervisor and External examiner together, and shall be open to all faculty members of the Department, other students and other interested experts/researchers.
11. The students pursuing LL.M. 2 year/3 year courses shall submit synopsis for dissertation in the 3<sup>rd</sup>/5<sup>th</sup> semester respectively, by the 15<sup>th</sup> October. The supervisors may be appointed by the 15<sup>th</sup> November after successful defence of the synopsis by the candidate through an interview before a panel appointed by the LL.M. Committee.
12. The students shall submit the dissertation on or before 30<sup>th</sup> April and upto 30<sup>th</sup> June with the permission of Dean, Faculty of Law, as a regular student. In case the dissertation is not submitted by 30<sup>th</sup> June, the student will have to register as an ex-student in accordance with the provisions of the Ordinance relating to ex-students of the University.
13. As an ex-students, a student may submit the dissertation as follows:
  - i. Last week of October,
  - ii. Last week of January,
  - iii. Last week of April and, with the permission of the Dean, last week of June of the year:Provided that such of the students who register themselves as ex-students either for submission of dissertation or for clearing any of the papers may be given the degree of the academic year in which they clear all the requirements of the LL.M. examination.

Note: (a) In a case where a student fails to obtain the minimum of 50% marks in the dissertation submitted by him/her, he/she shall be permitted to revise and resubmit the dissertation on the same or on a fresh topic, to be approved by the Faculty of Law, if he/she so desires.

Further, if the student desires to revise and resubmit the Dissertation on the same topic, extracts from the report of the examiner as to the defects in the Dissertation he made available to the student to enable him/her to revise and re-submit the same.
14. The dissertation must have the PLAGIARISM CHECK CERTIFICATE duly signed by the Librarian of the Faculty of Law and the Supervisor.

### **Pass Percentage & Promotion Criteria/ Part I to Part II Progression:**

- In order to be eligible for LL.M. Degree, a student must have passed (i.e. secured 50%

marks) in each of the courses offered by him/her and in addition he/she must have secured at least 50% marks in the Dissertation.

**Promotion Rules:**

- (i) No student shall be promoted to the next Term, if he/she has been detained in the examination for shortage of attendance and/or non-submission of written paper in all the courses offered by him/her for class discussion and had failed to get certificate from the teacher teaching the course.
- (ii) Subject to sub-rule(i) above, a student of LL.M. First or Third Term of Two-Year course shall be eligible for promotion to Second or Fourth Term, respectively irrespective of the number of courses in which he/she has failed to pass or failed to appear in the First or Third Term examinations.
- (iii) Subject to sub-rules (i) and (ii) above, a student of LL.M. Second Term in Two-Year course shall be eligible for promotion to Third Term if he/she has passed in at least four papers of First and Second Term examinations taken together.
- (iv) Subject to sub-rule (i) above, a student of LL.M. First, Third or Fifth Term of Three- Year course shall be eligible for promotion to Second, Fourth or Sixth Term, respectively irrespective of the number of courses in which he/she has failed to pass or failed to appear in the First, Third or Fifth Term Examinations.
- (v) Subject to sub-rules (i) and (iv) above, a student of LL.M. Second Term in Three-Year course shall be eligible for promotion to Third Term if he/she has passed in at least three papers of First and Second Term examinations taken together and a student of Fourth Term shall be eligible for promotion to Fifth Term if he/she has passed in at least four papers of First, Second, Third and Fourth Term examinations taken together.
- (vi) Subject to above sub-rules, a student may be permitted to submit Dissertation at the end of Fourth Term in case of two-year course, or Sixth Term in case of three-year course, on a topic approved by the Faculty of Law irrespective of number of courses which he/she has failed to pass or failed to appear in the examination.

Note: The students eligible for admission to III/V Term must seek admission not later than two weeks from the date(s) of announcement of the results of LL.M. II/IV Term annual examinations or within one week of commencement of teaching, whichever is later, failing which they will forfeit their right to be admitted to III/V Term.

**Re-admission Rules:**

- (i) There shall be no re-admission in the LL.M. First Term under any circumstances including detention of a student for shortage of attendance in that Term and/or non submission of written paper in all the courses offered by him/her for class discussion and failure to get certificate from the teacher teaching the course.
- (ii) A student who has been detained for shortage of attendance or otherwise in Second, Third, Fourth or Fifth Term shall be eligible for re-admission in the Term in which he/she had been detained provided (a) he/she seeks re-admission within the date prescribed by the Dean, Faculty of Law which will not be later than one week from commencement of teaching in that Term; (b) his/her conduct has been satisfactory; and (c) he/she shows sufficient cause to



the satisfaction of the Dean, Faculty of Law for his/her discontinuance of studies or for not having put in the requisite percentage of attendance and/or non-submission of written paper in all the courses offered by him/her for class discussion and failure to get certificate from the teacher teaching the course.

- (iii) An applicant who has failed in examination or failed to appear at the examination and who is otherwise eligible to appear at the examination as an ex-student, shall not be admitted as a regular student. In exceptional cases, however, where such an applicant is a foreigner, studying under the Cultural Scholarship Scheme of the Government of India, etc. re-admission may be allowed.

### **Conversion of Marks into Grades:**

(specify the formula for conversion of marks into grades)

### **Grade Points:**

Grade point table as per University Examination rule

### **CGPA Calculation:**

As per University Examination rule.

### **SGPA Calculation:**

### **Grand SGPA Calculation:**

### **Conversion of Grand CGPA into Marks**

As notified by competent authority the formula for conversion of Grand CGPA into marks is: Final %age of marks = CGPA based on all four semesters  $\times$  9.5

### **Division of Degree into Classes:**

Post Graduate degree to be classified based on CGPA obtained into various classes as notified into Examination policy.

### **Attendance Requirement:**

No student shall be deemed to have pursued a regular course of study for the LL.M. Degree examination unless:

- (i) He/she has attended a minimum of two-thirds of the total number of lectures delivered in the Term in which he/she has been admitted as a regular student; and
- (ii) He/she has submitted term paper for class presentation in each course and the teacher teaching the course is satisfied with the paper and its presentation in the class.
- (iii) All students must submit a hard copy and soft copy of their term paper and class presentation before the end of the semester in the Office of the Dean, Faculty of Law, DU.
- (iv) No students will be promoted to the next term, if he/she was detained for shortage of attendance and/or non-submission of term papers in all the courses and presentations in the class and failed to get certificate from the teacher, teaching the

subject.

Note: (1) The term 'lectures' will include lectures, class presentations and discussion classes.

(2) In determining the exact number of the minimum requisite attendance, i.e., two thirds of lectures and discussion classes, fractions shall be ignored.

No student shall be permitted to appear in the examination of any Term unless he/she has submitted term paper and presented the term paper in each of the courses of the Term for class discussion and the teacher teaching each course issues a certificate that the term paper and its presentation by the student was to his/her satisfaction.

Provided that this requirement shall not be applicable to the compulsory Foundation Course in 'Legal and Social Science Research Methods'.

Provided further that the Dean may, in his discretion, exempt a student of the above requirement in exceptional cases of hardship.

### **Span Period:**

No student shall be admitted as a candidate for the examination for any of the Parts/Semesters after the lapse of five years from the date of admission to the Part-I/Semester-I of the LL.M. (2 Year) Programme.

### **Guidelines for the Award of Internal Assessment Marks LL.M. Programme (Semester Wise)**

For internal assessment, one term paper has to be submitted and presented in the class in each course in each term.

# **UNIVERSITY OF DELHI**

**MASTER OF LAWS (3 Year)**

**LL.M. (3 Year)**

(Effective from Academic Year .....)

## **PROGRAMME BROCHURE**



LL.M. Revised Syllabus as approved by Academic Council on XXXX, 2019 and

Executive Council on YYYY, 2019

## **II. Introduction to CBCS (Choice Based Credit System)**

### **Choice Based Credit System:**

The CBCS provides an opportunity for the students to choose courses from the prescribed courses comprising core, elective/minor or skill-based courses. The courses can be evaluated following the grading system, which is considered to be better than the conventional marks system. Grading system provides uniformity in the evaluation and computation of the Cumulative Grade Point Average (CGPA) based on student's performance in examinations which enables the student to move across institutions of higher learning. The uniformity in evaluation system also enable the potential employers in assessing the performance of the candidates.

### **Definitions:**

- (i) 'Academic Programme' means an entire course of study comprising its programme structure, course details, evaluation schemes etc. designed to be taught and evaluated in a teaching Department/Centre or jointly under more than one such Department/ Centre.
- (ii) 'Course' means a segment of a subject that is part of an Academic Programme.
- (iii) 'Programme Structure' means a list of courses (Core, Elective, Open Elective) that makes up an Academic Programme, specifying the syllabus, Credits, hours of teaching, evaluation and examination schemes, minimum number of credits required for successful completion of the programme etc. prepared in conformity to University Rules, eligibility criteria for admission.
- (iv) 'Core Course' means a course that a student admitted to a particular programme must successfully complete to receive the degree and which cannot be substituted by any other course.
- (v) 'Elective Course' means an optional course to be selected by a student out of such courses offered in the same or any other Department/Centre.
- (vi) 'Open Elective' means an elective course which is available for students of all programmes, including students of same department. Students of other Department will opt these courses subject to fulfilling of eligibility of criteria as laid down by the Department offering the course.
- (vii) 'Credit' means the value assigned to a course which indicates the level of instruction; One-hour lecture per week equals 1 Credit, 2 hours practical class per week equals 1 credit. Credit for a practical could be proposed as part of a course or as a separate practical course
- (viii) 'SGPA' means Semester Grade Point Average calculated for individual semester.
- (ix) 'CGPA' is Cumulative Grade Points Average calculated for all courses completed by the students at any point of time. CGPA is calculated each year for both the semesters clubbed together.

(x) 'Grand CGPA' is calculated in the last year of the course by clubbing together of CGPA of **three years, i.e., six semesters**. Grand CGPA is being given in Transcript form. To benefit the student a formula for conversation of Grand CGPA into %age marks is given in the Transcript.

### **III. LL.M. Programme Details:**

#### **Programme Objectives (POs):**

The LL.M. Programme is aimed at:

- Familiarising students with laws and judicial interpretations at the national and international level and a comparative study of the same.
- Apprising students of the legal system, rule of law, and administration of justice.
- Imparting professionally and socially relevant legal education.
- Sensitising students towards the issues of access to justice of the deprived, marginalised and weaker sections of society.
- Producing internationally competent litigating lawyers, corporate lawyers, judges, judicial officers, legal officers, researchers, law reformers, law teachers, etc.
- Imparting skills of legal reasoning, problem solving, research, legal writing, oral and written communication, persuasion, leadership and teamwork.
- Promoting ethical practices in the profession of law.
- Promoting inter-disciplinary approach to legal profession.

#### **Programme Specific Outcomes (PSOs):**

At the end of the LL.M. course, the students will be able to:

- Do legal research.
- Understand, interpret, and apply law.
- Evaluate and compare domestic and international laws.
- Design, and formulate case theory and strategy.
- Analyze and differentiate facts and law.
- Solve problems by employing legal reasoning, research.
- Choose ethical practices in the profession of law and discharge their social responsibility.

#### **Programme Structure:**

The LL.M. (3 year) programme is divided into six-semester. A student is required to complete 82 credits for the completion of course and the award of degree.

		<i>Semester</i>	<i>Semester</i>
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<b>Part – I</b>	First Year	Semester I	Semester II
<b>Part – II</b>	Second Year	Semester III	Semester IV
<b>Part – III</b>	Third Year	Semester V	Semester VI

**Course Credit Scheme**

- \* For each Core and Elective Course there will be 4 hours of teaching per week.
- \* Duration of examination of each paper shall be 3 hours.
- \* Each paper will be of 100 marks out of which 80 marks shall be allocated for semester examination and 20 marks for internal assessment.

<b>Semester</b>	<b>Core Courses</b>			<b>Elective Course</b>			<b>Open Elective Course</b>			<b>Total Credits</b>
	No. of papers	Credits (L+T/P)	<b>Total Credits</b>	No. of papers	Credits (L+T/P)	<b>Total Credits</b>	No. of papers	Credits (L+T/P)	<b>Total Credits</b>	
I	02	06	<b>12</b>	01	06	<b>06</b>	00	00	<b>00</b>	<b>18</b>
II	01	06	<b>06</b>	01	06	<b>06</b>	00	00	<b>00</b>	<b>12</b>
III	00	00	<b>00</b>	02	06	<b>12</b>	00	00	<b>00</b>	<b>12</b>
IV	00	00	<b>00</b>	02	06	<b>12</b>	00	00	<b>00</b>	<b>12</b>
V	00	00	<b>00</b>	02	06	<b>12</b>	00	00	<b>00</b>	<b>12</b>
VI	Dissertation (16)									<b>16</b>
<b>Total Credits for the Course</b>										<b>82</b>

Semester I/II/III/IV/V/VI (individually for each semester)				
Number of core courses		Credits in each core course		
Course		Theory+ Term Paper/Class Presentation (4+2)	Tutorial	Credits
Semester I				
3YLM-CC-101	Comparative Constitution Law and Governance	6	0	6
3YLM-CC-102	Legal and Social Science Research Methods	6	0	6
Semester II				
3YLM-CC-201	Law and Justice in a Global World	6	0	6
Semester VI				
	Dissertation	16	0	16
Total credits in core courses		34		
Number of elective courses offered		Number of Elective Courses Opted		Credits in each Elective Course
(Semester I) 5		1		6
(Semester II) 5		1		6
(Semester III) 5		2		6
(Semester IV) 5		2		6
(Semester V) 5		2		6
Credits in each elective course		Theory+ Term Paper/Class Presentations (4+2)		Credits
Semester I				
3YLM-EC-103	Law of International Organization and Human Rights	6	6	
3YLM-EC-109	Intellectual and Industrial Property Laws-I	6	6	

3YLM-EC-111	Comparative Labour and Wage Law	6	6
3YLM-EC-116	Law of Women and Child Right.	6	6
3YLM-EC-117	Administrative Law and Regulatory Mechanisms	6	6
<b>Semester II</b>			
3YLM-EC-206	Intellectual and Industrial Property Laws-II	6	6
3YLM-EC-207	Insurance Law and Banking (New)	6	6
3YLM-EC-208	Cyber and Information Technology Law (New)	6	6
3YLM-EC-209	Corporate and White Collar Crimes	6	6
3YLM-EC-210	Law of Torts and Disaster Management	6	6
<b>Semester III</b>			
3YLM-EC-104	Interpretation and Drafting of Treaties and Legislations	6	6
3YLM-EC-106	Environmental Law	6	6
3YLM-EC-110	Tax Policies and Tax Reforms	6	6
3YLM-EC-112	Criminology and Criminal Justice Administration	6	6
3YLM-EC-115	Laws of Inheritance and Succession	6	6
<b>Semester IV</b>			
3YLM-EC-202	Administrative Action and Judicial Review	6	6
3YLM-EC-204	Law of Corporate Finance and Securities Regulation	6	6
3YLM-EC-203	Law of Air and Space	6	6
3YLM-EC-205	Competition and Consumer Protection Law	6	6
3YLM-EC-211	Law, Media and Censorship.	6	6



Semester V			
3YLM-EC-105	International Economic Law, Trade & Diplomacy	6	6
3YLM-EC-107	Law of the Sea	6	6
3YLM-EC-108	Corporate Management and Social Responsibility	6	6
3YLM-EC-113	Criminal Justice and Human Rights	6	6
3YLM-EC-114	Comparative Law of Marriage, Divorce and Civil Code	6	6
Total credits in Elective Courses		<b>(8 Elective Courses *6 Credits) = 48</b>	

**Semester wise Details of LL.M. Course**

<u>S.No.</u>	<u>Paper No.</u>	<u>Subject Name</u>
<b><u>I TERM</u></b>		
1	3YLM-CC-101	Comparative Constitution Law and Governance
2	3YLM-CC-102	Legal and Social Science Research Methods
3	3YLM-EC-103	Law of International Organization and Human Rights
4	3YLM-EC-109	Intellectual and Industrial Property Laws-I
5	3YLM-EC-111	Comparative Labour and Wage Law
6	3YLM-EC-116	Law of Women and Child Right
7	3YLM-EC-117	Administrative Law and Regulatory Mechanisms
<b><u>II TERM</u></b>		
1	3YLM-CC-201	Law and Justice in a Global World
2	3YLM-EC-206	Intellectual and Industrial Property Laws-II
3	3YLM-EC-207	Insurance Law and Banking (New)
4	3YLM-EC-208	Cyber and Information Technology Law (New)
5	3YLM-EC-209	Corporate and White Collar Crimes
6	3YLM-EC-210	Law of Torts and Disaster Management
<b><u>III TERM</u></b>		
1	3YLM-EC-104	Interpretation and Drafting of Treaties and Legislations
2	3YLM-EC-106	Environmental Law
3	3YLM-EC-110	Tax Policies and Tax Reforms
4	3YLM-EC-112	Criminology and Criminal Justice Administration
5	3YLM-EC-115	Laws of Inheritance and Succession
<b><u>IV TERM</u></b>		
1	3YLM-EC-202	Administrative Action and Judicial Review
2	3YLM-EC-204	Law of Corporate Finance and Securities Regulation
3	3YLM-EC-203	Law of Air and Space
4	3YLM-EC-205	Competition and Consumer Protection Law
5	3YLM-EC-211	Law, Media and Censorship.
<b><u>V TERM</u></b>		
1	3YLM-EC-105	International Economic Law, Trade & Diplomacy
2	3YLM-EC-107	Law of the Sea
3	3YLM-EC-108	Corporate Management and Social Responsibility
4	3YLM-EC-113	Criminal Justice and Human Rights
5	3YLM-EC-114	Comparative Law of Marriage, Divorce and Civil Code

VI TERM		
		Dissertation

### Selection of Elective Courses:

The LL.M. (3 Year) course is divided into total six semesters. The Elective Courses shall be offered in the Semester I, II, III, IV and V. The number of elective courses offered in Semester I is five, Semester II is five, Semester III is five, Semester IV is five and Semester V is five out of which the students will have to choose one, one, two, two and two respectively having 6 credits each. An Elective Course shall be taught only if minimum five students opt to study the course.

### Teaching:

- The primary mode of teaching in Law Faculty for LL.M. continues to be Lectures and Presentations. Use of multi-media has become common place in the teaching of LL.M. in the Faculty of Law, University of Delhi with the introduction of technology in the classrooms.
- For internal assessment, one term paper has to be submitted and presented in the class in each course in each term.
- Use of any tricks to subvert plagiarism check of dissertation will amount to use of unfair means and the same shall be reported to examination branch for necessary action.
- Penalties in case of plagiarism in submission of dissertation:  
Level 0: Similarities up to 10%- Minor similarities, no penalty.  
Level 1: Similarities above 10% to 40%- Such student shall be asked to submit a revised script within a stipulated time period not exceeding 6 months.  
Level 2: Similarities above 40% to 60%- Such student shall be debarred from submitting a revised script for a period of one year.  
Level 3: Similarities above 60%- Such student registration for that programme shall be cancelled.  
Note 1: Penalty on repeated plagiarism- Such student shall be punished for the plagiarism of one level higher than the previous level committed by him/her. In case where plagiarism of highest level is committed then the punishment for the same shall be operative.  
Note 2: Penalty is case where the degree/credit has already been obtained- if plagiarism is proved on a date later than the date of award of degree or credit as the case may be then his/her credit shall be put in abeyance for a period recommended by the IAIP and approved by the Head of the Institution.
- The dissertation in IV semester and VI semester of LL.M. (2 Year) and LL.M. (3 Year) respectively shall be for 200 marks: 150 marks for dissertation evaluation and 50 marks for viva voce examination.
- Prior to submission of the dissertation, the students shall make a pre-submission presentation in the department before the LL.M. Committee, which shall also be open to all faculty members and other students. The feedback and comments obtained from them may be suitably incorporated in the draft dissertation in consultation with the supervisor.
- The dissertation should be evaluated only by external examiner.
- The viva-voce examination, based among other things, on the critiques given in the

evaluation report, shall be conducted by both the supervisor and External examiner together, and shall be open to all faculty members of the Department, other students and other interested experts/researchers.

- The students pursuing LL.M. 2 year/3 year courses shall submit synopsis for dissertation in the 3<sup>rd</sup>/5<sup>th</sup> semester respectively, by the 15<sup>th</sup> October. The supervisors may be appointed by the 15<sup>th</sup> November after successful defence of the synopsis by the candidate through an interview before a panel appointed by the LL.M. Committee.
- The students shall submit the dissertation on or before 30<sup>th</sup> April and upto 30<sup>th</sup> June with the permission of Dean, Faculty of Law, as a regular student. In case the dissertation is not submitted by 30<sup>th</sup> June, the student will have to register as an ex-student in accordance with the provisions of the Ordinance relating to ex-students of the University.
- As an ex-students, a student may submit the dissertation as follows:
  - i. Last week of October,
  - ii. Last week of January,
  - iii. Last week of April and, with the permission of the Dean, last week of June of the year:

Provided that such of the students who register themselves as ex-students either for submission of dissertation or for clearing any of the papers may be given the degree of the academic year in which they clear all the requirements of the LL.M. examination.

Note: (a) In a case where a student fails to obtain the minimum of 50% marks in the dissertation submitted by him/her, he/she shall be permitted to revise and resubmit the dissertation on the same or on a fresh topic, to be approved by the Faculty of Law, if he/she so desires.

Further, if the student desires to revise and resubmit the Dissertation on the same topic, extracts from the report of the examiner as to the defects in the Dissertation be made available to the student to enable him/her to revise and re-submit the same.

- The dissertation must have the PLAGIARISM CHECK CERTIFICATE duly signed by the Librarian of the Faculty of Law and the Supervisor.
- Supervisor for dissertations: Any regular professor of the department with at least five research publications in refereed journals and any regular Associate/Assistant Professor of the department with a Ph.D. degree and at least two research publications in refereed journals may be recognized as a Supervisor. Provided that in areas/disciplines “where there is no/a limited number of refereed journals, LL.M. Committee may relax the above condition for recognition of a person as Research Supervisor with reasons recorded in writing.”

Only a full-time regular teacher of Department can act as a Supervisor. External supervisors are not allowed. However, co-supervisor can be appointed in inter-disciplinary areas from other Department of the University or other related institutions with the approval of the LL.M. Committee.

An eligible faculty member would ordinarily be allotted only one LL.M. student for dissertation supervision. In exceptional circumstances, where no subject expert is available, more than one but not exceeding three students may be allotted to a faculty member.

## **Eligibility for Admissions:**

- LL.M. is for Indian students.
- LL.M. (Two Year) is a full time course and students seeking admission in this course are required to file an affidavit stating that they are not engaged in any trade, business, occupation, profession, or employment and will be studying the course on full time basis as per rules contained in the Delhi University Ordinances. LL.M. (Three year) course is open to working persons also.
- The admissions to Master of Laws (Two and Three year program) are made strictly on the basis of merit in the LL.M. Entrance Test. The Entrance Test shall be of two hours duration. The Test Paper will consist of one question paper containing 100 objective-type questions with multiple choice answers relating to Constitutional Law of India, Jurisprudence, Law of Contracts, Sale of Goods, Law of Torts, Consumer Protection, Criminal Law, Family Law, Public International Law, Intellectual Property Law, Cyber Law, Environment Law, Company Law and Partnership. In addition a few questions may address contemporary legal issues. The language of the Entrance Test shall be English. Each question shall carry four marks. For every correct answer, four marks will be awarded and for every incorrect answer, one mark will be deducted. No mark will be awarded or deducted for a question which is left unanswered. The general instructions to the candidates will be supplied on the University website.
- A Three year/Five year LL.B. Degree from the University of Delhi or any other Indian or Foreign University recognized as equivalent by the University of Delhi is the qualifying degree for appearing in the LL.M. Entrance Test. Candidates appearing in the qualifying degree examination are also eligible to appear in the LL.M. Entrance Test.
- No candidate on the rolls of LL.M. or ex-student of any University shall be allowed to take admission in the LL.M. course unless they get their admission cancelled.
- For Unreserved and EWS Category candidates at least 50% marks or an equivalent grade point in the aggregate in the qualifying degree examination.
- For SC/ST/OBC/CW/PwD Category Candidates at least 45% marks or an equivalent grade point in the aggregate in the qualifying degree Examination.
- Rounding of a fraction of marks is not allowed.

## **Assessment of Students' Performance and Scheme of Examinations:**

1. English shall be the medium of instruction and examination.
2. Assessment of students' performance shall consist of: 80 marks (End Semester Written Examination) and 20 marks (Internal Assessment).
3. The duration of the End Semester Written Examination in Core Courses and Elective Courses shall be three hours for 80 marks. Each Question Paper will have six questions of 20 marks each. The student shall be required to answer four questions.
4. For internal assessment, one term paper has to be submitted and presented in the class in each course in each term.
5. Use of any tricks to subvert plagiarism check of dissertation will amount to use of

unfair means and the same shall be reported to examination branch for necessary action.

6. Penalties in case of plagiarism in submission of dissertation:

Level 0: Similarities up to 10%- Minor similarities, no penalty.

Level 1: Similarities above 10% to 40%- Such student shall be asked to submit a revised script within a stipulated time period not exceeding 6 months.

Level 2: Similarities above 40% to 60%- Such student shall be debarred from submitting a revised script for a period of one year.

Level 3: Similarities above 60%- Such student registration for that programme shall be cancelled.

Note 1: Penalty on repeated plagiarism- Such student shall be punished for the plagiarism of one level higher than the previous level committed by him/her. In case where plagiarism of highest level is committed then the punishment for the same shall be operative.

Note 2: Penalty is case where the degree/credit has already been obtained- if plagiarism is proved on a date later than the date of award of degree or credit as the case may be then his/her credit shall be put in abeyance for a period recommended by the IAIP and approved by the Head of the Institution.

7. The dissertation in IV semester and VI semester of LL.M. (2 Year) and LL.M. (3 Year) respectively shall be for 200 marks: 150 marks for dissertation evaluation and 50 marks for viva voce examination.

8. Prior to submission of the dissertation, the students shall make a pre-submission presentation in the department before the LL.M. Committee, which shall also be open to all faculty members and other students. The feedback and comments obtained from them may be suitably incorporated in the draft dissertation in consultation with the supervisor.

9. The dissertation should be evaluated only by external examiner.

10. The viva-voce examination, based among other things, on the critiques given in the evaluation report, shall be conducted by both the supervisor and External examiner together, and shall be open to all faculty members of the Department, other students and other interested experts/researchers.

11. The students pursuing LL.M. 2 year/3 year courses shall submit synopsis for dissertation in the 3<sup>rd</sup>/5<sup>th</sup> semester respectively, by the 15<sup>th</sup> October. The supervisors may be appointed by the 15<sup>th</sup> November after successful defence of the synopsis by the candidate through an interview before a panel appointed by the LL.M. Committee.

12. The students shall submit the dissertation on or before 30<sup>th</sup> April and upto 30<sup>th</sup> June with the permission of Dean, Faculty of Law, as a regular student. In case the dissertation is not submitted by 30<sup>th</sup> June, the student will have to register as an ex-student in accordance with the provisions of the Ordinance relating to ex-students of the University.

13. As an ex-students, a student may submit the dissertation as follows:

i. Last week of October,

ii. Last week of January,

iii. Last week of April and, with the permission of the Dean, last week of June of the year:

Provided that such of the students who register themselves as ex-students either for submission of dissertation or for clearing any of the papers may be given the degree

of the academic year in which they clear all the requirements of the LL.M. examination.

Note: (a) In a case where a student fails to obtain the minimum of 50% marks in the dissertation submitted by him/her, he/she shall be permitted to revise and resubmit the dissertation on the same or on a fresh topic, to be approved by the Faculty of Law, if he/she so desires.

Further, if the student desires to revise and resubmit the Dissertation on the same topic, extracts from the report of the examiner as to the defects in the Dissertation he made available to the student to enable him/her to revise and re-submit the same.

14. The dissertation must have the PLAGIARISM CHECK CERTIFICATE duly signed by the Librarian of the Faculty of Law and the Supervisor.

### **Pass Percentage & Promotion Criteria/ Part I to Part II Progression:**

- In order to be eligible for LL.M. Degree, a student must have passed (i.e. secured 50% marks) in each of the courses offered by him/her and in addition he/she must have secured at least 50% marks in the Dissertation.

#### **Promotion Rules:**

- (i) No student shall be promoted to the next Term, if he/she has been detained in the examination for shortage of attendance and/or non-submission of written paper in all the courses offered by him/her for class discussion and had failed to get certificate from the teacher teaching the course.
- (ii) Subject to sub-rule(i) above, a student of LL.M. First or Third Term of Two-Year course shall be eligible for promotion to Second or Fourth Term, respectively irrespective of the number of courses in which he/she has failed to pass or failed to appear in the First or Third Term examinations.
- (iii) Subject to sub-rules (i) and (ii) above, a student of LL.M. Second Term in Two-Year course shall be eligible for promotion to Third Term if he/she has passed in at least four papers of First and Second Term examinations taken together.
- (iv) Subject to sub-rule (i) above, a student of LL.M. First, Third or Fifth Term of Three- Year course shall be eligible for promotion to Second, Fourth or Sixth Term, respectively irrespective of the number of courses in which he/she has failed to pass or failed to appear in the First, Third or Fifth Term Examinations.
- (v) Subject to sub-rules (i) and (iv) above, a student of LL.M. Second Term in Three-Year course shall be eligible for promotion to Third Term if he/she has passed in at least three papers of First and Second Term examinations taken together and a student of Fourth Term shall be eligible for promotion to Fifth Term if he/she has passed in at least four papers of First, Second, Third and Fourth Term examinations taken together.
- (vi) Subject to above sub-rules, a student may be permitted to submit Dissertation at the end of Fourth Term in case of two-year course, or Sixth Term in case of three-year course, on a topic approved by the Faculty of Law irrespective of number of courses which he/she has failed to pass or failed to appear in the examination.

Note: The students eligible for admission to III/V Term must seek admission not later than two weeks from the date(s) of announcement of the results of LL.M. II/IV Term

annual examinations or within one week of commencement of teaching, whichever is later, failing which they will forfeit their right to be admitted to III/V Term.

**Re-admission Rules:**

- (i) There shall be no re-admission in the LL.M. First Term under any circumstances including detention of a student for shortage of attendance in that Term and/or non submission of written paper in all the courses offered by him/her for class discussion and failure to get certificate from the teacher teaching the course.
- (ii) A student who has been detained for shortage of attendance or otherwise in Second, Third, Fourth or Fifth Term shall be eligible for re-admission in the Term in which he/she had been detained provided (a) he/she seeks re-admission within the date prescribed by the Dean, Faculty of Law which will not be later than one week from commencement of teaching in that Term; (b) his/her conduct has been satisfactory; and (c) he/she shows sufficient cause to the satisfaction of the Dean, Faculty of Law for his/her discontinuance of studies or for not having put in the requisite percentage of attendance and/or non-submission of written paper in all the courses offered by him/her for class discussion and failure to get certificate from the teacher teaching the course.
- (iii) An applicant who has failed in examination or failed to appear at the examination and who is otherwise eligible to appear at the examination as an ex-student, shall not be admitted as a regular student. In exceptional cases, however, where such an applicant is a foreigner, studying under the Cultural Scholarship Scheme of the Government of India, etc. re-admission may be allowed.

**Conversion of Marks into Grades:**

(specify the formula for conversion of marks into grades)

**Grade Points:**

Grade point table as per University Examination rule

**CGPA Calculation:**

As per University Examination rule.

**SGPA Calculation:**

**Grand SGPA Calculation:**

**Conversion of Grand CGPA into Marks**

As notified by competent authority the formula for conversion of Grand CGPA into marks is: Final %age of marks = CGPA based on all six semesters  $\times$  9.5

**Division of Degree into Classes:**

Post Graduate degree to be classified based on CGPA obtained into various classes as notified into Examination policy.

### **Attendance Requirement:**

No student shall be deemed to have pursued a regular course of study for the LL.M. Degree examination unless:

- (i) He/she has attended a minimum of two-thirds of the total number of lectures delivered in the Term in which he/she has been admitted as a regular student; and
- (ii) He/she has submitted term paper for class presentation in each course and the teacher teaching the course is satisfied with the paper and its presentation in the class.
- (iii) All students must submit a hard copy and soft copy of their term paper and class presentation before the end of the semester in the Office of the Dean, Faculty of Law, DU.
- (iv) No students will be promoted to the next term, if he/she was detained for shortage of attendance and/or non-submission of term papers in all the courses and presentations in the class and failed to get certificate from the teacher, teaching the subject.

Note: (1) The term 'lectures' will include lectures, class presentations and discussion classes.

(2) In determining the exact number of the minimum requisite attendance, i.e., two thirds of lectures and discussion classes, fractions shall be ignored.

No student shall be permitted to appear in the examination of any Term unless he/she has submitted term paper and presented the term paper in each of the courses of the Term for class discussion and the teacher teaching each course issues a certificate that the term paper and its presentation by the student was to his/her satisfaction.

Provided that this requirement shall not be applicable to the compulsory Foundation Course in 'Legal and Social Science Research Methods'.

Provided further that the Dean may, in his discretion, exempt a student of the above requirement in exceptional cases of hardship.

### **Span Period:**

No student shall be admitted as a candidate for the examination for any of the Parts/Semesters after the lapse of six years from the date of admission to the Part-I/Semester-I of the LL.M. (3 Year) Programme.

### **Guidelines for the Award of Internal Assessment Marks LL.M. Programme (Semester Wise)**

For internal assessment, one term paper has to be submitted and presented in the class in each course in each term.



**IV: Course Wise Content Details for LL.M. (2 Year)/LL.M. (3 Year) Programme:**

**MASTER OF LAWS**

**Semester I**

**Course Code: 2YLM-CC-101/3YLM-CC-101**

**Course Name: Comparative Constitution Law and Governance**

(Comparative Study limited to U.S., U.K and India)

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objectives**

1. The paper is designed to give an overall picture of constitution and constitutionalism and to examine the different types of governments in U.S., U.K., and India.
2. The three functions of the state are also given importance so that the students will be able to appreciate the constitutional functions of the state in a comparative environment.
3. Since the Constitution is a dynamic document, timely modification is a necessity, but often results in challenges raised before the superior courts. It is important to understand how the judiciary strikes a balance between the political efforts and stability of the constitution while ensuring the dynamic character of the constitution. The various issues of governance affecting the people and the remedies available to them are also part of this paper.

**Learning outcomes**

On successful completion of the paper, the students will be able to:

1. Compare the various forms of government, its branches and its functioning in different countries.
2. Analyse the leading constitutional principles in different jurisdictions.
3. Distinguish between constitution and constitutionalism.
4. To critically analyse the process of amendment of the constitution in various countries and the limitations on the amendment power.
5. Gain insights of the model of state, its practises and good governance
6. Understand the significance of doctrine of judicial review and limitations thereof.

**CONTENTS**

**1. The Concept of Constitution & Constitutionalism (4 lectures)**

- (i) Meaning and Idea of Constitution,
- (ii) Constitution as a Dynamic and Supreme Law
- (iii) Concept of Constitutionalism
- (iv) Distinction between Constitution and Constitutionalism

(v) Essential features of Constitutionalism

**2. Study of Comparative Constitutional Law (2 lectures)**

- (i) Relevance
- (ii) Problems and Concerns in Using Comparison

**3. Some Constitutional Principles (12 lectures)**

- (i) Rule of law
  - (a) Modern Concept of Rule of Law
  - (b) Social and economic rights as part of rule of law
- (ii) Separation of powers
  - (a) The doctrine of Checks and Balances
- (iii) Position of Rule of Law and Separation of Powers in the Indian Constitution

**4. Constitutional foundations of powers (14 lectures)**

- (i) Legislative Power
- (ii) The Executive Power
- (iii) The Judicial Power
  - (a) Appointment of Judges and Judicial Accountability
  - (b) Role of Courts and Fundamental Rights
  - (c) Role of the Courts in ensuring Good Governance

**5. The State and Governance (4 lectures)**

- (i) The concept of Good Governance
- (ii) The methods to ensure Good Governance
- (iii) State and Civil Liberties

**6. Forms of Governments (8 lectures)**

- (i) Federal and Unitary Forms
  - (a) Features, Advantages and Disadvantages
  - (b) Models of Federalism Quasi - federalism
- (ii) Parliamentary and Presidential Forms of Government

**7. Amendment of the Constitution (8 lectures)**

- (i) Methods of Amendment
- (ii) Limitations on the Amending Power: Comparative Perspective
- (iii) Theory of Basic Structure: Origin and Development

**8. Constitutional Review (8 lectures)**

- (i) Concept and Origin of Judicial Review
- (ii) Methods of Constitutional Review
  - (a) Judicial and Political Review
  - (b) Concentrated and Diffused Review
  - (c) Anticipatory and Successive Review
- (iii) Limitations on Judicial Review

**Recommended Readings:**

1. Christopher Forsyth, Mark Elliott, Swati Jhaveri, *Effective Judicial Review: A Cornerstone of Good Governance* (Oxford University Press, 2010).
2. D.D. Basu, *Comparative Constitutional Law* (2<sup>nd</sup> ed., Wadhwa Nagpur).
3. David Strauss, *The Living Constitution* (OUP, 2010).
4. Dr. Subash Kashyap, *Framing of Indian Constitution* (Universal Law, 2004).
5. Elizabeth Giussani, *Constitutional and Administrative Law* (Sweet and Maxwell, 2008)
6. Erwin Chemerinsky, *Constitutional Law, Principles and Policies* (3<sup>rd</sup> ed., Aspen, 2006).
7. M.V. Pylee, *Constitution of the World* (Universal, 2006)
8. Mahendra P. Singhy, *Comparative Constitutional Law* (Eastern Book Company, 1989).
9. Neral Devins and Louis Fisher, *The Democratic Constitution* (OUP, 2010).
10. S.N. Ray, *Judicial Review and Fundamental Rights* (Eastern Law House, 1974).
11. Sudhir Krishna Swamy, *Democracy and Constitutionalism in India – A study of the Basic Structure Doctrine* (POUP, 2009)
12. Sunil Khilnani, Vikram Raghavan, Arun Thiruvengadam, *Comparative Constitutionalism in South Asia* (POUP, 2013).
13. Vikram David Amar, Mark Tushnet, *Global Perspectives on Constitutional Law* (OUP, 2009).
14. Zachery Elkins, Tom Ginsburg, James Melton, *The Endurance of National Constitutions* (Cambridge University Press, 2009)
15. D.D. Basu, *Comparative Constitutional Law* (2<sup>nd</sup> ed., Wadhwa Nagpur, 2008).
16. D.D.Basu, *Comparative Federalism* (Lexis Nexis, 2007)
17. D.D.Basu, *Introduction to the Constitution of India* (Lexis-Nexis-Butterworth-Wadhwa, 2008).
18. Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (OUP, 2008).
19. M.P.Singh, *Comparative Constitutional Law* (Eastern Book Company, 2011).
20. M.P.jain, *Indian Constitutional Law* (6<sup>th</sup> ed., Wadhwa, Nagaur).
21. Pier Giuseppe Monateri, *Methods of Comparative Law* (Edward Elgar Publishing, 2012).
22. Vicki C. Jackson, Mark V. Tushnet, *Comparative Constitutional Law* (2<sup>nd</sup> ed. Foundation Press, 2006).

**Teaching plan:**

**Week 1**

Meaning and Idea of Constitution, Constitution as a Dynamic and Supreme Law, Concept of Constitutionalism, Distinction between Constitution and Constitutionalism, Essential features of Constitutionalism

**Week 2**

Relevance, Problems and Concerns in Using Comparison, Rule of law

**Week 3 & Week 4**

Rule of law (contd.), Separation of powers,

**Week 5**

Separation of powers (contd.) & Position of Rule of Law and Separation of Powers in the Indian Constitution.

**Week 6**

Legislative power

**Week 7**

Executive power

**Week 8 & 9**

Judicial power

**Week 10**

The concept of Good Governance, the methods to ensure Good Governance, State and Civil Liberties

**Week 11 & 12**

Federal and Unitary Forms-Features, Advantages and Disadvantages & Models of Federalism Quasi – federalism; Parliamentary and Presidential Forms of Government

**Week 13**

Methods of Amendment Limitations on the Amending Power: Comparative Perspective

**Week 14**

Theory of Basic Structure: Origin and Development; Concept and Origin of Judicial Review

**Week 15**

Methods of Constitutional Review-Judicial and Political Review, Concentrated and Diffused Review, Anticipatory and Successive Review & Limitations on Judicial Review

**Facilitating the achievement of Course Learning Outcomes**

<b>Unit No.</b>	<b>Course Learning Outcomes</b>	<b>Teaching and Learning Activity</b>	<b>Assessment Tasks</b>
I.	To understand the origin of the constitution in different countries and to distinguish between constitution and constitutionalism.	A mix of lectures, discussion, case study method, presentations and assignments	As given below.

II.	To assess the relevance and importance of this subject and the difficulties faced therein	A mix of lectures, discussions, presentations and assignments	As given below.
III.	To analyse the basic constitutional concepts of Rule of Law and Separation of Powers and its interpretation in different legal systems.	A mix of lectures, discussion, case study method, presentations assignments.	As given below.
V.	To gain insights into the models of state, its practises and good governance	A mix of lectures, discussion, case study method, presentations and assignments	As given below.
VI.	To compare the various forms of government, its models, advantages and disadvantages	A mix of lectures, discussion, case study method, presentations assignments.	As given below.
VII.	To understand the process of amendment of the constitution in various jurisdictions, methods of amendment and the limitations on amending power	A mix of lectures, discussion, case study method, presentations assignments.	As given below.
VIII.	To assess the significance of doctrine of judicial review and limitations thereof.	A mix of lectures, discussion, case study method, presentations and assignments	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester I**

**Course Code- 2YLM-CC-102/3YLM-CC-102**

**Course Name- Legal and Social Science Research Methods**

**Marks-100**

**Duration – 90 Hours**

**Course Objectives**

1. To enable students to understand approaches to and strategies for “Hard Law” or “Doctrinal” legal research and for sociological oriented research in law and legal process.
2. To acquaint the students with the scientific method of social science research. Emphasis would be to provide the knowledge of the techniques of selection, collection and interpretation of primary and secondary data in socio legal research.
3. To facilitate the researcher /students for selecting and developing the themes for research for LL.M. dissertations.
4. To enable the students to discover new facts or to verify the existing facts, to propound a new legal concept or to analyze existing law and give suggestions for a new one.
5. To enable students to acquire understanding of research methodology includes the research methods as well as the philosophy and practice of the whole research process.
6. To give an insight into the meaning and significance of research methods for legal research to the students in contemporary times.
7. To impart an understanding of the various types of research methods and the different techniques of legal research and legal writing with a view to equip the students for further research in law.

**Learning Outcomes**

On successful completion of this Course, the students will be able to:

1. Students would be able to design and execute small scale research problem. They are expected to develop a research proposal to write dissertation.
2. Students would be able to conduct effective doctrinal as well as empirical legal research by using fundamental tools of legal research.
3. It hones students’ research skill, develop the ability to present a complex socio legal issue in a lucid and engaging manner and also enable the students to learn the proper ways of citation, garner familiarity with dreaded Blue Book, ILI Format and OSCOLA etc.
4. Students would be able to write research papers/notes and case comments and empirical research.

**Evaluation** (There is no written examination in this course. Students will be assessed on the basis of curricular class/ field work and the viva-voce)

1. Case –comment / Research article      10 Marks

- |  |          |
|--|----------|
| 2. Research Synopsis for dissertation                    | 5 Marks  |
| 3. Preparing Research Design                             | 10 Marks |
| 4. Writing a short report on the basis of data collected | 15 Marks |
| 5. Attendance and Class Work                             | 10 Marks |
| 6. Viva-Voce Examination                                 | 50 Marks |

## **Contents**

### **TOPIC: I**

#### **RESEARCH – WHAT AND WHY (3 weeks)**

- a. Notion of Research and knowledge
- b. Specific Characteristics of Research
- c. Explanation of Terms Frequently used in Research Methodology
  - I. Concept
  - II. Relation
  - III. Theory
  - IV. Paradigm
  - V. Hypothesis
  - VI. Operationalisation
  - VII. Ethnography
- d. Types of Research
  - I. Doctrinal, Non-Doctrinal
  - II. Exploratory, Descriptive, Experimental
  - III. Qualitative, Quantitative
  - IV. Longitudinal
  - V. Impact
  - VI. Case Study
  - VII. Attitude Measurement
  - VIII. Projective

### **TOPIC: II**

#### **LEGAL SOURCE MATERIAL AND THEIR USE ( 2 Weeks)**

- a. Use of Case Law
- b. Importance of Ratio
- c. Significance of Obiter
- d. Library Sources
- e. e-Sources (How to use it)
- f. e-Data Base

Teacher/Teachers may discuss and explain –

- (a) What are the parameters which an author should try to include while attempting to write an article.
- (b) Similarly students are taught the techniques of writing a comment on a case. This may practically be done in the class by taking up and discussing an article and a case comment.

Note: 1. Students must obtain a copy of the latest issue of Delhi Law Review from which exercises shall be prescribed.

Note: Dates for submission of first draft of every assignment will be fixed. Teacher after correcting/discussing/making remarks will return for the said article to be finally submitted on the date already fixed.

### **TOPIC – III**

#### **LEGAL RESEARCH (2 weeks)**

- a. Historical and contemporary Role of Legal Research
- b. Approaches to 'Law' in Legal Research
  - I. Research in positive/black-letter law
  - II. Research in law as a decision-making process
  - III. Research concerning Law as an institutional system
  - IV. Research concerning law as a socio-cultural system
  - V. Policy and action oriented research for reform

### **TOPIC – IV (2 weeks)**

#### **Empirical Research or Use of Social Science methods for legal Research**

##### **1. Formation of Research Proposal**

- a. Identification of problem
- b. Literature Survey
- c. Hypothesis difference between proposition, hypotheses and theory. Types of hypothechs. Testing of hypothesis, and Operationalisation of the Hypotheses.
- d. Objectives of Study
- e. Methodology
- f. Tools of Data Collection: Observation, Interview, Questionnaire and Schedule.
- g. Identification of Methodological Tool Kit: Case Study, Survey, Sampling, Scaling Techniques (Thurstone's Order Method, Likert and Guttman Scales). Details study of these methodological tools be done, so that Students can fully understand their utility and use it for their respective researcher designs.
- h. Anticipated and Unanticipated problems

**Note:** Students are required to start working on their research design from (date) already decided and finalise the research tools. They are required to complete data collection and submit the research design and Report typed and bound on or before the date finalized for this purpose.

### **TOPIC – V**

#### **DATA ANALYSIS (2 weeks)**

- a. Aggregate Data, Quantitative and Qualitative Data
- b. Use of Statistics in Social Sciences
- c. Drawing of Inferences
  - 1. Analysis/Interpretations
  - 2.. Jurimetrics



**TOPIC – VI (2 weeks)**  
**IMPACT ANALYSIS**

- a. What is Impact
- b. Symbolic v. 'Instrumental' dichotomy and its heuristic uses.
- c. Measuring of Impact
- d. Methods
  - i. Before and after
  - ii. Time series
- e. Measuring Impact of Legislative and Judicial Decisions.

**TOPIC – VII (2 weeks)**  
**REPORT WRITING**

- a. Legal Writing
  - i. Footnotes (Significance, Uniformity in citation and method)
  - ii. Editing
- b. Presenting Research: Articles, Dissertations and Thesis.
- c. Placement of Tables /Graphs
- d. Proving/Disproving of hypothesis through data
- e. Bibliography; Priorities in using various sources and methods of writing.

- Suggested Readings:**
1. Jain, S.N., "Legal Research and Methodology" in 14 JILI 487 (1972)
  2. Jain, S.N., "Doctrinal and Non-doctrinal Research" in Legal Research and Methodology, ILI, 167 (1983)
  3. Jones, Ernest M., "Some Current Trends in Legal Research" in 15 Jour Leg. Edn. 21 (1962-63)
  4. Bailey, Methods of Social Research, pp. 18, 31-66 (1978)
  5. Nanlin, Foundations of Social Research, pp. 15 4 (1976)
  6. Ram Ahuja, Research Methods, pp 52-91 (2001).
  7. Sadhu and Singh, Research Methodology in Social Sciences, pp 1-34 (1983).
  8. Gerald D. Berreman, "Ethnography: Method and Product" in V.K. Srivastava, Methodology and Fieldwork (Edit) 2004 Oxford.
  9. Baxi, U., "Th Travails of Stare Decesis in India in" Legal Change: Essay in Honor of Professor Julius Stone (1983, A.R. Black Shield Edn.) Butterworths, Sydney Australia.
  10. Saxena, I.C. "The Doctrine of Precedeni in India: A Study of Some of its aspects", 3 Jaipur Law jour, 138 (1963).
  11. Tripathi R.K., "Mr. Justice Gajendragadkar and Constitutional Interpretation" 57 Col. L. Rev. 319 (1957).
  12. Willians, C., Learning the Law, 71, 95, (1963).
  13. "Action Research in Crime Prevention", *Report on an International Seminar on Use of Research as a Basis for Social Defency Policy and Planning*, Denmark 20-23 Aug. 1973, pp. 28-37, 59-62, United Nations (1975).
  14. Baxi, U., *Socio-Legal Research in India: A programmschrift*, Occasional Monograph (1975).

15. Ullaman, W., *The Medieval Idea of Law*, 1-6 (1946).
16. Eherllich, Ugen, *Fundamental Principles of the Sociology of Law*, 1-36.
17. Stone, J., *Social Dimensions of Law and Justice*, 91-93.
18. Bakshi, P.M. "Legal research of Law Reform" in *Legal Research and Methodology*, 121, 217 (1983).
19. Baxi, U., *Towards Sociology of Indian Law* (1986).
20. Baxi, U., *Crisis of Indian Legal System*, 244-288 (1982).
21. Robert Watt, *Concise Legal Research*, (4<sup>th</sup> Edt.) 2001.
22. Mark Abrahamson, *Social Research Methods* pp 197-331 (1983)
23. George, Gadbois Jr, (i) "Participation in Supreme Court Decision Making" 24 JILI p. 1 (1982).
24. George, Gadbois Jr, (ii) "Indian Supreme Court Judges: A Portrait", 3 Law and Society Review, 317-335 (1963).
25. George, Gadbois Jr, (iii) "Indian Judicial Behaviour" 5 Economic and Political Weekly, 49-166 (1970).
26. George, Gadbois Jr, (iv) The Supreme Court of India: A Preliminary Report of an Empirical Study" 4 Jr. of Constitutional and Parliamentary Studies, 53-54 (1970).
27. Sadhu and Singh, *Research Methodology in Social Sciences*, (1983).
28. Friedman and Macaulay, *Law and the Behavioural Sciences*, pp. 308-315, 372-399 (1969)
29. Gibson, Colin S., "Legal Impact Analyses: The Ideal and the Practicable" in *Legal Research and Methodology*, ILI, at 663.
30. Baxi, U., "Who Bothers About the Supreme Court? The Problem of impact of Judicial Decisions", Id. At 674.
31. Price and Bitner, *Effective Legal Research*, 311-380.
32. Blue Book *The Uniform System of Citation*, (17<sup>th</sup> Ed. 2000).
33. B.R. Patil, "Report Writing" (Memeo).
34. *Manual of Style for authors, Editors and Copy Writers*, University of Chicago (13<sup>th</sup> ed. 1982).
35. Pedekar, V.H. *How to Write Assignments Research Paper, Dissertations and Thesis*, (1982).
36. Mukul Gupta and Deepa Gupta, *Research Methodology*, PHI, 2013
37. Frederic Schauer, *Thinking like a Lawyer*, Harvard University Press, 2009
38. Michael G. Maxfield and Earl Babbie, *Research Methods for Criminal Justice and Criminology*, Thompson Learning, 2001
39. Winston Jackson, *Research Methods: Rules for Survey Design and Analysis*, PHI, 1988
40. Lindsay Prior, *Using Documents in Social Research*, Sage Publication, 2003
41. Alan Bryman, *Social Research Methods*, Oxford University Press, 2001
42. M. N. Borse, *Handbook Of Research Methodology, Modern Methods And New Techniques*, Srinivas Publication, 2005.
43. A.K. Phophalia, *Modern Reseach Methodology*, Paradise Publishers, 2010.
44. Peter Clough And Cathy, But Brown, *A Students' Guide For Research Methodology*, Sage Publication, 2002
45. C.R. Kothari, *Research Mehodology: Methods & Techniques*, New Age International Publishers, 2006.
46. Anwarul Yaqin, *Legal Research and Writing Methods*, LexisNexis Butterworths Wadhwa, Nagpur, 2008

**Teaching Plan:**

**Week 1:**

Meaning and definition of research -objectives – motivation –significance –interrelation between research and knowledge – Levels and types of knowledge. Specific characteristics of Legal research and its use in modern time.

**Week 2:**

Explanation of terms frequently used in Research Methodology: Concept, Relation, Theory, Paradigm, Hypothesis etc.

**Week 3:**

Types of Research: Doctrinal, Non-Doctrinal, Exploratory, Descriptive, Experimental, Qualitative, Quantitative, Longitudinal, Impact, Case Study, Attitude Measurement, Projective.

**Week 4:**

Use of Case Law, Importance of Ratio and significance of Obiter.

**Week 5:**

e-Sources (How to use it ) , e –Data Base .

**Week 6:**

Historical and contemporary Role of Legal Research. Analysis of statutes and decided cases to discuss the importance of legal research.

**Week 7:**

Approaches to ‘Law’ in legal research: Research in positive law, Research in law as a decision-making process, Research concerning law as an institutional system, Research concerning law as a socio-cultural system, policy and action oriented research for reform.

**Week 8:**

Formation of Research Proposal: Identification of problem, literature Survey, Hypothesis difference between proposition, hypothesis and theory, types of hypothesis testing of hypothesis, Objective of study, methodology.

**Week 9:** Tools of Data Collection: Observation, Interview, Questionnaire and Schedule. Tools of Research : Case study, survey , sampling, scaling , research design.

**Week 10:**

Data analysis: Quantitative and qualitative data, aggregate data. Use of statistics in social sciences.

**Week 11:**

Drawing of Inferences: Analysis / Interpretations. Use of Jurimetrics in data analysis.

**Week 12:**

Nature and meaning of legal impact analysis and its relevance in legal research. Symbolic v. ‘Instrumental’ dichotomy and its heuristic uses.

**Week 13:**

Measuring of Impact and methods of it before and after. Measuring Impact of legislative and Judicial decision.

**Week 14:**

Legal writing: meaning and significance, research report writing – dissertation and thesis. Footnotes (Significance, Uniformity in citation and methods) Blue book citations- ILI format – MLA format

**Week 15:**

Editing: how and when to do. Tables and graphs formation. Proving/ disproving of hypothesis through data. Bibliography; priority in using various sources and methods in writing.

**Facilitating the achievement of Course Learning Outcomes**

<b>Unit No.</b>	<b>Course Learning Outcomes</b>	<b>Teaching and Learning Activity</b>	<b>Assessment Tasks</b>
I.	To understand the notion of research and knowledge and understand the terms used frequently in research methodology. To understand the types of research and their use in perusing legal research.	A mix of lectures, discussion, case study method.	
II.	To learn use of case law, library sources with e-sources and e-data base in writing an article.	A mix of lectures, discussion, case study method, use of online data base, Law E-Journals.	Students must obtain a copy of the latest issue of Delhi University, Faculty of Law journals, from which exercises shall be prescribed. Writing of a Case comment/ Article will be submitted on prescribed date by concern teacher.
III.	To know the historical and contemporary role of legal research and discussion on different approaches in legal research. (Research in positive law, in decision making process, in socio-cultural system, and in policy and action oriented reforms)	A mix of lectures, discussion, case study method.	Students are required to decided tentative topic to draw a research synopsis and submit the same on the date fixed by concerned teacher.
IV.	To formulate a research proposal with essential elements of research proposal: literature survey, identification of problem, hypothesis, and tools for research and data collection. Identification of methodological tool kit.	A mix of lectures, discussion, case study method, presentations and assignments	Students are required to start working on their research design from the date already decided and finalise the research tools. They are required to complete data collection and submit the research design and report typed and bound on or before the date finalized for this purpose.
V.	To learn about the data analysis and the difference	A mix of lectures, discussion, case	Students are required to schedule field visit to collect

	between quantitative and qualitative research. To know how to use statistics in social science research.	study method, presentations assignments and hypothetical problems solving	the data to complete assignment on empirical research.
VI.	To know and understand the legal impact analysis and how a particular law works within a particular group and purpose of legal impact analysis. Measuring impact of legislative and judicial decisions.	A mix of lectures, discussion, case study method,	
VII.	To know and understand legal writing : footnoting, uniformity in citation and method. Presentation of Articles, Dissertation and thesis. Understanding of tabulation and graphs, proving and disapproving of hypothesis.	A mix of lectures, discussion, case study method, presentations and assignments	Students are required to go through all the assignment they have prepared in the semester and after any editing final submission will be done in LL.M. office in both (soft and hard copy)

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students having problems/ difficulties concerning any aspect of the course may contact Teacher's teaching the subject after obtaining prior appointment.
3. Attendance in the course is compulsory and students will have to fulfill the attendance required as per university ordinance.
4. The viva-voce will cover both doctrinal and non-doctrinal research and will be scheduled according to convenience of the class as well as that of the external examiner tentatively in advance.
5. All the assignments will be submitted the date already fixed.

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**Course Name: Law of International Organisations and Human Rights**  
**Marks-100 (80+20) Duration – 90 Hours**

### **Course Objectives**

1. To understand and analyse the growth and development of International Organisations and Human Rights Law.
2. To evaluate the developments of International Organisations and their contribution to the growth and evolution of International Law
3. To understand basic concepts, principles, political and functional aspects, rights, duties, personality, privileges and immunities of International Organizations.
4. To assess the regulation by International Organisations of the use of force, intervention, self-defence and disputes settlement among nations.
5. To understand the regulation of human rights under the International law and the international and the regional protection of human rights.
6. To analyse the international protection of human rights by United Nations and different bodies working under its aegis for protection and enforcement of human rights internationally.
7. To understand the legal regime of protection and enforcement of human rights under various International human rights treaties.
8. To understand the legal regime for protection and enforcement of human rights at the regional level i.e., in Europe, America and Africa.
9. To understand the relation between international human rights law, humanitarian law and international criminal law.

### **Course Learning Outcome**

At the completion of course the students shall have knowledge of International Organisations and the law applicable upon them to regulate their functioning and also the international law of human rights and the methods of its protection and enforcement. They shall have skills of understanding difficult and important issues of international concern. They shall be able to carry out researches upon these issues and write scholarly works in this area of great significance. The students shall have capacity of communication with others on international matters and shall be able to make presentations before the wider audience to put their views forward. This course shall provide them the necessary edge to take up the national concerns before the international for a and successfully compete with their foreign counterparts.

The students having studied Law of International Organisations and Human Rights can seek jobs in the academia, government sector, international organizations, embassies, consulates, foreign universities and institutions and can carry out practice of international institutional and human rights law besides many others.

### **Contents:**

#### **PART - I**

#### **Unit I: INTERNATIONAL ORGANIZATIONS – COMMON ATTRIBUTES**

1. Concept, Growth and Development of International Organizations
2. Types, Functions, Powers and Role of International Organizations
3. Functional v. Political-- Implied, Attributed and Inherent Powers
4. International Organizations v State Sovereignty -- Immunities, Privileges, Responsibility
5. United Nations; Brief Overview- Legal Personality
6. United Nations and League of Nations Compared
7. United Nations: An appraisal/ Roadmap for Future

## **Unit II: UNITED NATIONS AND REGULATION OF USE OF FORCE**

1. Defining Force under Int. Law - Permissible/Impermissible Use of Force
2. Use of Force- UN Charter and Customary Int. Law
3. Individual and Collective Self Defence under UN Charter/ Customary Int. Law
4. Collective Enforcement and UN Charter
5. Regional Organizations and Use of Force

## **Unit III: UN AND NEW THREATS TO SECURITY/PEACE**

1. Intervention-Its Legality under International Law
2. Collective Intervention-Humanitarian Intervention
3. Unilateral Use of Force-Non-State Actors, W M D, Terrorist Attacks, Surgical Strikes
4. Anticipatory Self-Defence-Pre-emptive and Preventive Action/Legality
5. Responsibility to Protect (R2P) - United Nations Peace Keeping Operations
6. Challenges before United Nations

## **Unit IV: UN AND SETTLEMENT OF INTERNATIONAL DISPUTES**

1. Pacific/Judicial Settlement of Disputes
2. UN Security Council - Pacific and Compulsive Settlement
3. Settlement Powers under Chapter VI and VII - UN Charter
4. Composition/ Organization of International Court Justice
5. Jurisdiction- Reservation Clauses- Reciprocity, forum prorogatum
6. Contentious Jurisdiction/Optional Clause-Compulsory Jurisdiction
7. Advisory Jurisdiction
8. Provisional Measures Order
9. ICJ: Assessment and Reforms

## **PART - II**

### **Unit I: HUMAN RIGHTS UNDER UNITED NATIONS**

1. Human Rights- Concept, Universal/Relative, Generations of Rights

2. Human Rights Development under UN
3. Role of UN in Strengthening National Human Rights Institutions
4. International Human Rights Treaties-ICCPR/ICESCR
5. Enforcement Mechanism under Treaties/Human Rights Committee
6. Human Rights Council/High Commissioner for Human Rights
7. Promotion of Human Rights through Specialized Agencies
8. India's Response towards Human Rights Treaties

**Unit II: HUMAN RIGHTS UNDER REGIONAL ORGANIZATIONS**

1. Regional Human Rights Approaches
2. European Convention on Human Rights, 1950
3. European Court of Human Rights
4. Enforcement Mechanism under ECHER

**Unit III: HUMAN RIGHTS/HUMANITARIAN LAW AND INT. CRIMINAL LAW**

1. Human Rights and International Criminal Law
2. Charter of the International Military Tribunal, 1945
3. Convention on the Prevention and Punishment of the Crime of Genocide (1948)
4. Geneva Conventions of 1949 and Additional Protocols
5. Rome Statute of International Criminal Court 1998
6. International Criminal Court and Human Rights

**Suggested Readings:**

**Prescribed Books:**

1. David Harris, *Cases and Materials on International Law* (2010)
2. D.W. Bowett, *Law of International Institutions* (2011)
3. Jan Klabbers, *International Institutional Law* (2009)
4. Ernst B. Haas, *Beyond the Nation-State* (2008)
5. D. D. Avant, M. Finnemore, S. K. Sell, *Who Governs the Globe* (2011)
6. Malcolm N. Shaw, *International Law* (2007)
7. M. Sorensen, *Manual of International Law*
8. Paul Kennedy, *Parliament of Man* (2006)
9. Chesterman, Franck and Malone, *Law and Practice of United Nations* (2008)

**Other Materials:**

1. William R. Slomanson, *Fundamental Perspectives on International Law* (2003) Chapter 3, pp 105-157



2. B.S. Chimney, "International Institutions Today: An Imperial Global State in the Making" *EJIL* 15 (2004) pp 1-37
3. Siddhartha Misra, "Changing Methods of Use of Force and Challenges to Traditional Concept of Self Defence-A Contemporary Reflection" in Ashish Kumar (Ed.) *Contemporary Developments in International Law: Some Random Reflections*, Satyam Law International (2017) pp 1-20
4. Siddhartha Misra, "Transition from Human Rights Commission to Human Rights Council: Whether the Successor Benefits its Predecessor" in VK Ahuja (Ed.) *Human Rights Contemporary Issues: Festschrift in Honour of Professor Upendra Baxi*, Eastern Book Company (2019) pp 615-642
5. *Reparations for Injuries Suffered in the Service of the United Nations*, International Court of Justice, Advisory Opinion, I.C.J. Reports, 1949
6. *Effect of Awards of Compensation Made by UN Administrative Tribunal*, ICJ Reports 1954
7. *Certain Expenses of the UN Case*, Advisory Opinion ICJ Reports 1962
8. Other Relevant Judicial/ICJ Decisions, Opinions
9. L. Oppenheim, *International Law: A Treatise*, Vol. II (Disputes, War and Neutrality) (1952)
10. William W. Bishop, JR, *International Law* (1954) 559-72
11. Ian Brownlie, *International Law and the Use of Force by States* (1963) Chapters 13-17.
12. T. Ehrlich & M.O. 'Connel, *International Law and the Use of Force* (1993)
13. J.N. Singh, *Use of Force Under International Law* (1984)
14. T.H. Frank, "Who Killed Art.2 (4)" *AJIL* (1971) 80
15. *Military and Paramilitary Activities in and against Nicaragua (Merits)*, *Nicaragua v. United State*, I.C.J. Reports (1986) 14
16. *Oil Platform Case (Merit)*, *Iran v United States* I.C.J. Reports 2003
17. *Armed Activities Case*, *Congo v Uganda* I.C.J. Reports 2005
18. *Legality of the Threat or Use of Nuclear Weapons Case*, Advisory Opinion of the I.C.J. (1997) 35 I.L.M. 809, 1343
19. Relevant Security Council and General Assembly Resolutions/Declarations
20. William R. Slomanson, *Fundamental Perspectives on International Law* (2003) 461-67
21. Yoram Dinstein, *War, Aggression and Self-Defence* (2005)
22. *Military and Paramilitary Activities in and against Nicaragua (Merits)*, *Nicaragua v. United States*, I.C.J. Report (1986) 14
23. U.N. "Uniting For Peace" Resolutions, General Assembly, Nov. 3 1950
24. J. Andressy, "Uniting for Peace" 50 *AJIL* (1956) 35
25. Kofi Anan, "Our Mission Remains Vital" *The Wall Street Journal*, [www.opinionjournal.com/forms/print](http://www.opinionjournal.com/forms/print)
26. P. Diehl, *International Peacekeeping* (1993)
27. UN GA Declaration on Inadmissibility of Intervention in the Domestic Affairs of States 1965, GA Res. 2131(XX) Dec 21 1965

28. S. Rossene, the Law and Practice of International Court of Justice
29. V.S. Mani, International Adjudication: Procedural Aspects (1980)
30. P.S. Rao, "Reservation to the Optional Clause under Article 36, paragraph 2, of the International Court of Justice", 46 Indian Journal of International Law (2006) no.4, pp. 636-40
31. David Harris, Cases and Materials on International Law (2010) pp.833-883
32. Statute of International Court of Justice
33. Djibouti v France ICJ Rep. 2008, Switzerland v U.S. ICJ Rep. 1959, France v Norway ICJ Rep. 1957, Germany v United States ICJ Rep. 2001, India v Pakistan (Kulbhushan Jadhav) 2017
34. P. Alston (ed), *The United Nations and Human Rights: A Critical Appraisal* (1992)
35. Manoj Kumar Sinha, *Basic Documents on International Human Rights* (2001)
36. T. Buerghenthal, *International Human Rights in a Nutshell* (1995)
37. J.L. Kaul (ed), *Human Rights: Issues and Perspectives* (1995)
38. *Journal of the Indian Law Institute*, Human Rights Special Issue 40 (1998) Numbers 1-4
39. ECOSOC, Commission on Human Rights, 62<sup>nd</sup> Session (2006)
40. Ghanea Nazila, "From UN Commission on Human Rights to UN Human Rights Council: One Step Forward or Two Steps Sideways?" 55 *International and Comparative Law Quarterly* (2006) no. 3, 694-705
41. European Convention on Human Rights (1950) Basic Text
42. D. Lawson, *Encyclopedia of Human Rights* (1996)
43. Summary of Geneva conventions of 1949 and Additional Protocols
44. Text of Convention on the Prevention and Punishment of the Crime of Genocide (1948)
45. Judgment of the Nuremberg International Military Tribunal, (1947) 41 *A.J.I.L.* 1972
46. Rome Statute of International Criminal Court 1998
47. Abdul Ghafar Hamida @ Khin Maung Sein & Hanud Abia Kadouf, "Immunity versus International Crimes: The Impact of Pinochet and Arrest Warrant Cases", 46 Indian Journal of International Law (2006) no. 4, 495-516.

### **Teaching Plan:**

**Week 1:** Formal introduction of the class with the aim to understand student's background and rational for choosing the LL.M. course. Explanation of the method of study including lectures, case study, problem solving, field work, discussions, research work, writing and presentation of term papers by students. Explaining that expert lectures, audio- visual methods, symposia, assignment of tasks including teaching the undergraduate students, library visit- searching the offline and online resources may also form part of the study. Introduction of the subject by providing an overview of its different parts and units and explanation of the method of making term papers and allocation of topics to student for preparing and presenting term papers including explanation of rules of plagiarism. To start the first unit and explain its various components. To trace the historical evolution of

International Organizations and to highlight their importance and necessity for international cooperation and conflict resolution. **(4 classes)**

**Week 2:** First unit continues. Introduction of basic concepts and principles including types, political and functional aspects, rights and duties, personality, privileges and immunities of International Organizations. Overview of the legal framework of League of Nations and United Nations and the role that these organizations have played in maintaining international peace and security. Class discussions and presentations by students shall simultaneously take place. **(4 classes)**

**Week 3:** Second unit starts. Introduction of basic concepts and principles concerning use of force and self-defence and their regulation by International law. To trace historical evolution of doctrines of use of force and self-defence and their position under the International customary law. To analyse the contemporary issues, challenges and relevant national approaches including role of United Nations and its organs especially Security Council, General Assembly and International Courts. Class discussions and presentations by students shall simultaneously take place. **(4 classes)**

**Week 4:** Second unit continues. To discuss the cases decided by the International Courts and the resolutions passed by UN Security Council and General Assembly to understand the meaning and content of the doctrines of use of force and self defence. To understand the contemporary and recent developments and evolving practice of states and international organizations and their varying interpretations by individuals and nations. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 5:** Third unit starts. Introduction of concept of the intervention and its legality under international law. To explain the phenomenon of collective intervention and humanitarian intervention. To discuss unilateral use of force, emergence of non-state actors, use of weapons of mass destruction, terrorist attacks, surgical strikes, anticipatory self-defence-pre-emptive and preventive action and their legality. To introduce the concept of Responsibility to Protect (R2P) and role of United Nations peace keeping operations and new challenges before United Nations. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 6:** Third unit continues. To introduce the concept of Responsibility to Protect (R2P) and role of United Nations Peace Keeping Operations and new challenges before peace and security and how United Nations tackles them. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 7:** Fourth unit starts. Introduction of the concept of Pacific and Judicial Settlement of Disputes and the role the Security Council plays in Pacific and Compulsive Settlement. Powers available to SC under Chapter VI and VII of the UN Charter. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 8:** To explain the composition of International Court Justice and its various jurisdictions. To explain the concepts of reservations, reciprocity, forum prorogatum, contentious jurisdiction, optional clause, compulsory jurisdiction, advisory jurisdiction, provisional measures by ICJ. To give students the tasks of assessment of ICJ and to opine if

any reform is needed. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 9:** First unit of part two starts. To introduce the concept of human rights and explain various approaches such as universal and relative rights, generations of human rights. To explain the development of human rights under United Nations and role of UN in strengthening national human rights institutions. To introduce the Human Rights Council and UN High Commissioner for Human Rights and promotion of Human Rights through UN Specialized Agencies. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 10:** First unit of part two continues. To discuss the International human rights treaties and covenants including ICCPR and ICESCR and the enforcement mechanism under these treaties such as human rights committee. To explain and evolve in students the understanding about India's response towards human rights treaties. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 11:** Second unit of part two starts. To introduce the regional human rights approaches such as in Europe, America and Africa. To explain the mechanism under the European Convention on Human Rights, 1950 including the European Court of Human Rights and the enforcement mechanism under the ECHR. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 12:** Second unit continues. To explain the role of human rights institutions in America and Africa and the success they have achieved in achieving the purpose of human rights. To encourage discussions regarding the desirability of and reasons for absence and lack of such a human rights mechanism in Asia. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 13:** Third unit in part two starts. To introduce the concept of humanitarian law and international criminal law and to discuss their relationship with human rights. To explain the Hague Conventions, Geneva Conventions of 1949 and its Additional Protocols. To discuss the current state of international humanitarian law and its differences and similarities with international human rights law. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 14:** To introduce the concept of international criminal law and explain its relationship with international human rights law. To explain the aim and provisions of charter of the International Military Tribunal, 1945, Convention on the Prevention and Punishment of the Crime of Genocide (1948), Rome Statute of International Criminal Court 1998 and International Criminal Court. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 15:** Revision of the course, queries from the students, problem solving and presentations by students shall take place. **(4 classes)**

### **Facilitating the achievement of Course Learning Outcomes**

<b>Unit No.</b>	<b>Course Learning Outcomes</b>	<b>Teaching and Learning Activity</b>	<b>Assessment Tasks</b>
<b>1.</b>	International Organisations- Common Attributes	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>2.</b>	United Nations and Regulation of Use of Force	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>3.</b>	United Nations and New Threats To Security/Peace	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>4.</b>	UN and Settlement of International Disputes	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>5.</b>	Human Rights under United Nations	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>6.</b>	Human Rights under Regional Organisations	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>7.</b>	Human Rights, Humanitarian Law and International Criminal Law	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.

2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester I/Semester V**

**Course Code: 2YLM-EC-108/3YLM-EC-108**

**Course Name: Corporate Management and Social Responsibility**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Learning Objectives:**

1. To enable students to understand the regulatory framework governing the corporate sector.
2. To develop an idea about corporate governance and the legal framework that operates in the field
3. To analyse the importance, role and functions of the different kinds of directors
4. To enable the students to acquire understanding on the legal foundation on new changes in New company Law
5. To give an opportunity to the students to explore the nuances of the legalities in the area corporate social responsibility and help them to develop legal knowledge in this field.

**Learning Outcomes:**

After successful completion of the course, the students will be able to:

1. Critically evaluate the existing legal framework relating to company and regulatory framework of companies in accordance with the Companies Act, 2013 including the Companies (Amendment) Act, 2017.
2. To exhibit critical and analytical understanding about the current policy trends and developments in Company Law in India, UK and USA and of the likely impact of these trends and developments on the major topics in Company Law.
3. Acquire knowledge about the legality of corporate governance issues
4. Describe the theoretical assumptions that underlie the way companies are regulated in India and the way changes to those assumptions might result in law reform.
5. Identify and articulate complex legal issues that arise in business practice and demonstrate advanced analysis of statutory provisions and case-law; sophisticated legal reasoning; and well-developed skills in creative thinking to generate appropriate legal and practical responses to those issues.

**Content:**

**Topic-1**

**Corporate Promotion and Formation ( 3 Weeks)**

Concept of Promotion, Promoters- Duties, Powers and Liabilities, their legal position, Pre-incorporation contracts

Formalities for formation of company, Procedure of registration and role of registrar, online registration of a company, Certificate of Incorporation and its conclusiveness, Commencement of Business

**Topic-2**

**Corporate Incorporation**

**(3 Weeks)**

Memorandum of Association- Need, Contents and Procedure for alteration, Effect of Memorandum, Doctrine of *Ultra Vires*, Its origin, erosion and evasion, consequences of an *Ultra Vires* Transaction

Articles of Association- Contents and Relation with Memorandum, Doctrine of Constructive Notice, Doctrine of Indoor Management- origin, application and exceptions

**Topic-3**

**Management and Corporate Governance**

**(3 Weeks)**

Evolution of Corporate Governance in India and its recognition in the Companies Act 2013, General Body of Shareholders, Board of Directors: Position of Directors Vis-à-vis General Body of Shareholder, Directors: Types, Qualifications, appointment, remuneration, termination, Power and duties of Directors, Managing Director: appointment, term, remuneration and removal, Director's Identification Number, Independent Director

**Topic-4**

**Oppression and Mismanagement of Companies (2 Weeks)**

Rule in *Foss v. Harbottle*, Exceptions; Prevention of Oppression and mismanagement, misfeasance proceedings and winding up of on just and equitable grounds; Administrative Remedies- Removal of managerial personnel, appointment of Government directors, Special Audit; Class Action suits

**Topic-5**

**Corporate Liquidation**

**(2 Weeks)**

Winding up of companies, Ground of winding up; Procedure of winding up; Appointment of liquidators; National Company law tribunal (NCLT); Special courts.

**Topic-6**

**Corporate Social Responsibility**

**(2 Weeks)**

Introduction to CSR; Need for CSR; Theories and Justification; CSR under Companies Act,



2013; CSR policy Rules, 2014 and Schedule VII of Companies Act, 2013

**Prescribed Legislations:**

The Companies Act, 2013

**Prescribed Books:**

Gower's and Davies' *Principles of Modern Company Law*, (8<sup>th</sup> ed., 2008)

Palmer's *Company Law*,

A. Ramaiya, *Guide to the Companies Act* (17<sup>th</sup> ed., 2010)

Hicks, Andrew & Goo S H, *Cases and Material on Company Law*, Oxford University Press (8<sup>th</sup> ed., 2008)

Kershaw, David, *Company Law in Context*, Oxford University Press, UK, (2<sup>nd</sup> ed., 2012)

Gowar, LCB, *Principles of Modern Company Law*, Stevens & Sons, London.

Hanningan, Brenda, *Company Law*, Oxford University Press, UK, (2<sup>nd</sup> ed., 2009)

K.M. Ghosh & Dr. K.R. Chandratre's *Company Law*, (13<sup>th</sup> ed., 2007)

Avtar Singh, *Company Law* (16<sup>th</sup> ed., 2015)

H.K.Saharay, *Company Law*, (6<sup>th</sup> ed., 2012)

**Prescribed Journals:**

*Chartered Secretary: ICSI, New Delhi*

*Corporate Law Adviser*

*Company Law Journal*

**Teaching Plan:**

Week 1: Unit 1

Week 2: Unit 1

Week 3: Unit 1

Week 4: Unit 2

Week 5: Unit 2

Week 6: Unit 2

Week 7: Unit 3

Week 8: Unit 3

Week 9: Unit 3

Week 10: Unit 4

Week 11: Unit 4

Week 12: Unit 5

Week 13: Unit 5

Week 14: Unit 6

Week 15: Unit 6

**Facilitating the achievement of Course Learning Outcomes**

At the end of each unit the student is able to learn:

<b>Unit</b>	<b>Learning outcome</b>	<b>Teaching &amp; Learning Activity</b>	<b>Assessment Tasks</b>
<b>1.</b>	<ul style="list-style-type: none"><li>• Understand the need of Promotion of Company.</li><li>• Analyse the Formation of Company</li><li>• Develop an understanding about Effects of Certificate of Incorporation</li></ul>	Teaching: <ul style="list-style-type: none"><li>• Classroom lecture</li><li>• Case Analysis</li><li>• Group Discussion</li></ul> Learning: Understand Promotion and Formation of Company	As given below.
<b>2.</b>	<ul style="list-style-type: none"><li>• Develop the background and objective of preparing companies constitutional documents</li><li>• Understand the knowledge about the different doctrines<ul style="list-style-type: none"><li>• Know the legal compliance required to follow in the process of preparing a basic documents for registration purpose.</li></ul></li></ul>	Teaching: <ul style="list-style-type: none"><li>• Classroom lecture</li><li>• Case Analysis</li><li>• Draft of original MoA, AoA of companies</li></ul> Learning: Develop theoretical as well as practical understanding of the process of formation of fundamental documents of a companies with the help of e-forms available at Ministry of Corporate Affairs website.	As given below.
<b>3.</b>	<ul style="list-style-type: none"><li>• Develop an understanding on the concept of Corporate Governance regime</li></ul>	Teaching: <ul style="list-style-type: none"><li>• Classroom lecture</li><li>• Case Analysis</li></ul>	As given below.

	<ul style="list-style-type: none"> <li>Gain knowledge regarding the different kinds of directors</li> <li>Understand the codified duties of director's under Companies Act, 2013</li> </ul>	<ul style="list-style-type: none"> <li>Discussion of practical examples</li> </ul> <p>Learning: Understand the importance of Independent director.</p> <p>Understand the rise and fall of corporate governance in India through Satyam Scandal.</p>	
4.	<ul style="list-style-type: none"> <li>Develop an understanding on Majority Rule.</li> <li>Gain knowledge regarding the power of central government in protection of minority shareholders</li> <li>Understand the newly enacted mode for suit filling (Class Action Suit) in case of mismanagement and oppression.</li> </ul>	<p>Teaching:</p> <ul style="list-style-type: none"> <li>Classroom lecture</li> <li>Case Analysis</li> <li>Discussion of practical examples</li> </ul> <p>Learning: Understand the concept of Mismanagement.</p> <p>Understand how minority shareholders can be protected by Companies Act, 2013.</p>	As given below.
5.	<ul style="list-style-type: none"> <li>Develop an idea of dissolution of company</li> <li>Understand the knowledge about the different modes of winding up of company</li> </ul> <p>Know the legal compliance required to follow in the process of compulsory winding up.</p>	<p>Teaching:</p> <ul style="list-style-type: none"> <li>Classroom lecture</li> <li>Case Analysis</li> <li>Discussion of practical examples</li> </ul> <p>Learning: Understand the procedure of winding up in Companies Act, 2013.</p>	As given below.
6.	<ul style="list-style-type: none"> <li>Understand the need of CSR in India.</li> <li>Analyse the Section 135 and Schedule 7</li> </ul> <p>Develop an understanding about CSR policy of different companies.</p>	<p>Teaching:</p> <ul style="list-style-type: none"> <li>Classroom lecture</li> <li>Cases study</li> <li>Discussion of practical examples</li> </ul> <p>Learning: Understand the importance of CSR.</p> <p>Understand the concept of CSR in global</p>	As given below.

		perspective.	
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**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester I**

**Course Code: 2YLM-EC-109/3YLM-EC-109**

**Course Name: Intellectual and Industrial Property Law – I  
(Copyright, Neighbouring Rights and Industrial Designs)**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Background**

The development in human society triggered by technology and trade saw emergence of Intellectual property laws leading to legal rights emanating from intellectual activity in the industrial, scientific, literary and artistic fields. Intellectual Property laws safeguard intellectual property for two broad reasons: One is to give impetus to creativity, innovation, scientific development, and dissemination to encourage fair trading which would contribute to economic and social development. The second is to give statutory expression to the moral and economic rights of creators and the rights of the public to access creations. The study of this discipline of law, therefore, becomes extremely important for progressing in all the domains of human activity in modern times.

**Course Objectives**

- To get acclimatized with the rationale and general principles of Intellectual Property Laws (IPL),
- To understand specific IPL; Copyright, Neighbouring Rights and Industrial Designs
- To study the provisions of Copyright Act, 1957 and Industrial Designs Act, 2000
- To understand the methodology of enforcement of Intellectual Property Rights
- To recognize relevancy of International Conventions in relation to Intellectual Property

**Learning Outcomes**

At the end of this paper, the students should be able to learn theoretical concepts of evolution of Intellectual Property Laws *vis a vis* the international development, the emergence of different branches of Intellectual Property Laws. The students learn:

- (i) the legal basis of the IPL and its impact in economic, social and technological context
- (ii) synthesis of case laws, identification of issues, applicability of relevant provisions and critical analysis of the judicial decisions with reference to copyright and industrial designs
- (iii) the existing legal framework through latest judgments and applicability of provisions in the evolving as well as technological driven society.

**Course Content**

**UNIT – I: INTRODUCTION- 5 classes**

1. Introduction of Intellectual Property Rights, WTO, World Intellectual Property Organization (WIPO).
2. Meaning of Intellectual Property; types of Intellectual Property
3. Berne Convention, UCC, TRIPs, WCT, WPPT

**Copyright Legislation (The Copyright Act, 1957)**

**UNIT – II: SUBJECT MATTER OF COPYRIGHT (Section 2 and 13) 08 classes**

1. Concept of ‘work’
2. Doctrines of sweat of the brow and minimal creativity
3. Idea v. Expression
4. Works in Public Domain
5. Literary, dramatic, musical and artistic works
6. Cinematograph film and sound recordings

**UNIT – III: OWNERSHIP, TERM AND RIGHTS (Sections 14, 17, 22-29) 08 classes**

1. Authorship
2. Ownership of Copyright
3. Term of Copyright
4. Economic Rights
  - a. Rights of Reproduction
  - b. Rights to Issue Copies of the Work
  - c. Right to Perform the Work
  - d. Right to Communicate the Work
  - e. Right to make Cinematograph Film or Sound Recording
  - f. Right to make Adaptation of the Work
  - g. Rental rights
5. Moral Rights See sec 57, TRIPS do not incorporate moral rights

**UNIT – IV: EXPLOITATION OF RIGHTS (Section 18-21, 30-32B, 33-36A) 5 classes**

1. Assignment of Copyright
2. Licensing of Copyright
  - a. Voluntary Licencing
  - b. Statutory Licencing
  - c. Compulsory Licensing
5. Role of Copyright societies in the administration of copyright and distribution of collected royalties by Copyright societies

**UNIT –V: INFRINGEMENT OF COPYRIGHT AND REMEDIES AND RIGHTS OF PUBLIC (Section 51, 52, 53, 55, 63-70) 08 classes**

1. Infringement of Copyright
2. Circumvention of technological measures and Rights Management Information
3. International Copyright Order
4. Exception to Rights – Acts not Constituting Infringement of Copyright
5. Remedies for Infringement

- a. Civil Remedies
  - (i) Preventive Civil Remedies
  - (ii) Compensatory Remedies
- b. Administrative Remedies
- c. Criminal Remedies

**UNIT –VI: NEIGHBOURING RIGHTS 5 classes**

- 1. Introduction to Neighbouring Rights
- 2. Performer's Rights (Section 38-38B, 39-39A)  
Who is a performer – Assignment and waiver of performer's rights
- 3. Rights of Broadcasting Organizations (Section 37, 39-39A)
- 4. Acts not constituting infringement of performer's rights and Rights of Broadcasting organizations

**UNIT –VII: INTERNATIONAL REGIME OF COPYRIGHT 5 classes**

- 1. Agreement on Trade – Related Aspects of Intellectual Property Rights including Trade in Counterfeit Goods (TRIPs Agreement)
- 2. Berne Convention For the Protection of Library and Artistic Works (Paris Act, 1971) – Minimum Standards
  - (a) National Treatment
  - (b) Subject-matter
  - (c) Rights of the Author – Economic and Moral
  - (d) Special Provisions for Developing Countries
- 3. WIPO Copyright Treaty (WCT), 1996, WIPO Performances and Phonograms Treaty (WPPT), 1996
- 4. International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, 1961 (Rome Convention).
- 5. Convention for the protection of producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971 (Phonograms Convention).
- 6. WIPO Copyright Treaty, 1996; and WIPO Performances and Phonograms Treaty, 1996 (Internet Treaties).
- 7. Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, 1974 (Satellite Convention).
- 8. TRIPs Agreement

**UNIT –VIII: INDUSTRIAL DESIGNS (The Designs Act, 2000) 04 classes**

- (i) Introduction of Designs Law in India
- (ii) Meaning of “Design”, “Article”, “Copyright”, “Proprietor of a New or Original Design”

- (iii) Registration of Designs (Sections 3-10), Cancellation of Registration
- (iv) Copyright in Registered Designs (Section 11-20)
- (v) Piracy of Registered Designs, Pleading invalidity of registration without application for cancellation and Remedies (Section 22)
- (vi) Interface between copyright and industrial designs

### **Books**

1. WIPO Intellectual Property Handbook: Policy, Law and Use (2004)
2. K.M. Garnett, J.E. Rayner James and G. Davis, Copinger and Skone James on Copyright (2005, 15<sup>th</sup> ed.). Indian Reprint 2008
3. Narayanan, P., Law of Copyright and Industrial Designs (2007).
4. V.K. Ahuja, Intellectual Property Laws (2009).
5. V.K. Ahuja, Law of Copyright and Neighbouring Rights: National and International Perspectives (2007)
6. Raman Mittal, Licensing Intellectual Property: Law & Management (2011).
7. Cornish William, Cases and Materials on Intellectual Property (2006).
8. Russel Clarke, Industrial Designs (2005, 7<sup>th</sup> ed.).

### **Teaching Plan:**

Week 1: Unit 1: Introduction of Intellectual Property Rights, WTO – TRIPs Agreement, World Intellectual Property Organization (WIPO), Enforcement and Abuse, Control of Abuse by Competition Law

Week 2: Contd... Unit 1: Introduction of Intellectual Property Rights, WTO – TRIPs Agreement, World Intellectual Property Organization (WIPO), Enforcement and Abuse, Control of Abuse by Competition Law

Week 3: Contd... Unit-1: Copyright, its Nature, Prevalent from 15<sup>th</sup> Century, Berne Convention, UCC, TRIPs, WCT, WPPT, Features of Copyright

Week 4: Unit-II: Meaning of work, Definitions, Sweat of Brow, Minimal Creativity, Expression v. Idea, Originality, Works in Public Domain, Subject-matter-Literary, musical, artistic, dramatic works

Week 5: Contd.... Unit-II: Cinematograph film and Sound Recordings, Multiple copyrights in some Products/works

Week 6: Unit III:

1. First Owner of Copyright – Author
  - 1.1 Ownership – different yardsticks
  - 1.2 Ownership of Computer generated works
2. Term of Copyright – Berne, UCC, TRIPs, India and other countries

Week 7: Contd... Unit-III: Economic Rights – Special emphasis on:

1. Rights of Reproduction of Storing of work
2. Rights to Issue Copies of the Work



3. Right to Perform the Work
4. Right to Communicate the Work
5. Right to make Cinematograph Film or Sound Recording
6. Right to make Adaptation of the Work – also see S 2(a)
7. Right to Rental and definition of commercial rental S.2(fa)
- 3.1. Right in Cinematograph Films
- 3.2. Right in Sound Recordings

Week 8: Contd.... Unit-III: Moral Rights

Week 9: Unit 4:

1. Assignment of Copyright
2. Licensing of Copyright
3. Voluntary Licencing
4. Statutory Licencing
5. Compulsory Licensing
6. Role of Copyright Societies in the Administration of Copyright
7. Method of Distribution of collected royalties

Week 10:

1. Infringement of Copyright
2. Circumvention of technological measures and Rights Management Information
3. International Copyright Order
4. Exception to Rights – Acts not Constituting Infringement of Copyright

Week 11: Contd.... Unit V: Remedies for Infringement

- a. Civil Remedies
- b. Administrative Remedies
- c. Criminal Remedies

Week 12:

1. Introduction to Neighbouring Rights – Phonograms, Performers Rights, Rights of Broadcasting Organizations.
2. Performers Rights (Section 38-38B, 39-39A)
3. Who is a performer – Assignment and waiver of performer's rights
4. Rights of Broadcasting Organizations (Section 37, 39-39A)
5. Acts not constituting infringement of performer's rights and Rights of Broadcasting organizations

Week 13:

1. Agreement on Trade – Related Aspects of Intellectual Property Rights including Trade in Counterfeit Goods (TRIPs Agreement)
2. Berne Convention For the Protection of Library and Artistic Works (Paris Act, 1971) – Minimum Standards
  - (a) National Treatment
  - (b) Subject-matter

- (c) Rights of the Author – Economic and Moral
- (d) Special Provisions for Developing Countries

3. WIPO Copyright Treaty (WCT), 1996, WIPO Performances and Phonograms Treaty (WPPT), 1996 (Internet Treaties)

Week 14:

- 1. Introduction of Designs Law in India
- 2. Meaning of “Design”, “Article”, “Copyright”, “Proprietor of a New or Original Design” (Section 2). Section 15 of Copyright Act – conflict with designs

Week 15: Contd...Unit VIII

- 1. Registration of Designs (Sections 3-10), Cancellation of Registration
- 2. Copyright in Registered Designs (Section 11-20), Piracy of Registered Designs, Pleading invalidity of registration without application for cancellation and Remedies (Section 22)

**Facilitating the achievement of Course Learning Outcomes**

At the end of each unit the student is able to learn:

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	1. Impact of evolution, nature, concept of IPRs on society 2. Requirement of International conventions in shaping of Intellectual Property laws	<b>i) Classroom teaching</b>  <b>i) Presentations/Discussions</b>	<b>As given below.</b>
2.	1. Definitional Contours of Copyright		
3.	1. Ownership intricacies in copyright		
4.	1. Importance of exploitation of rights in copyright		
5.	1. Infringement of copyright 2. Civil and criminal remedies		
6.	Introduction to Neighbouring Rights and performing rights etc.		

7.	International Regime of Copyright		
8.	1. Concept and Objectives of Protection of Industrial Designs 2. Topical interfaces of Industrial Design law with TM Law and Copyright Law		

**Prescribed Readings:**

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester I**

**Course Code: 2YLM-EC-111/3YLM-EC-111**

**Course Name: Comparative Labour and Wage Law**

**Marks-100 (80+20)**

**Duration – 90 Hours**

Individual and collective contracts, wages and benefits, working hours and leave entitlements, protections from discrimination and unfair dismissal, the right to organize, bargain collectively, and seek redress of grievances – these are some of the issues that affect Industrial relations. In an era of global supply chains, decentralized production, and the increasingly rapid and transnational movement of capital, goods, information and people, it is important for students of labor to develop a comparative and international perspective on the laws that govern labor relations.

**Course Objectives**

1. To provide students with an overview of labor and employment law in different countries (India, US, UK and Australia) representing different approaches to the fundamental social and legal project of protecting workers' rights and regulating the relationship between labor and capital.
2. To make students develop a broader understanding and deeper appreciation of the fundamental labor/management issues confronting contemporary industrial societies, including the India, US, United Kingdom and Australia.
3. To examine the effectiveness of labour law as a means to improve Industrial Relations and promote expeditious and effective settlement of dispute.
4. To acquaint the students with the importance of wage law, theories and typology of wages, fixation of wages in different countries.

**Learning Outcomes**

On successful completion of this Course, the students will be able to:

1. identify the primary sources of national labor and employment law in at least four countries and understand how to gain access to that information for research and analysis and exhibit conceptual understanding of various facets of labour laws in these countries.
2. discuss and evaluate variations in labor law, employment law, collective bargaining agreements, and labor relations internationally, with particular attention to assessing how well such systems protect workers' rights and regulate the relationship between labor and capital.
3. Critique the labour law and labour policy with better understanding and Write research papers and case comments aiding the employees, employer and government.

4. Learn to use historical and comparative evidence to evaluate contemporary proposals for labour legislation and collective bargaining agreements.
5. To practice in labour law in the Law Courts/tribunals and Law Firms.

**Course Content:**

**Unit- I –Labour Law in Comparative Perspective: Conceptual Framework in different countries**

- Origin, Historical Backdrop
- Sources of Labour Laws\_ Constitutions, Statutes, Agreements (collective bargaining), International Law
- Scope and Goals of Labour Law
- Labour Rights as Human Rights
- Use of Comparative Labour Law
- International Labour Organisation- Introduction, Working of ILO, Contribution of ILO in promotion and creation of labour standards, Effect of non-compliance of International Labour Standards

**Recommended Readings:**

- Otto Kahn Freund, *Labour and the Law*, Stevens & Sons: London 1983.
- Bronstein, Arturo S., *International and Comparative Labour Law: Current Challenges*, Palgrave Macmillan, (2009).
- G.B. Pai, *Labour Law in India*, Butterworths: New Delhi, (2001).
- Sharit K Bhowmik, “The Working Class Movement in India: Trade Unions and the State” in Manoranjan Mohanty (ed.) *Caste, Class, Gender*, Sage Publications: New Delhi (2004).
- K G Kannabiran , *The Wages of Impunity : Power, Justice and Human Rights*, Orient Black Swan: New Delhi (2004).
- Ruth Dukes, *The Labour Constitution: The Enduring Idea of Labour Law*, Oxford University Press: London (2014).
- V. Janardhan, *Industrial Relations in India: Towards a New Socio-Political Approach*, Orient Longman: New Delhi (2016).
- Guy Davidov, *A Purposive Approach to Labour Law* (Oxford University Press, 2016).
- Servais, Jean-Michel, *International labour law*, Kluwer Law International, 2nd Edn, 2008
- Rodgers, Gerry et al, *The International Labour Organization and the quest for social justice, 1919-2009*, ILR Press/Cornell University Press, 2009

**Unit II- Industrial Relations – A Comparative Analysis**

- Who is an employer and who is an employee
- Contract of employment- Varieties of labor contracts: individual, collective, and employment at will
- Employment contracts vs. service contracts
- “Non-standard” employment.
- Concept and meaning; collective bargaining – Comparative position in India, USA & UK; Role of ILO in promoting collective bargaining;
- Collective bargaining: Concept and its applications in harmonious industrial relations.
- Levels of collective bargaining process
- Right to strike and lock-out, other collective actions.
- Role of the ILO in promoting Collective bargaining
- Relevant provisions various national legislations
- Layoffs, Dismissals, and Non-Competition- Fair and unfair dismissals, “Collective redundancies” and “downsizing”

### **Unit- III- Dispute Settlement**

- Conflict/s between Labour and Management
- Disputes over rights
- Disputes over interests
- Role of the State in resolution of conflict/s between Labour and Management
- Grievance procedures
- Methods of resolving dispute
  - Conciliation
  - Arbitration and mediation
  - Collective bargaining
  - Adjudication

### **Unit- IV- Freedom of Association- Evolution and Development of Trade Unionism**

- Constitutional and international norms – Right of unorganized labour to form unions
- Fundamentals of Trade Union
- Historical development of trade unions
- Privileges, rights, immunities and problems of trade unions.
- Globalisation, privatization and its impact on the working of the Trade Unions.

### **Recommended Readings**

- K R Shyam Sundar, “Trade Unions in India” in John Benson and Ying Zhu (ed.), *Trade Unions in Asia: An Economic and Sociological Analysis* 157-176 (Routledge: London 2003).
- Sharit K Bhowmik, “The Working Class Movement in India: Trade Unions and the State” in Manoranjan Mohanty (ed.) *Caste, Class, Gender*, Sage Publications: New Delhi (2004).
- Kamala Sankaran, *Freedom of Association in India and International Labour Standards*, LexisNexis Butterworths: Delhi, 2009.
- G.B. Pai, *Labour Law in India*, Butterworths: New Delhi, 2001.
- Prof. S.C. Srivastava, *Containing Workplace Conflict: Role of Social Partners*, The BookLine Publications: New Delhi (2013).

- Prof. S. C. Srivastava, *Industrial Relations and Labour Law*, Vikas Publishing House Pvt. Ltd.: New Delhi, 2012.
- Indian Law Institute, *Labour law and labour relations*, Indian Law Institute New Delhi, 2007.

**Books:**

- Kamala Sankaran, *Freedom of Association in India and International Labour Standards*, Lexis Nexis Butterworths: Delhi, 2009.
- Prof. S. C. Srivastava, *Industrial Relations and Labour Law*, Vikas Publishing House Pvt. Ltd.: New Delhi, 2012.
- Indian Law Institute, *Labour law and labour relations*, Indian Law Institute New Delhi, 2007.

**Unit V- Wages**

- Concept and Theories of Wages
- Living wages, Fair wages and Minimum wages
- Fixation of wages and its Consequences

**Recommended Readings:**

- Zoe Adams, “Understanding the Minimum Wage: Political Economy and Legal Form”, 78(1) *Cambridge Law Journal* 42–69 (2019).

**Unit VI- Trends and Challenges**

- The New Economic Policy and its impact on Management relations in India.
- Governing the workplace
- Self-regulation and co-regulation- Global and Local
- Work, family, and leave entitlements- Vacation, sick leave, holidays, Maternity leave and parental leave, Childcare, Flexible work arrangements

**Selected Readings**

1. Hugh Collins "Labour Law as a Vocation" 105 *Law Quarterly Review* 468 (1989).
2. Ela Bhatt and Renana Jhabvala, "Idea of Work" , Vol. XXXIX (No. 48) *Economic and Political Weekly* 5133-5140 (November 27, 2004).
3. Guy Davidov , "Setting Labour Law's Coverage: Between Universalism and Selectivity" 34(3) *Oxford Journal of Legal Studies* 543-566 (2014).

4. Debi S Saini, "Labour Legislation and Social Justice" Vol - XXXIV (39) *Economic & Political Weekly* L32-L40 (September 25, 1999)
5. Bushan Tilak Kaul, "'Industry' 'Industrial Dispute' and 'Workman': Conceptual Framework and Judicial Activism" 50(1) *Journal of Indian Law Institute* 3-50 (2008).
6. Bushan Tilak Kaul, "Disciplinary Action and Powers of Industrial Adjudicator: A Critique of Judicial Intervention" 49(3) *Journal of Indian Law Institute* 309-364 (2008).
7. SEMINAR issue of May 2015 on 'Reforming Labour Law'.

#### Report of Commissions and Conventions

1. Reports of National Commission on Labour 1969 and 2002: *Academic Foundation New Delhi, 2003*
2. ILO Conventions and Recommendations- [www.ilo.org](http://www.ilo.org).

#### **Teaching Plan:**

Week 1: **Labour Law in Comparative Perspective:** Conceptual Framework in different countries- Introduction of basic concept. Origin, Historical Backdrop , Sources of Labour Laws\_ Constitutions, Statutes, Agreements (collective bargaining), International Law, Scope and Goals of Labour Law

Week 2: Labour Rights as Human Rights, Use of Comparative Labour Law, International Labour Organisation- Introduction, Working of ILO, Contribution of ILO in promotion and creation of labour standards, Effect of non-compliance of International Labour Standards

Week 3: **Industrial Relations** – A Comparative Analysis- Introduction, Employer-Employee Relationship, Types of Contract.

Week 4: Concept and meaning; collective bargaining – Comparative position in India, USA & UK and Australia; Role of ILO in promoting collective bargaining;  
Collective bargaining: Concept and its applications in harmonious industrial relations.  
Levels of collective bargaining process

Week 5: **Role of the ILO in promoting Collective bargaining**, Relevant provisions various national legislations, Layoffs, Dismissals, and Non-Competition- Fair and unfair dismissals, "Collective redundancies" and "downsizing"

Week 6: **Dispute Settlement-** Conflict/s between Labour and Management, Disputes over rights, Disputes over interests, Methods of resolving dispute

Week 7: **Freedom of Association- Evolution and Development of Trade Unionism**



Week 8: Constitutional and international norms – Right of unorganized labour to form unions  
Week 9: Fundamentals of Trade Union, Historical development of trade unions , Privileges, rights, immunities and problems of trade unions

Week 10: Globalisation, privatization and its impact on the working of the Trade Unions.  
Week 11: Wage- Concept and Theories of Wages, Living wages, Fair wages and Minimum wages

Week 12: Fixation of wages and its Consequences

Week 13: **Trends and Challenges** - The New Economic Policy and its impact on Management relations in India

Week 14: Governing the workplace; Self-regulation and co-regulation- Global and Local.

Week 15: Regulations regarding Work, family, and leave entitlements- Vacation, sick leave, holidays, Maternity leave and parental leave, Childcare, Flexible work arrangements

**Facilitating the achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	Identify the primary sources of national labor and employment law in at least four countries and understand how to gain access to that information for research and analysis and exhibit conceptual understanding of various facets of labour laws in these countries.	Classroom Lectures and Class Presentations.	As given below.
2.	Discuss and evaluate variations in labor law, employment law, collective bargaining agreements, and labor relations internationally, with particular attention to assessing how well such systems protect workers' rights and regulate the relationship between labor and capital.	Classroom Lectures and Class Presentations.	As given below.

3.	Critique the labour law and labour policy with better understanding and Write research papers and case comments aiding the employees, employer and government.	Classroom Lectures and Class Presentations.	As given below.
4.	Learn to use historical and comparative evidence to evaluate contemporary proposals for labor legislation and collective bargaining agreements	Classroom Lectures and Class Presentations.	As given below.
5.	Become vivid Litigants and Researchers.	Classroom Lectures and Class Presentations.	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Course Code: 2YLM-EC-113/3YLM-EC-113**

**Course Name: Criminal Justice and Human Rights**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objectives:**

This Course aims to introduce the criminal justice system elaborately and the related human rights issues. The students shall learn how dangerously Crime affects the lives of the offenders as well as the victims in different ways. Further, the course has been so designed as to enable the students to understand that as the primary responsibility of the State is to maintain law and order so criminal justice involves balancing the rights and duties of the criminal, the victim, the State and the society at large. The State has the power to declare certain actions as crimes, so it also acquires the powers to investigate, arrest, prosecute, and punish the offenders. The students shall appreciate that the accused persons being vulnerable need certain checks provided by law to ensure that nobody is subjected to arbitrary arrests, prosecution and punishment. The students shall be sensitized about the needs of victims in criminal justice system. The students shall learn the relationship and tensions among the key players in criminal justice – the criminal laws, State, accused, suspects, offenders, victims and society at large. The students shall also critically assess the capacity of criminal justice systems to ensure the protection of human rights of different stakeholders and to scrutinize the recent developments and changes that have taken place in this field.

**Course Learning Outcomes:**

*After successful completion of this Course, students should be able to:*

1. Learn about the Criminal Justice System, its aims and objectives, its components, its administration, and adversarial and inquisitorial systems of criminal justice. They shall also learn about the key players in criminal justice – the criminal laws, State, accused, suspects, offenders, victims and society at large.
2. Know about the International Framework of Human Rights in Criminal Justice, its concepts, its instruments, and its various initiatives in this field.
3. Have knowledge of provisions regarding protection of human rights in Central Laws relating to Criminal Justice and under Special Laws.
4. Acquire the knowledge about access to justice issues during investigation, human rights issues in trial, human rights perspectives to State's response to crime and human rights initiatives in prisons.
5. Have the information of alternatives/diversion from criminal justice like Lok Adalats, Mediation and Restorative Justice.

**Contents:**

**Unit I:**

**Fact Sheet relating to Crime in India:** Profile of crimes in India: Rate of crime; proportion of different crimes; age, sex, education, economic status of offenders; trends in crime; conviction rate.

**Unit II:**

**Introduction to Criminal Justice:** What is crime; who is a criminal; Why people commit crimes; aims and objectives of criminal justice, components of criminal justice system; administration of criminal justice; adversarial and inquisitorial systems of criminal justice.

**Unit III:**

**International Framework of Human Rights in Criminal Justice:** Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World; United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules); UN Standard minimum rules for treatment of prisoners; Rome Statute of International Criminal Court.

**Unit IV:**

**Protection of Human Rights in Central Laws relating to Criminal Justice:** Articles 20-22 of the Constitution; Human Rights Issues in the IPC, the CrPC, the Indian Evidence Act; the Protection of Human Rights Act 1993.

**Unit V:**

**Human Right Issues under Special Laws:** Terrorism, NDPS, human trafficking, offences against women, protection of children against sexual offences.

**Unit VI:**

**Access to Justice Issues during Investigation:** Arrest, police and judicial custody; Grant of bail and under-trial prisoners; Torture during Interrogation; Use of forensic and scientific investigation techniques.

**Unit VII:**

**Human Rights Issues in Trial:** Role and Responsibilities of Prosecutor; Speedy and Fair Trial; Quality Legal Aid; Witness and Victim Protection; Role and Rights of Victims; Plea Bargaining; Compensation to Victims.

**Unit VIII:**

**Human Rights Perspectives to State's Response to Crime:** Meaning and Concept of Punishment; Death penalty: Retention or abolition debate and Legal and Constitutional issues; Imprisonment and Prisoners' rights; Non-custodial punishments of release after due admonition, probation, fine, forfeiture of property; public censor.

**Unit IX:**

**Diversion from Criminal Justice:** Lok Adalats and mediation; Restorative Justice.

**Unit X:**

**HR Initiatives in Prisons:** Prison Reforms, Reformation Initiatives in Prisons; Open Prisons.

**Suggested and Prescribed Readings:**

Crime in India 2017 available at <http://ncrb.gov.in/>.

REPORT OF MALIMATH COMMITTEE ON REFORM OF CRIMINAL JUSTICE SYSTEM, Vol 1 (March 2003) available at [http://www.mha.nic.in/hindi/sites/upload\\_files/mhahindi/files/pdf/criminal\\_justice\\_system.pdf](http://www.mha.nic.in/hindi/sites/upload_files/mhahindi/files/pdf/criminal_justice_system.pdf).

Vijay Nagaraj and Bikram Jeet Batra, “Criminal Justice System ‘Reforms’, Part 1 and II available at <http://indiatogether.org/malimath-human-rights> and <http://indiatogether.org/2malimath-human-rights>.

V.R. Krishna Iyer, “Social Justice and the Handicapped Humans” in K.D. Gaur, CRIMINAL LAW AND CRIMINOLOGY.

K.D. Gaur, “Criminal Justice System and Social Defence” in K.D. Gaur, CRIMINAL LAW AND CRIMINOLOGY.

N.V. Paranjape, CRIMINOLOGY PENOLOGY WITH VICTIMOLOGY.

Henry M. Hart, Jr., “The Aims of Criminal Law” in 23 LAW AND CONTEMPORARY PROBLEMS, 401 (1958).

Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, available at [https://www.unodc.org/documents/crime-congress/12th-Crime-Congress/Documents/Salvador\\_Declaration/Salvador\\_Declaration\\_E.pdf](https://www.unodc.org/documents/crime-congress/12th-Crime-Congress/Documents/Salvador_Declaration/Salvador_Declaration_E.pdf).

M. Cheif Bassiouni, “Human Rights In The Context Of Criminal Justice: Identifying International Procedural Protections And Equivalent Protections In National Constitutions”, 3 (235) DUKE JOURNAL OF COMPARATIVE AND INTERNATIONAL LAW, 235 (1993).

Neglected Needs: Girls in the Criminal Justice System, available at [www.penalreform.org/wp-content/uploads/2014/.../girls-crim-just-v4.pdf](http://www.penalreform.org/wp-content/uploads/2014/.../girls-crim-just-v4.pdf).

P.N. Bhagwati, “Human Rights in Criminal Justice System” in K.D. Gaur, CRIMINAL LAW AND CRIMINOLOGY.

K. I. Vibhute, CRIMINAL JUSTICE A HUMAN RIGHTS PERSPECTIVE OF THE CRIMINAL JUSTICE PROCESS IN INDIA, Eastern Book Company.

UN Standard Minimum Rules for Treatment of Prisoners, available at <http://www.ohchr.org/Documents/ProfessionalInterest/treatmentprisoners.pdf>.

Rome Statute of International Criminal Court, available at [http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf).

UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders with their Commentary, available at [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf).

Dr. Ashutosh, RIGHTS OF ACCUSED, Universal Law Publishing.

Ved Kumari, “Gender Analyses of Indian Penal Code” in A. Dhanda and A. Parashar (eds), ENGENDERING LAW ESSAYS IN HONOUR OF PROFESSOR LOTIKA SARKAR, 139-160 (1999) Eastern Book Company, India.

“Sexual Offences” in N.V. Paranjape, CRIMINOLOGY PENOLOGY WITH VICTIMOLOGY.

Law Commission of India Report No. 154 Vol 1 on Code of Criminal Procedure (1996) available at <http://lawcommissionofindia.nic.in/>.

Law Commission of India Report No. 177 on Law relating to Arrest (2001) available at <http://lawcommissionofindia.nic.in/>

Law Commission of India Report No. 185 on Evidence Act (2003) available at <http://lawcommissionofindia.nic.in/>

Law Commission of India Report No. 226 on Acid Attack Victims (2008) available at <http://lawcommissionofindia.nic.in/>

Anil Kalhan, “Colonial Continuities: Human Rights, Terrorism, and Security Law in India” 20 Columbia Journal of Asian Law p.93 (2003) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=970503](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=970503).

Criminal Justice Response to Support Victims of Acts of Terrorism, available at [http://www.un.org/en/terrorism/ctitf/pdfs/victims\\_rights\\_e-book\\_en.pdf](http://www.un.org/en/terrorism/ctitf/pdfs/victims_rights_e-book_en.pdf).

Janie A. Chuang, “Rescuing Trafficking from Ideological Capture: Prostitution Reform and Anti-Trafficking Law and Policy” 158 University of Pennsylvania Law Review (2010) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1669973](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1669973).

Anne T. Gallagher, “Using International Human Rights Law to Better Protect Victims of Trafficking: The Prohibitions on Slavery, Servitude, Forced Labour and Debt Bondage”, in THE THEORY AND PRACTICE OF INTERNATIONAL CRIMINAL LAW: ESSAYS IN HONOUR OF M. CHERIF BASSIOUNI, L. N. Sadat and M. P. Scarf, eds., pp. 397-430, (2008 ).

Status of Implementation of POCSO Act in Delhi, Report of DCPCR, July 2015, available at [delhi.gov.in/wps/wcm/connect/DOIT\\_DCPCR/dcpcr/publication/status+of+implementation+of+pocso+act,+21012+in+delhi](http://delhi.gov.in/wps/wcm/connect/DOIT_DCPCR/dcpcr/publication/status+of+implementation+of+pocso+act,+21012+in+delhi).

Law Commission of India Report No. 203 on Dowry Death, available at <http://lawcommissionofindia.nic.in/>

Chauntelle R. Wood, "Romeo and Juliet: The 21st Century Juvenile Sex Offenders" *Southern University Law Review* (2012) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2021262](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2021262).

*Moti Ram v. State*, AIR 1978 SC 1594

Shobha Agarwal, "Revisiting Krishna Iyer's Treatise on Bail in the Context of Tejpal's Case" available at <http://www.sacw.net/article8657.html>.

Law Commission of India Report No.185 Part II on Review of Indian Evidence Act 1872 (2003) available at <http://lawcommissionofindia.nic.in/>

Law Commission of India Report No.239, EXPEDITIOUS INVESTIGATION AND TRIAL IN CRIMINAL CASES AGAINST INFLUENTIAL PUBLIC PERSONALITIES (2012) available at <http://lawcommissionofindia.nic.in/>

DNA Technology (Use and Application) Regulation Bill 2018.

A. Ramesh and Anirudh Krishnan, "Compensation for Victims: The Need of the Hour" in P. Madhava Soma Sundaram *et al*, CRIME VICTIMS AND JUSTICE: AN INTRODUCTION TO RESTORATIVE PRINCIPLES, (2008) Serials Publications.

Ashish Goel and Shilpa Goel, "Compensation to Victims of Crime in India: Legislative Framework and Judicial Precedents in the Backdrop of International Norms and Standards" 2 (1-2) CRIME PUNISHMENT AND LAW – AN INTERNATIONAL JOURNAL –17-30 (2009).

R. Sreekumar, "Restitutive Justice and Victims: Right to Compensation" in P. Madhava Soma Sundaram *et al*, CRIME VICTIMS AND JUSTICE: AN INTRODUCTION TO RESTORATIVE PRINCIPLES, pp. 44-55 (2008) Serials Publications.

Kristin Henning, "What's Wrong with Victims' Rights in Juvenile Court?: Retributive versus Rehabilitative System of Justice", 97 California Law Review 1107 (2009).

Law Commission of India Report No. 154 on Code of Criminal Procedure 1973 Vol.1, pp. 51-54, 57-65 (1997) available at <http://lawcommissionofindia.nic.in/>

Delhi Victim Compensation Scheme 2012, available at [http://delhi.gov.in/wps/wcm/connect/3ba2ab004a168918a0c4b7054aa9b1b1/New+Microsoft+Office+Word+Document+\(4\).pdf?MOD=AJPERES&lmod=-287399459](http://delhi.gov.in/wps/wcm/connect/3ba2ab004a168918a0c4b7054aa9b1b1/New+Microsoft+Office+Word+Document+(4).pdf?MOD=AJPERES&lmod=-287399459)

Law Commission of India Report No. 42 on INDIAN PENAL CODE, pp.44-81 (1971) available at <http://lawcommissionofindia.nic.in/>

Law Commission of India Report No. 156 INDIAN PENAL CODE pp. 15-61 (1997) available at <http://lawcommissionofindia.nic.in/>

Law Commission of India Report No. 262 on DEATH PENALTY (2015) available at <http://lawcommissionofindia.nic.in/>

Gabriel J. Chin “The New Civil Death: Rethinking Punishment in the Era of Mass Convictions” UC Davis Legal Studies Research Paper Series Research Paper No. 308 August 2012, available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2072736](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2072736)

Cecelia M. Klingele, “Rethinking the Use of Community Supervision” Univ. of Wisconsin Legal Studies Research Paper No. 1220 in 103 (4) JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY (2013) , available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2232078](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2232078)

Carrie Menkel-Meadow, “Restorative Justice: What is it and Does it Work?” Georgetown Public Law Research Paper No. 1005485 Annual Review (2007) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1005485](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1005485)

Maggie T. Grace, “Criminal Alternative Dispute Resolution: Restorative Justice, Respecting Responsibility, and Reviewing Public Norms”, 34 VERMONT LAW REVIEW (2010) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1524762](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1524762)

Chapter 2 “Need and Importance of Restitutive Justice” in P. Madhava Soma Sundaram *et al*, CRIME VICTIMS AND JUSTICE: AN INTRODUCTION TO RESTORATIVE PRINCIPLES, pp. 13-43 (2008) Serials Publications.

Paul H. Robinson, “The Virtues of Restorative Processes, the Vices of Restorative Justice” in Utah Law Review pp. 275-388 (2003), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=661123](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=661123)

S. Maheshwari and Bhavya Sriram, “Victim Offender Mediation and Criminal Justice” in P. Madhava Soma Sundaram *et al*, CRIME VICTIMS AND JUSTICE: AN INTRODUCTION TO RESTORATIVE PRINCIPLES, pp. 125-135 (2008) Serials Publications.

Kathleen Daly and Julie Stubbs, “Feminist Engagements with Restorative Justice”, 10 (1) THEORETICAL CRIMINOLOGY pp 9-28 (2006) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=699841](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=699841)

Vijay Raghvan, “Prison Reforms: Historical and Contemporary Perspectives” in Jaishankar, *et al* (Eds.), INDIAN PRISONS: TOWARDS REFORMATION, REHABILITATION AND RESOCIALISATION, pp. 38-63 (2014) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2624530](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2624530)

“National Policy on Prison Reforms and Correctional Administration”, Bureau of Police Research & Development Ministry of Home Affairs, Government of India New Delhi (2007) available at <http://bprdnic.in/writereaddata/linkimages/5261991522-Part%20I.pdf>



“An Overview of Prisons in India”, available at <http://www.rajprisons.nic.in/Training/Overview%20of%20prisons%20in%20India.pdf>

“Minutes & Recommendations Of The National Seminar On ‘Prison Reforms’” Held At India Habitat Centre, New Delhi On 15th April, 2011 available at <http://nhrc.nic.in/Documents/Minutes%20&%20Reco%20Prison%20Reform.pdf>

PRISON STATISTICS 2013 available at <http://ncrb.gov.in/>

MODEL PRISON MANUAL 2003 available at <http://bprd.nic.in/writereaddata/linkimages/1445424768-content%20%20chapters.pdf>

Brenda Smith, “The Prison Rape Elimination Act: Implementation and Unresolved Issues” American University, WCL Research paper No. 2008-49 (2008) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1129810](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1129810)

### **List of Cases:**

*Arnesh Kumar v. State of Bihar & Anr.*, 2014 (6) SCJ 219.

*Nipun Saxena & Anr. v. Union of India & Ors.*, 2019 (1) SCJ 430.

*Mallikarjun Kodagali (dead) v. State of Karnataka & Ors.*, 2019 (1) SCJ 350.

*Romila Thapar & Ors. v. Union of India & Ors.*, 2019 (3) SCJ 524.

*Rajendra Pralhadrao Wasnik v. State of Maharashtra*, 2019 (3) SCJ 447.

*Mahender Chawla & Ors. v. Union of India & Ors.*, 2019 (3) SCJ 370.

### **Teaching Plan:**

Week 1	(2 Lectures):	<b>Unit I</b>
Week 1 – Week 2	(4 Lectures):	<b>Unit II</b>
Week 2	(2 Lectures):	<b>Unit III</b>
Week 3 – Week 4	(8 Lectures):	<b>Unit IV</b>
Week 5 – Week 6	(6 Lectures):	<b>Unit V</b>
Week 6 – Week 7	(4 Lectures):	<b>Unit VI</b>
Week 7 – Week 8	(6 Lectures):	<b>Unit VII</b>
Week 9 – Week 10	(8 Lectures):	<b>Unit VIII</b>
Week 11	(2 Lectures):	<b>Unit IX</b>
Week 11 – Week 12	(4 Lectures):	<b>Unit X</b>
Week 12 – Week 15	(14 Lectures):	<b>Presentations in the Class</b>

### **Facilitating the achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	Acquire knowledge about	Primarily classroom	As given below.

	Fact Sheet relating to Crime in India which includes profile of crimes and criminals, trends in crime and conviction rate in India.	discussion on the statistics as provided in NCRB Data and other authorised reports about the topic.	
2.	Acquire knowledge about the basic concepts in Criminal Justice like crime; criminal; reasons for commission of crimes; aims and objectives of criminal justice, components of criminal justice system; administration of criminal justice; and adversarial and inquisitorial systems of criminal justice.	Primarily Classroom Lectures and discussion about the topic in a participatory way. Discussion on current developments in the field.	As given below.
3.	Acquire knowledge about the International Framework of Human Rights in Criminal Justice including Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World; United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules); UN Standard minimum rules for treatment of prisoners; Rome Statute of International Criminal Court.	Primarily Classroom Lectures and discussion on the international human rights instruments related to criminal justice. Special emphasis will be on latest developments in international law on this subject.	As given below.
4.	Acquire knowledge about the provisions for the protection of human rights in Central Laws relating to Criminal Justice i.e. Articles 20-22 of the Constitution and human rights issues in the IPC, the	Primarily Classroom Lectures discussing relevant Legal Statutes and Landmark Cases sometimes by using Moot Court Techniques emphasising on latest developments in law. Participatory Methods.	As given below.

	CrPC, the Indian Evidence Act; and the Protection of Human Rights Act 1993.	Discussion on current developments, on relevant news items from media, on Law Reports and on Statistics from other Reports.	
5.	Acquire knowledge about the provisions for the human right issues under Special Laws e.g. Terrorism, NDPS, human trafficking, offences against women, protection of children against sexual offences.	Primarily Classroom Lectures discussing relevant Legal Statutes and Landmark Cases sometimes by using Moot Court Techniques emphasising on latest developments in law. Participatory Methods. Discussion on current developments, on relevant news items from media, on Law Reports and on Statistics from other Reports.	As given below.
6.	Acquire knowledge about the provisions relating to access to justice issues during Investigation viz., arrest, police and judicial custody; grant of bail and under-trial prisoners; torture during interrogation; use of forensic and scientific investigation techniques.	Primarily Classroom Lectures discussing relevant Legal Statutes and Landmark Cases sometimes by using Moot Court Techniques emphasising on latest developments in law. Participatory Methods. Discussion on current developments, on relevant news items from media, on Law Reports and on Statistics from other Reports. Discussion on latest technologies in forensic field for investigation.	As given below.
7.	Acquire knowledge about the provisions for the human rights issues in trial viz., role and responsibilities of Prosecutor; speedy and fair trial; quality legal aid; witness and victim protection; role and rights of victims; plea bargaining; and compensation to victims.	Primarily Classroom Lectures discussing relevant Legal Statutes and Landmark Cases. Discussion on schemes of compensation and legal aid in law. Participatory Methods. Discussion on current developments, on relevant news items from media, on Law Reports and on Statistics from other Reports especially on compensation and plea bargaining.	As given below.

8.	Acquire knowledge about the provisions for the human rights perspectives to State's response to crime: meaning and concept of punishment; death penalty: retention or abolition debate and legal and constitutional issues; imprisonment and prisoners' rights; non-custodial punishments of release after due admonition, probation, fine, forfeiture of property; public censor.	Primarily Classroom Lectures discussing relevant Legal Statutes and Landmark Cases emphasising on latest developments in law. Participatory Methods. Discussion on current developments, on relevant news items from media, on Law Reports and on Statistics from other Reports especially on under trial data, conviction data and probation data etc. Focus will be on kinds of punishment awarded.	As given below.
9.	Acquire knowledge about the concepts which are different from Criminal Justice viz., lok adalats and mediation; and restorative justice.	Primarily Classroom Lectures and discussion emphasising on latest developments in alternate dispute resolution. Discussion on current developments in restorative justice in criminal cases.	As given below.
10.	Acquire knowledge about the provisions for the human rights initiatives in prisons viz., prison reforms, reformation initiatives in prisons; and open prisons.	Primarily Classroom Lectures discussing relevant Legal Statutes and Landmark Cases emphasising on latest developments in law. Participatory Methods for statistics analysis in the topic. Discussion on current developments for reformation of prisons and concept of open prisons.	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester I/Semester V**  
**Course Code: 2YLM-EC-114/3YLM-EC-114**  
**Course Name: Comparative Law of Marriage, Divorce and Civil Code**

**Marks: 100 (80+20)**

**Duration: 90 Hours**

**Course Objectives:**

This paper will explore the differences and commonalities in the conceptualisation and legal treatment of marriage and matrimonial remedies in different legal traditions. This paper will be divided into two parts. Part A will focus on how different religions and cultures within India deal with different issues of matrimony such as validity, spousal rights, legitimacy of children and matrimonial reliefs. In part B, the focus will be on the legal perspectives and problems of Indian nationals who marry abroad with other Indian nationals or foreign nationals or foreign domiciled persons, and the resultant conflict of law between the law of nationality and the law of domicile.

**Course Learning Outcomes:**

On the successful completion of this Course the students will be able to:

1. Analyse the complexities involved between the law of nationality and the law of domicile vis-à-vis different issues of matrimony.
2. Apply their knowledge and critical thinking to solve the factual situations involving conflict of laws and support them with logical arguments.
3. Write research papers/notes and case comments.

**Contents:**

**Part A**

**Unit I: Multiplicity of Family Laws and Civil Code (*lex loci*)**

1. Duality and pluralism in Indian Family Law
2. Civil Code – *Lex Loci* – Dealing with Diversity - Experience of Other countries
3. General laws overriding personal laws
4. Family law in India *vis-a-vis* the Constitution of India

**Unit II: A comparative approach of Law of marriage, matrimonial rights and matrimonial remedies**

1. Marriage and matrimonial rights under personal laws
2. Marriage and matrimonial rights under Civil laws
3. Matrimonial remedies under personal laws
4. Matrimonial remedies under civil laws

**Unit III: Impact of conversion conflicts of laws in India**

1. Personal law
2. civil law

## **Part B**

### **Unit IV: Domicile – Basic concepts**

1. Domicile, Nationality and Residence
2. Conflict between Law of Nationality and Law of Domicile – operation of *Renvoi*
3. General rules relating to Domicile
4. Domicile of origin and Domicile of choice
- 5 Theories of Domicile
  - a. Dual Domicile theory
  - b. Intended Matrimonial TheoryAlternative approaches
- 6 Domicile of married women – during converture, after divorce, during judicial separation, after annulment of marriage and after the death of her husband
- 7 Difference between English Law and Indian Law

### **Unit V: Marriages solemnized between persons with different Nationality and Domicile**

1. In India and Outside India
2. Choice between *Lex Loci* and *Lex Domicile*
3. Problems and perspectives
4. Need for a legislation

### **Unit VI: Recognition and enforcement of Foreign Decrees in India relating to matrimonial litigations**

#### **Suggested Readings:**

##### **1. Relevant Statutes**

- The Hindu Marriage Act 1955
- The Muslim Dissolution of Marriage Act 1939
- The Indian Christian Marriage Act 1882
- The Divorce Act 1869
- The Parsi Marriage and Divorce Act 1865
- The Special Marriage Act 1954
- The Foreign Marriage Act 1969
- The Prohibition of Child Marriage Act 2006

##### **2. Books:**

- Mulla Hindu Law by Satyajeet A. Desai
- Modern Hindu Law by Ramesh Chandra Nagpal
- Family Law by Paras Dewan
- Law of Marriage and Divorce by Paras Dewan
- Family Law Lectures by Kusum

- Nullity of Marriage under Hindu Law by M.S.Nijjar
- Studies in Hindu Law by Dr. Tahir Mahmood
- Syed Khalid Rashid's Muslim Law by V.P.Bhartia
- Muslim Law in India and Abroad by Dr.Tahir Mahmood and Dr. Saif Mahmood
- Mohammadan Law by Fyzee
- Cheshire and North's Private International Law
- Paras Dewan : Private International Law
- Atul M Setalvad, Conflict of Laws
- V.C Govindraj, Conflict of Laws in India

**Referred Cases :**

1. *Parwathawwa v. Channawwa* [AIR 1966 Nys. 100].
2. *Smt. Satya v. Teja Singh* [1975 (2) SCR 197].
3. *Y. Narasinha Rao v. Y. Venkata Lakshmi* [AIR 1991 SC 821].
4. *Robasa Khanum v. Khooababad Bomanji Irani* [(1946) 48. BOMLR 864].
5. *Thapita Peter v. Thapita Lakshmi* [(1894) ILR 17. Mad. 235].
6. *Vilayat Raj Alias Vilayat Khan v. Smt. Sunila* [AIR 1983 Delhi 351].
7. *Promila Khosla v. Rajneesh Khosla* [AIR 1989. Delhi, 78].
8. *Lily Thomas v. Union of India*, [AIR 2000 SC 1650].
9. *Neeraja Saraph v. Jayant v. Saraph*, [1994 (4) SCALE 445].
10. *Vikas Aggarwal v. Anubhu* [(2002) 45. SCC 468; AIR 2002 SC 1796].
11. *Monica Variato v. Thomas Variato*, [2000 (2) GLT 149].
12. *Deva Prasad Reddy v. Kamini Reddy*, AIR 2002 Karnataka 356.
13. *Marggarate Maria PulparampilNee Feldman v. Dr. Chacko Pulparampil*, AIR 1970 Kerala 1.
14. *V. Ravichandran v. Union of India*, (2010) 1 SCC 174.
15. *Arati Bandi v. Bandi Jagadrakshaka Rao*, AIR 2014 SC 918.
16. *Surya Vadanana v. State of Tamil Nadu & Ors.*, AIR 2015 SC 2243.



**Teaching Plan:**

**Week 1:** Duality and pluralism in Indian Family Law; Civil Code – *Lex Loci* – Dealing with Diversity - Experience of Other countries.

**Week 2:** Continue with Civil Code – *Lex Loci* – Dealing with Diversity - Experience of Other countries; General laws overriding personal laws.

**Week 3:** Family law in India *vis-a-vis* the Constitution of India; Marriage and Matrimonial Rights under personal laws.

**Week 4:** Marriage and matrimonial rights under Civil laws; Matrimonial remedies under personal laws; Matrimonial remedies under civil laws.

**Week 5:** Impact of conversion conflicts of laws in India under personal law and civil law.

**Week 6:** Domicile, Nationality and Residence; General rules relating to Domicile.

**Week 7:** Domicile of origin and Domicile of choice; Conflict between Law of Nationality and Law of Domicile – operation of *Renvoi*.

**Week 8:** Theories of Domicile; Domicile of married women – during coverture, after divorce, during judicial separation, after annulment of marriage and after the death of her husband.

**Week 9:** Continue with Domicile of married women; Difference between English Law and Indian Law.

**Week 10:** Marriages solemnized between persons with different Nationality and Domicile in India and Outside India.

**Week 11:** Choice between *Lex Loci* and *Lex Domicile*; Problems and perspectives; Need for a legislation.

**Week 12:** Recognition and enforcement of Foreign Decrees in India relating to matrimonial litigations- Introduction.

**Week 13:** Recognition of foreign judgements: Legislative provisions of Private International Law.

**Week 14:** Provisions under CPC (Section 13, 14, 44A, Order 21, Rule 22); Reciprocating Territories; Interpretation of clauses of Section 13 CPC.

**Week 15:** International Treaties and Foreign Court judgements; Observation of International Conventions in Municipal cases; Summary of Indian law on Recognition of Foreign Judgements.

**Facilitating the achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	<p>Students would be able to understand the concept of:</p> <p>Duality and pluralism in Indian Family Law.</p> <p>Civil Code – <i>Lex Loci</i> – Dealing with Diversity - Experience of Other countries.</p> <p>General laws over riding personal laws. Family law in India <i>vis-a-vis</i> the Constitution of India</p>	A mix of lectures, case study method and discussions.	As given below.
2.	<p>Students would understand the concept of Marriage and matrimonial rights under personal laws; the concept of Marriage and matrimonial rights under Civil laws; the concept of Matrimonial remedies under personal laws and Matrimonial remedies under civil laws</p>	A mix of lectures, case study method and discussions.	As given below.
3.	<p>Students would be able to identify the impact of conversion and conflicts of laws in India vis-à-vis Personal law and civil law</p>	A mix of lectures, case study method and discussions.	As given below.
4.	<p>Students would understand deeply the interplay of:</p> <p>The concept of Domicile, Nationality and Residence</p> <p>Conflict between Law of Nationality and Law of Domicile – operation of <i>Renvoi</i></p> <p>General rules relating to Domicile</p> <p>Domicile of origin and Domicile of choice</p> <p>Theories of Domicile</p> <p>Domicile of married women – during converture, after divorce, during judicial separation, after annulment of marriage</p>	A mix of lectures, case study method and discussions.	As given below.

	and after the death of her husband.		
5.	Students would be able to analyse the complexities involved in marriages solemnized between persons with different Nationality and Domicile: In India and Outside India; Choice between <i>Lex Loci</i> and <i>Lex Domicile</i> ; Problems and perspectives.	A mix of lectures, case study method and discussions.	As given below.
6.	Students would acquire understanding of the concept of Recognition and Enforcement of Foreign Decrees in India relating to matrimonial litigations.	A mix of lectures, case study method and discussions.	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester I**

**Course Code: 2YLM-EC-116/3YLM-EC-116**

**Course Name: Law of Women and Child Rights**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objectives:**

- Develop an understanding of the need for special laws for women and children on account of their specific vulnerabilities based on both age and gender
- Know the various laws available to women and children for the protection as well as promotion of their interests.
- Examine the inextricable linkages between children's and women's rights
- Critically examine the gaps between legislation and implementation.

**Course Learning Outcomes:**

- Understand and appreciate the laws relating to women and children
- Have an in-depth knowledge of the application of existing laws through a perusal of legislative provisions including amendments, relevant judgments as well as other contextual developments.
- Appreciate the interplay of existing laws against their respective backdrop for better acceptance and application.

**CONTENTS**

**UNIT I:**

**International Instruments for Protection of Women and Child Rights**

Universal Declaration of Human Rights (1948)

Convention on the Political Rights of Women (1952)

International Covenant on Civil and Political Rights (1966)

International Covenant on Economic, Social and Cultural Rights (1966)

Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974)

Convention on the Elimination of All Forms of Discrimination against Women (1979)

Declaration on the Elimination of Violence against Women (1993)

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999)

UN Declaration on the Rights of the Child 1959

Minimum Age Convention, 1973

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) 1985

UN Convention on the Rights of the Child, 1989

UN Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography 2000 (Sex Trafficking Protocol) and the

Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Child Soldiers Protocol).

**UNIT II**

**Constitutional Provisions relating to Women and Children in India**

Articles 14, 15, 16, 21, 21A, 24, 39, 42, 45, 46, 47, 51 (A)(e), 243 (D) and 243(T).

### **UNIT - III**

#### **Indian Penal Code, 1860**

Sections 82, 83, 312-317, 360 -374

Sections 498A, 304-B, 326A&B, 354A,B,C &D, 375, 376 A, 376AB, 376B, 376C, 376D, 376DA, 376DB, 376 E, 506,509, 494, 497

### **UNIT - IV**

#### **Special Laws relating to Women in India**

The Dowry Prohibition Act, 1961; The Protection of Women from Domestic Violence Act, 2005; The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; The Immoral Traffic (Prevention) Act, 1956; The Commission of Sati (Prevention) Act, 1987; The Indecent Representation of Women (Prohibition) Act, 1986; The Medical Termination of Pregnancy Act, 1971; The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994; The Maternity Benefit Act, 1961 with the Amendment Act, 2017; Devadasi (Prohibition of Dedication) Act (Tamil Nadu, Andhra Pradesh and Karnataka); Provisions related to women under various personal laws.

### **UNIT - V**

#### **Special Laws relating to Children in India**

The Juvenile Justice (Care and Protection of Children) Act, 2015; The Commissions for Protection of Child Rights Act, 2005; POCSO, 2012; The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; The Prohibition of Child Marriage Act, 2006; The Right of Children to Free and Compulsory Education Act, 2009; The Hindu Minority and Guardianship Act, 1956; Adoption regulations as framed by Central Adoption Resource Authority, 2017.

### **UNIT - VI**

#### **National Institutional Framework for Protection of Women and Children**

National Commission for Women;  
National Commission for Protection of Child Rights  
Family Courts, Mahila Courts, Juvenile Courts, Parivarik Mahila Lok Adalats.

#### **SUGGESTED READINGS:**

The readings and cases are merely suggestive and not exhaustive.

1. Building A World Fit for Children, UNICEF (2002)  
[http://www.unicef.org/specialsession/docs\\_new/](http://www.unicef.org/specialsession/docs_new/)
2. Asha Bajpai, Child Rights In India: Law, Policy and Practice (2nd ed 2006) OUP.
3. Draft National Policy for Children 2012
4. Flavia Agnes, Law and Gender Inequality: The Politics of Women's Rights in India (1999) Oxford, New Delhi.
5. Kalpana Kannabiran(ed.), Women and Law Critical Feminist Perspectives 2014 (Sage)
6. M. Subramaniam, G.Lisi, "Child Rights: Everybody talks about and yet does not understand", Human Rights Year Book (2012-13)
7. Mamta Rao, Law Relating To Women and Children. (4th Edn. 2018) EBC.

8. Michael D.A. Freeman, "Beyond Conventions – Towards Empowerment" Fortuyn et al (ed) Towards Realisation of Human Rights of Children pp. 19-39 (1992)
9. Sunil Deshta and Kiran Deshta, Law and Menace of Child Labour (2000), Anmol Publications, New Delhi
10. Ved Kumari, Juvenile Justice System In India: From Welfare To Rights (2nd Edn. 2010) OUP
11. B.B. Pande., "Rethinking Juvenile Justice: Arnit Das Style" (2000) 6 SCC (Jour) 1.
12. S. P. Srivastava, Juvenile Justice in India (1989) pp. 72-119
13. Usha Razdan, "Legal Aid to Juveniles: A *Sine Qua Non* of Correctional Jurisprudence", Social Defence No.99, 27 (1990)
14. Usha Razdan, "Child Paedophilia and International Travel and Tourism: An Unholy Nexus' JILI, vol. 48 2006
15. Usha Razdan, "Torture of the Girl Child : State Sponsored Repression" JILI, 2011.
16. Ved Kumari, "Quagmire of Age Issues under the Juvenile Justice Act: From Inclusion to Exclusion", 51(2) JILI 163-186 (2009).
17. Vageshwari Deswal, "Rights of Rape Victims in India: A Legal Analysis" Journal of NHRC, New Delhi, Vol 13, 2014 pp101-132
18. Vageshwari Deswal, "Global Commitment Towards Protection of Women against Acid Violence" Indian Journal of International Law, New- Delhi, Vol 53, No. 4, October-December 2013 pp 632-645
19. B.B. Pande., "The Indian Juvenile Justice Jurisprudence and the Convention on the Rights of the Child", <http://www.workingchild.org/html/jj.html>.

**List of Cases:**

1. Air India v. Nargesh Mirza, 1981 AIR 1829
2. C B Muthamma v. UOI, 1979 AIR 1868
3. Centre for Enquiry into Health and Allied Themes (CEHAT) & Others vs. Union of India & Others, 2000 SC 301
4. D. Veluswamy v. D. Patchaiammal, 2010 (10) SCC 469
5. Danial Latifi v. Union of India, (2001) 7 SCC 740
6. Gaurav Jain v. Union of India, 1997 (8) SCC 114
7. Gita Hariharan v. Reserve Bank of India, (1999) 2 SC 228
8. Hiral P. Harsora v. Kusum Harsora 2016 SCC Online SC 1118, decided on 6.10.2016
9. Independent Thought v. UOI, (2017) 10 SCC 800
10. Joseph Shine v. UOI, Writ Petition (Crl.), 194 of 2017
11. Lata Singh v. State of UP, 2006(5) SC 266.
12. Laxmi v. Union of India, AIR 2015 SC 3662
13. Laxmikant Pandey v. Union of India, AIR (1984) SC 469
14. M.C. Mehta v. State of Tamil Nadu, JT 1990 SC 263
15. Miss. Mohini Jain v. State of Karnataka and others, AIR 1992 SC 1858
16. Mohd. Ahmed Khan v Shah Bano Begum and Ors, AIR 1985 SC 945
17. Mr. 'X' v. Union of India, AIR 2016 SC 3525
18. Mrs Neera Mathur v. LIC of India, AIR 1992 SC 392
19. Sabu Mathew George v. UOI, 2016 (12) SCALE 75
20. Saroj Rani v. Sudarshan Kumar, AIR 1984 SC 1562
21. Shayara Bano v. UOI, Writ Petition (C) 118 of 2016
22. Sheela Barse v. Union of India, AIR 1986 SC 1883
23. State of Punjab v. Gurmit Singh, AIR 1996 SC 1393
24. Unni Krishnan v. State of Andhra Pradesh, 1993 (1) SCC 645
25. Vishaka v. State of Rajasthan, AIR 1997 SC 301
26. Vishal Jeet v. Union of India, 1990 (3) SCC 318

**Teaching Plan:**

Week 1:-Unit 1  
Week 2: Unit 1  
Week 3: Unit 2  
Week 4: Unit 2  
Week 5: Unit 3  
Week 6: Unit 3  
Week 7: Unit 3  
Week 8: Unit 4  
Week 9: Unit 4  
Week 10: Unit 4  
Week 11: Unit 5  
Week 12: Unit 5  
Week 13: Unit 6  
Week 14: Unit 6  
Week 15: Assessment

**Facilitating the achievement of Course Learning Outcomes**

Unit no.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	Understanding the basis for enactment of special laws for women and children	Lectures and Discussions	As given below.
2.	Understanding the Constitutional provisions for safeguarding women and children in the right perspective	Lectures, audio visual presentations, discussions	As given below.
3.	Analysis of the relevant provisions of substantive criminal law	Case analyses, debates and discussions.	As given below.
4.	Critically analyse the implementation of Special laws relating to women. Study of the use as well as possible abuse of such laws.	Lectures, case studies, debates, audio-video clips etc.	As given below.
5.	Understand the laws relating to children.	Lectures, audio visual presentations, discussions	As given below.
6.	Understand the working of institutional framework for	Lectures, Case studies, debates	As given below.

	women and the reasons for having specialised forums for women and children.	and discussions.	
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**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester I**

**Course Code- 2YLM-EC-117/3YLM-EC-117**

**Course Name- Administrative Law and Regulatory Mechanisms**

**Marks: 100 (80+20)**

**Duration: 90 Hours**

**Course Objectives**

1. To focus on theoretical and analytical study of various aspects of administrative law in comparative manner and to discuss the impact of globalization and liberalization on the growth of administrative law.
2. To apprise the students about the ingrained constitutional and right based challenges of administrative rule making and to discuss with them the already practiced techniques and remedies to neutralize these challenges and to encourage students to critically analyze the efficacies of these techniques and remedies.
3. To endow the students with the critical and analytical understanding of the procedures followed by the government and its many instrumentalities and agencies in exercising their powers and functions, the mechanisms by which they are controlled and the remedies that are available to persons whose rights may have been infringed by the exercise of such powers and functions.

**Learning Outcomes**

On successful completion of this Course, the students will be able to:

1. Exhibit critical and analytical conceptual understanding of many aspects of administrative law and analyze a factual situation with their conceptual and insightful understanding of the subject.
2. Conduct effective doctrinal as well as empirical legal research in the subject by using fundamental tools of legal research.
3. Write research papers/notes and case comments and work in research houses.
4. Practice in this area in the law courts/tribunals.
5. Help needy persons to obtain required information and relief from the government establishments and courts
6. Become law teachers, policy makers/reformers or effectively work as administrators.

**Contents:**

**UNIT I : ADMINISTRATIVE LAW– MEANING AND SCOPE (2 Weeks)**

Meaning and Definition of Administrative Law; Sociological Aspects of Administrative Law; Development and Scope of Administrative Law; Red Light, Green Light and Amber Light theories of Administrative Law; Classification of Administrative Actions; Global Administrative Law

## **UNIT II : BASIC CONSTITUTIONAL CONCEPTS INFLUENCING GROWTH OF ADMINISTRATIVE LAW (3 Weeks)**

- A. RULE OF LAW** - Dicey's formulation of Rule of Law; Fallacy of Dicey's aspect of the Welfare State and the Rule of Law; Rule of Law in mixed economy; formal and Ideological concepts of Rule of Law; Constitutional provisions embodying the idea of Rule of Law
- B. SEPARATION OF POWERS** - Doctrine as propagated by Montesquieu; Rationale of this doctrine in theory and practice; Separation of Powers under different Constitutions; Judicial Pronouncements on Separation of Powers

## **UNIT III : RULE-MAKING POWER OF THE ADMINISTRATION (3 Weeks)**

Nature, Necessity and Source of administrative rule-making power; Limits on delegation of rule-making power to the administrative authority; categories of administrative rule-making power; Control mechanisms of administrative rule-making power- procedural control, legislative control and Judicial control

## **UNIT IV : ADMINISTRATIVE TRIBUNALS (2 Weeks)**

Reasons for the Growth of Administrative Adjudication; Salient features of Administrative Tribunals; Distinction between- Tribunals and Courts, Tribunals and Quasi-judicial bodies; Advantages of Tribunals- openness, fairness, cheap and speedy remedy, easy accessibility, absence of technicalities of evidence and procedure, etc.; Structure, Powers and Procedure of Administrative Tribunals established under Article 323A and 323B of the Constitution of India, 1950 with special reference to the Central Administrative Tribunal established under the Administrative Tribunals Act, 1985; Reforms required in tribunal system in India in the light of judicial decisions, Law Commission reports and reforms taken place in other countries

## **UNIT V : REDRESSAL OF COMPLAINTS AGAINST THE ADMINISTRATION: THE INSTITUTION OF OMBUDSMAN (1 Weeks)**

Meaning, Origin and Development of the Institution of Ombudsman; Need of Ombudsman- Limitations in redress through Courts, Twin problems of mal-administration and Corruption; Matters usually included or excluded from Ombudsman's Jurisdiction; Various legislative proposals for appointment of Lokpal at the Centre; Legal and Constitutional Position of the Lokpal under the successive Lokpal Bills of 1968, 1971, 1977, 1985, 1989 and 1996, 2001; Working of Lokayuktas and other Institutions in some States; Critical Analysis of the Lokpal and Lokayukta Act, 2014

## **UNIT VI : RIGHT TO INFORMATION (1 Weeks)**

Importance of the Right to Information- openness, transparency and accountability of the administration; Right to information under the Constitution of India; the Judicial approach towards right to know; Object and the salient features of the Right to Information Act, 2005; Scope of the Right to Information Act- obligation of public authorities to supply information; Grounds of refusal to disclose information

## **UNIT VII : INQUIRIES & INVESTIGATIONS (1 Weeks)**

The Commission of Inquiry Act, 1952- Object and Scope of the Act; Power of Central/State Government to appoint a Commission of Inquiry- discretionary and mandatory nature of power; Power and Procedure of the Commission of Inquiry; Compliance with the Principles of Natural Justice; Effectiveness- submission of report and follow up action; The Central Vigilance Commission Act, 2003- Constitution, Powers and procedure

## **UNIT VIII : REGULATORY AGENCIES (2 Weeks)**

Need of Regulatory Bodies; Composition, Structure, Powers And Procedures of these Regulatory Bodies, including, the Electricity Regulatory Commission under the Electricity Act, 2003; the Competition Commission under the Competition Act, 2002; the Telecom Regulatory Authority of India under the Telecom Regulatory Authority of India Act, 1997; the Insurance Regulatory and Development Authority under the Insurance Regulatory and Development Authority Act, 1999; the Pension Fund Regulatory and Development Authority under the Pension Fund Regulatory and Development Authority Act, 2013, the Securities and Exchange Board of India under the Securities and Exchange Board of India Act, 1992, the Prasar Bharati under the Prasar Bharati (Broadcasting Corporation of India) Act, 1990, the Petroleum and Natural Gas Regulatory Board under Petroleum and Natural Gas Regulatory Board Act, 2006

### **Suggested Readings:**

1. Beatson, Matthews and Ellitto's *Administrative Law: Text and Materials* (4<sup>th</sup> ed., 2011)
2. H.W.R. Wade & C.F. Forsyth, *Administrative Law* (11<sup>th</sup> ed., 2014)
3. P.P. Craig, *Administrative Law* (6<sup>th</sup> ed., 2008)
4. B.L. Jones & J.F. Garner, *Garner's Administrative Law* (8<sup>th</sup> ed., 1996)
5. K.C. Davis, *Administrative Law Treatise* (2<sup>nd</sup> ed., 1980)
6. W. Friedmann, *Law in a Changing Society* (1959)
7. M.P. Jain and S.N. Jain, *Principles of Administrative Law* (7<sup>th</sup> ed., 2013)

8. M.P. Jain, *Cases and Materials on Indian Administrative Law* (1994)
9. Carol Harlow and Richard Rawlings, Administrative Law in Context: Restoring a lost connection" *Public Law* 28-42 (2014)
10. Paul Craig, *UK, EU and Global Administrative Law: Foundations and Challenges (The Hamlyn Lectures)* (2015)
11. Upendra Baxi, Introduction – The Myth and Reality of the Indian Administrative Law in I. P. Massey, *Administrative Law* (2017)
12. S.P. Sathe, *The Tribunal System in India* (1996)

### Reading Material

1. Cameron Stewart, "The Rule of Law and the Tinkerbelle Effect: Theoretical Considerations, Criticisms and Justifications for the Rule of Law", 4 *Macquarie Law Journal* 135-164 (2004)
2. Bruce Bartlett, "A Conservative Case for the Welfare State", 2015 available at: [https://www.dissentmagazine.org/online\\_articles/bruce-bartlett-conservative-case-for-welfare-state](https://www.dissentmagazine.org/online_articles/bruce-bartlett-conservative-case-for-welfare-state)
3. Eugene V. Rostow, "The State and the Rule of Law in a Mixed Economy" Yale Law School: Faculty Scholarship Series Paper 2142 (1972)
4. W. Friedmann *Welfare State and Rule of Law* available at: <https://dullbonline.wordpress.com/2017/06/28/welfare-state-and-rule-of-law-w-friedmann>
5. J.S. Verma, "50 years of Freedom under Rule of Law: Indian Experience"-- speech delivered on 9th September, 1997 (2000 Edn., Universal Law Publishing Co. Pvt. Ltd., Delhi) 37
6. M.N. Venkatachaliah, "Rule of Law : Contemporary Challenges", 45 *Indian Journal of Public Administration* 321 (1999)
7. H.M. Seervai, "Rule of Law" in *The Position of the Indian Judiciary under the Constitution of India* 83-96 (1970)
8. Separation of Executive and Judicial Functions [Extracts from Law Commission of India, 14th Report on Judicial Administration, 1958]
9. The General Clauses Act, 1897, Sections 20–24
10. M.P. Jain, "Parliamentary Control of Delegated Legislation in India", *Public Law* 176 (Summer 1964),
11. Garner, "Consultation in. Subordinate Legislation", *P.L.* (1964) 105-124
12. Anupa V. Thapliyal, "Central Administrative Tribunals and Their Power to Issue Directions, Orders or Writs Under Articles 226 and 227 of the Constitution", 4 *SCC (Jour)* (1992) 18
13. Keynote address by Justice K.G. Balakrishnan, CJI at the inaugural session of the 'All India Conference of the Central Administrative Tribunal' held at Vigyan Bhawan, New Delhi, on 2nd August 2008
14. Sarbjit Kaur, "Doctrine of Judicial Review and the Decisions of the Administrative Tribunals" Vol. 6 (1) *Journal of Law Teachers of India* (2015) 1
15. From *S.P. Sampath Kumarto L. Chandra Kumar* and the Implications [Extracts from 215th Report of Law Commission of India on *L. Chandra Kumar* be Revisited by the Larger Bench of Supreme Court, December 2008]

16. Citizen, Administration and Ombudsman in Norman Lewis, S.S. Singh (eds.), *Ombudsman: India and the world Community* (Indian Institute of Public Administration) Chapter 1, 1-32
17. Madam Justice Florence N. Mumba, The Ombudsman: The Need for Protection and Control in Norman Lewis, S.S. Singh (eds.), *Ombudsman: India and the world Community* (Indian Institute of Public Administration) Chapter 2, 33-40
18. Operationalising Redressal of Citizens' Grievances in India in Norman Lewis, S.S. Singh (eds.), *Ombudsman: India and the world Community* (Indian Institute of Public Administration) Chapter 17, 221-232
19. Sarbjit Kaur, "Desirability of the Institution of Ombudsman in a Modern Democratic Set Up", X-XI *National Capital Law Journal* (2005-2006) 135
20. Sarojini Sharan, "Ombudsman in India", Vol.32. No. 2 *Indian Journal of Political Science Association* 158-174 (April –June .1971)
21. H. Rai and S.P. Singh (eds.), "Ombudsman in India: A Need for Administrative Integrity and Responsiveness" Vol. 37, No. 3 *The Indian Journal of Political Science* 43-63 (July.-Sept. 76)
22. Soumik Chakraborty, "Ombudsman: A Critical Appraisal" December 17, 2014 available at:  
<https://www.lawctopus.com/academike/ombudsman-critical-appraisal>
23. Amrita Johri, Anjali Bhardwaj et.al. (eds), "The Lokpal Act of 2014: An Assessment" (2014) 49 (5) *Economic and Political Weekly* 10
24. S.L. Rao, *Governing Power: A New Institution of Governance: the Experience with Independent Regulation of Electricity* 35-71 TERI Press, New Delhi (2004)
25. O.P. Agarwal and P. Paul, *Framework for Independent Regulation in India: An Overview*, 3-15TERI Press, New Delhi (2004)
26. Pratip Kar, *Role of Independent Regulation in Economic Reforms*, 17-26 TERI Press, New Delhi
27. S.K. Sarkar and Leena Srivastava, *The Regulatory Framework: Experiences and Issues*, 27-44 TERI Press, New Delhi

### Recommended Readings:

1. Upendra Baxi, "The Rule of Law in India", 3 *Sur* (2007) 6
2. V.S. Deshpande, *Judicial Review of Legislation* (1975)
3. Stephen G. Breyer and Richard B. Stewart, *Administrative Law and Regulatory Policy* (1979) Chapters 1-3
4. K.C. Davis, *Administrative Law Text* (1971) 1-15
5. W. Friedman, *Law in a Changing Society* (1959) Chapter 11
6. Mike Taggart, "The Impact of Corporatisation and Privatisation on Administrative Law", 51 *Australian Journal of Public Administration* 368-373 (1992)
7. Peter Bayne, "Administrative Law and the New Managerialism in Public Administration", 62 *The Australian Law Journal* 1040-1045 (1988)
8. A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (9<sup>th</sup> ed.) Chapters IV and XII
9. A.V. Dicey, "The Development of Administrative Law in England", 31 *LQR* 148 (1915)
10. Ramaswamy, "Rule of Law in a Planned Society", 1 *JILI* 31 (1959)
11. Upendra Baxi "Developments in Indian Administrative Law" in *Public Law in India* (A.G. Noorani ed.) (1982) 136

12. B. Bhardwaj, "Delegated Legislation in India", 1963 *SCJ (J)* 26
13. J.A.G. Griffith, "The Constitutional Significance of Delegated Legislation in England", 48 *Mich L. Rev* 1079 (1950)
14. *Report of Committee on Ministers' Powers* (1932), Cmd. 4060 (Reprinted 1972)
15. Alan Wharm, "Judicial Control of Delegated Legislation – The Test of Reasonableness", 36 *Mod LR* 611 (1973)
16. R.M. Jackson, "Judicial Review of Legislative Policy", 18 *Mod. L. Rev.* 571 (1955)
17. S.N. Jain, "Validity of Retrospective Delegated Legislation - The Court Develops a New Principle", 23 *JILI* 102 (1981)
18. *Report of the Committee on Administrative Tribunals and Enquiries* (Franks Committee) Comd. 218 (1957)
19. Law Commission of India, 14<sup>th</sup> *Report on Judicial Administration* (1958) 675-695
20. Sarbjit Kaur, *Service Tribunals- An Introduction* (2015)
21. Administrative Reforms Commission, *Interim Report on the Problems of Redress of Citizens' Grievance* (1966)
22. P.K. Tripathi, "Lokpal: The Proposed Indian Ombudsman", 9 *JILI* 175 (1967)
23. Rajeev Dhavan, "Engrafting the Ombudsman Idea on a Parliamentary Democracy – A Comment on the Lokpal Bill, 1977", 19 *JILI* 257 (1977)
24. Balram K. Gupta, "A Balance-Sheet of State Lokayuktas", 26 *JILI* 122 (1984)
25. K.S. Shukla & S.S. Singh, *Lokayukta : A Socio Legal Study* (1988) IIPA, New Delhi
26. Estimates Committee, *System of Redressal of Grievances* (1991-92) First Report, Tenth Lok Sabha
27. Normal Lewis and S.S. Singh, *Ombudsman: India and the World Community* (1995) IIPA and British Council
28. S.L. Rao "Policy and Legal Framework for Regulation" in *Transition to a Liberalized Environment – Experiences and issues in Regulation* (Leena Srivastava and S.K. Sarkar ed.) (1999) 27-32
29. S. Sunder and S.K. Sarkar "Framework for Regulation: The Indian Experience" in *Transition to a Liberalized Environment – Experiences and issues in Regulation* (Leena Srivastava and S.K. Sarkar ed.) (1999) 39-53
30. Robert Baldwin, *et. al. The Oxford Handbook of Regulation*, Chapter 1 Introduction: Regulation - the Field and the Developing Agenda (2010) 1-12
31. Robert Baldwin, *et. al. The Oxford Handbook of Regulation*, Chapter 3 Regulatory Rationales Beyond the Economic: In Search of the Public Interest by Mike Feintuck (2010) 39-61

### Teaching Plan:

#### Week 1:

Meaning and Definition of Administrative Law; Sociological aspects of Administrative Law; Development and Scope of Administrative Law; Red Light, Green Light and Amber Light theories of Administrative Law

#### Week 2:

Classification of Administrative Actions; Global Administrative Law

#### Week 3:

Rule of Law - Dicey's formulation of Rule of Law; Fallacy of Dicey's aspect of the Welfare State and the Rule of Law; Rule of Law in mixed economy; formal and Ideological concepts of Rule of Law; Constitutional provisions embodying the idea of Rule of Law

**Week 4:**

Separation of Powers - Doctrine as propagated by Montesquieu; Rationale of this doctrine in theory and practice; Separation of Powers under different Constitutions

**Week 5:**

Judicial Pronouncements on Separation of Powers

**Week 6:**

Nature, Necessity and Source of administrative rule-making power; Limits on delegation of rule-making power

**Week 7:**

Categories of administrative rule-making power

**Week 8:**

Control mechanism of administrative rule-making power- procedural control, legislative control and Judicial control

**Week 9:**

Reasons for the Growth of Administrative Adjudication; Salient features of Administrative Tribunals; Distinction between- Tribunals and Courts, Tribunals and Quasi-judicial bodies; Advantages of Tribunals- openness, fairness, cheap and speedy remedy, easy accessibility, absence of technicalities of evidence and procedure, etc.; Structure, Powers and Procedure of Administrative Tribunals established under Article 323A and 323B of the Constitution of India, 1950 with special reference to the Central Administrative Tribunal established under the Administrative Tribunals Act, 1985;

**Week 10:**

Reforms required in tribunal system in India in the light of judicial decisions, Law Commission reports and reforms taken place in other countries

**Week 11:**

Meaning, Origin and Development of the Institution of Ombudsman; Need of Ombudsman- Limitations in redress through Courts, Twin problems of mal-administration and Corruption; Matters usually included or excluded from Ombudsman's Jurisdiction; Various legislative proposals for appointment of Lokpal at the Centre; Legal and Constitutional Position of the Lokpal under the successive Lokpal Bills of 1968, 1971, 1977, 1985, 1989 and 1996, 2001; Working of Lokayuktas and other Institutions in some States; Critical Analysis of the Lokpal and Lokayukta Act, 2014

**Week 12:**

Importance of the Right to Information- openness, transparency and accountability of the administration; Right to information under the Constitution of India; the Judicial approach towards right to know; Object and the salient features of the Right to Information Act, 2005; Scope of the Right to Information Act- obligation of public authorities to supply information; Grounds of refusal to disclose information; Judicial decisions on interpretations and scope of the Act

**Week 13:**

The Commission of Inquiry Act, 1952- Object and Scope of the Act; Power of Central/State Government to appoint a Commission of Inquiry- discretionary and mandatory nature of power; Power and Procedure of the Commission of Inquiry; Compliance with the Principles of Natural Justice; Effectiveness- submission of report and follow up action; The Central Vigilance Commission Act, 2003- Constitution, Powers and procedure

**Week 14:**

Need of Regulatory Bodies; Composition, Structure, Powers and Procedures of these Regulatory Bodies, including, the Electricity Regulatory Commission under the Electricity Act, 2003; the Competition Commission under the Competition Act, 2002

**Week 15:**

The Telecom Regulatory Authority of India under the Telecom Regulatory Authority of India Act, 1997; the Insurance Regulatory and Development Authority under the Insurance Regulatory and Development Authority Act, 1999; the Pension Fund Regulatory and Development Authority under the Pension Fund Regulatory and Development Authority Act, 2013, the Securities and Exchange Board of India under the Securities and Exchange Board of India Act, 1992, the Prasar Bharati under the Prasar Bharati (Broadcasting Corporation of India) Act, 1990, the Petroleum and Natural Gas Regulatory Board under Petroleum and Natural Gas Regulatory Board Act, 2006

**Facilitating the achievement of Course Learning Outcomes**

<b>Unit No.</b>	<b>Course Learning Outcomes</b>	<b>Teaching and Learning Activity</b>	<b>Assessment Tasks</b>
I.	To understand the importance of administrative law for establishment of an egalitarian and welfare society.	A mix of lectures, discussion, case study method, presentations and assignments	As given below.
II.	To learn about the basic constitutional concepts of Rule of Law and Separation of Powers and check the State's action on the altar of these doctrines.	A mix of lectures, discussion, case study method, presentations assignments and hypothetical problems solving	As given below.
III.	To know the meaning and reasons for growth of delegated legislation; permissible limits of delegation of legislative power in UK, USA and in India; various controls over delegated legislation To decide upon the legality or illegality of the executive law making (orders, rules, regulations, notifications, bye-laws <i>etc.</i> )	A mix of lectures, discussion, case study method, presentations assignments and hypothetical problems solving	As given below.



IV.	<p>To know the advantages offered by tribunal system; establishment of administrative tribunals under Article 323A and 323B of the Constitution of India, 1950 with special reference to service tribunals; their functioning in actual practice; the available avenues to challenge the decisions of the tribunals</p> <p>Work out the reforms required in tribunal system in India in the light of judicial decisions, Law Commission reports and reforms taken place in other countries</p>	A mix of lectures, discussion, case study method, presentations and assignments	As given below.
V.	<p>To learn about the meaning and need of the institution of Ombudsman as a mechanism for Redressal of Complaints against the administration and many related concerns thereof.</p>	A mix of lectures, discussion, case study method, presentations assignments and hypothetical problems solving	As given below.
VI.	<p>To know the philosophical insights and legal and constitutional foundation of the right to information.</p> <p>To help themselves or any other needy person with the required information from the government establishment.</p>	A mix of lectures, discussion, case study method, presentations assignments and hypothetical problems solving	As given below.
VII.	<p>To learn about the constitution, powers and functions of Commission of Inquiry under the Commission of Inquiry Act, 1952; the constitution, powers and functions of the Central Vigilance Commission under the Central Vigilance Commission Act, 2003.</p>	A mix of lectures, discussion, case study method, presentations and assignments	As given below.
VIII.	<p>To appraise the recently developed concepts of having regulatory bodies to particular sector and their withstanding in respect of many constitutional and administrative law principles.</p>	A mix of lectures, discussion, case study method, presentations and assignments	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
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Internal Component (Term paper and Presentations)	20 Marks
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**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, latest judicial decisions and consult the latest editions of books.

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**Semester II**

**Course Code: 2YLM-CC-201/3YLM-CC-201**

**Course Name: Law and Justice in a Global World**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objectives:**

- (1) To discuss the evolving parameters of law and justice
- (2) To discuss the political economy of globalization and its impact on administration of law and justice
- (3) To highlight the importance of comparative study
- (4) To sensitize students on gender equality, affirmative action, the need of justice for the poor, LGBT community, children, disabled, environment protection, refugees, victims of international crimes, and aged people.

**Learning Outcomes:**

On successful completion of the course, the students will be able to:

- (1) Understand the various parameters of theorizing the term ‘justice’
- (2) Know the need of globalization, its political economy, and its impact on administration of law and justice
- (3) Know the advantages of comparative study
- (4) Know the legal tools to act affirmatively for the poor, disadvantaged, women, children, LGBT, disabled, aged people, environment protection, refugees, victims of international crimes, and aged.

**Contents:**

**TOPIC 1: UNDERSTANDING LAW AND JUSTICE: DIFFERENT THEORIES**

Commutative and Distributive justice

Concept of Justice as Fairness

Capabilities Approach

Restorative Justice

Natural Justice

Cognitive Justice

**Required Readings:**

1. John Rawls, A Theory of Justice (Harvard University Press, 1971)
2. Amartya Sen, The Idea of Justice (2009)
3. M.K. Gandhi, Hind Swaraj or Indian Home Rule (Navjivan Trust, 1938)
4. Martha Nussbaum, Frontiers of Justice: Disability, Nationality, Species Membership, Chapter 2 (2006)

5. Upendra Baxi, "Chhatrapati Singh and the Idea of a Legal Theory" 56 *Journal of Indian Law Institute* (2014) 5-24
6. Bhikhu Parikh, *Gandhi: A Very Short Introduction* (2001)
7. Shiv Visvanathan, *The Search For Cognitive Justice*, 597 *Seminar* (2009)

### **TOPIC II: LAW AND JUSTICE IN A GLOBAL WORLD**

1. Meaning of Globalization; Global World
2. Understanding Political Economy of Globalization
3. Role of State, International Market and Law
4. Impact of Globalization on India's Social, Political and Economic Development
5. Impact of Globalization on Judicial Process and Administration of Justice

#### **Required Readings:**

1. Jagdish Bhagwati, *In Defense of Globalization* (Oxford University Press, 2007)
2. Upendra Baxi, *Dual Standards of Justice Since Globalization*, reported at <http://www.bhopal.net/dual-standards-of-justice-since-globalisation-prof-upendra-baxi/> (2006)
3. Parmanand Singh, *State, Market and Economic Reforms*, XVIII *Delhi Law Review* (1996), pp. 100-110
4. Eric Hobsbawm, *How to Change the World* (2012), pp. 399-419
5. Rohit Chopra, "Neo-liberalism as Doxa: Bourdieu's Theory of the State and the Contemporary Indian Discourse on Globalization and Liberalization" XVII *Cultural Studies* (2003), pp. 419-444
6. Surya Deva, "Human Rights Realization in an Era of Globalization: The Indian Experience" 12 *Buffalo Human Rights Law Review* (2006) 93-138
7. B.S. Chimni, "International Institutions Today: An Imperial Global State in the Making", 15 *European Journal of International Law* 1 (2004)
7. Judge Hisashi Owada, *Some Reflections on Justice in a Globalizing World*, 97 *American Society of International Law – Proceedings of the 101st Annual Meeting* (April 2-5, 2003)

### **TOPIC III: LIBERTY AND SOCIETY**

1. Liberty as a concept
2. Operationalization of liberty in a democratic society
  - Constitutional Freedoms and reasonable restrictions
  - Debates on Euthanasia and Death Penalty
  - Civil disobedience

#### **Required Readings:**

1. Christopher Caudwell, *The Concept of Freedom* (1977), pp. 51-75
2. K.K. Mathew, *Democracy, Equality and Freedom* (1978) pp. 127-145

3. Bhikhu Parikh, Gandhi: A Short Introduction (2001), Chapter 4 (Satyagraha) & 5 (Critique of Modernity)
4. Subhash Chandra Singh, "Euthanasia and Assisted Suicide: Revisiting the Sanctity of Life Principle", 54 *Journal of the Indian Law Institute* (2012) 196-231
5. Law Commission of India, "Capital Punishment", 35<sup>th</sup> Report (1962), 187<sup>th</sup> Report (2003) & 262<sup>th</sup> Report (2015)

#### **TOPIC IV: HUMAN RIGHTS, BASIC NEEDS & SUSTAINABLE DEVELOPMENT IN A GLOBAL WORLD**

1. The concept of Basic Human Needs: Food, Shelter, Clothing, Health, Sanitation etc.
2. Basic Needs and the concept of Human Rights
3. Concept of Humanitarian Intervention
4. Principle of Responsibility to Protect (R2P)
5. Human Rights and Environment
6. Sustainable Development Goals (SDG)

#### **Required Readings:**

1. D. Conrad, The Human Right to Basic Necessities of Life, X&XI *Delhi Law Review* (1981-82) pp. 51-75
2. B.B. Pandey, The Constitutionality of Basic Human Needs: An Ignored Area of Human Discourse 4 *Supreme Court Cases* (1988) pp. 1-16
3. Upendra Baxi, From Human Rights to the Right to be Human: Some Heresies (1987), pp. 185-200
4. J.J. Paust, R2P and Protective Intervention, 31 *Temple International & Comparative Law Journal* (2017) 109
5. Yogesh Tyagi, "The Concept of Humanitarian Intervention Revisited", 16(3) *Michigan Journal of International Law* (1995) 883-910
6. Bharat H. Desai, "International Environmental Governance: Towards UNEPO (Brill/Nijhoff, 2014)
7. B.C. Nirmal, "Responsibility to Protect: A Political Doctrine or An Emerging Norm" 57 *Journal of Indian Law Institute* (2015) 333-375
8. Anupam Jha, Environmental Protection and Renewable Energy: Does It Promote Human Rights Too? 15 *Journal of National Human Rights Commission* (2016) 3-21

#### **TOPIC V: RECEPTION OF LAW**

- (i) Notions and reasons for Reception
- (ii) Role of participation in making global law, Local Demand, Local Politics
- (iii) Indigenous Law and Global Law: Problems in Reception

#### **Required Readings:**

1. David Nelken, Legal Transplants and Beyond: Of Disciplines and Metaphors, in Andrew Harding and Esin Orucu (ed.), *Comparative Law in 21<sup>st</sup> Century* (2002)
2. Warner Menski, *Comparative Law in Global Context: The Legal Systems of Asia and Africa* (Cambridge University Press, 2006)
3. Law Commission of India, 14<sup>th</sup> Report, Vol. I (1958), pp. 24-34; and 77<sup>th</sup> Report (1978), pp. 7-10
4. Marc Galanter, "The Aborted Restoration of Indigenous Law in India", 14 *Comparative Studies in Society and History* (1972), pp. 53-67

#### **TOPIC VI: EQUALITY: CHILDREN, WOMEN AND GENDER BIAS**

1. Concept of patriarchy and Indian Legal System
2. Feminist Legal Theory
3. Child protection and Child Rights
4. Desexualizing laws against sexual offences
5. LGBT struggle in India

#### **Required Readings:**

1. Michael Freedman (ed.), Lloyd's Introduction to Jurisprudence (8<sup>th</sup> ed. 2008), Chapter on Feminist Jurisprudence
2. Morris Gatens, A Critique of the Sex/Gender Distinction in Feminism and Subjectivity, pp. 139-154
3. Kamla Bhasin, What is Patriarchy? (1993)
4. Ved Kumari, Gender Analyses of Indian Penal Code in Amita Dhanda and Archana Parashar (ed), *Engendering Law Essays in honour of Lotika Sarkar*, 139-160 (1999)
5. Upendra Baxi, From Human Rights to the Right to be a Woman, *Engendering Law, Essays in honors of Lotika Sarkar* (EBC) 1999 pp. 117-138.
6. Kirti Singh, 'Violence against women and the Indian Law' in *Violence, Law and Women rights in South Asia* (ED) Savitri Goonesekere (2004) Sage pp. 77-147.
7. UN Convention on the Rights Of the Child, 1989
8. POCSO, 2012
9. Juvenile Justice Act, 2015

#### **Suggested Readings:**

*Suresh Kumar Koushal v. Naz Foundation*, (2014) 1 SCC 1  
*Navtej Singh Johar v. UOI, Ministry of Law and Justice*, 2018 SCC Online SC 1350.

#### **TOPIC VII: AFFIRMATIVE ACTION FOR DISADVANTAGED SECTIONS OF SOCIETY IN THE GLOBAL WORLD**

- (i) Sociology of Public Interest Litigation/ Social Action Litigation for Social change
- (ii) Social Action in Favour of the Indigenous Populace
- (iii) Action in favour of Under trials and the Differently abled ("Divyang") people

**Required Readings:**

1. Upendra Baxi, Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India, Law and Poverty (ed) U. Baxi 387-415 (1988).
2. Upendra Baxi, Law Struggle and Social Changes: An Agendum for Social Activities, 35 Social Action 118-25 (1985).
3. Parmanand Singh, "PublicInterest Litigation", Access to Justice: Public Interest Litigation and the Indian Supreme Court, 10-11, Delhi Law Review 156-73 (1981-82).
4. Parmanand Singh, Judicial Socialism and Promises of Liberation, 28 J.I.L.I. 336-47 (1986).
5. Upendra Baxi, Untouchability: Constitutional, Law and Plan, in Law and Poverty (ed) Upendra Baxi 165-75 (1988).
6. Upendra Baxi, The Protection of Civil Rights Act, Pitfalls in Implementation, in Law and Poverty (ed) U. Baxi – 175-85 (1988).

**Weekly Plan of Teaching**

**Weeks 1-4:** Topic 1

**Weeks 5- 8:** Topic 2

**Week 9:** Topic 3

**Weeks 10-11:** Topic 4

**Week 12:** Topic 5

**Week 13-14:** Topic 6

**Week15:** Topic 7

**Facilitating the achievement of Course Learning Outcomes**

Unit No	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	Understanding the various parameters of the term 'justice'	Lectures, Class Presentations, Discussions.	As given below.
2	Understanding the meaning of political economy of globalization; Its Impact on administration of Justice	Lectures, Class Presentations, Discussions.	As given below.
3	Conceptualising 'Liberty' and operationalising it in the context of India	Lectures, Class Presentations, Discussions.	As given below.

4	Enabling to understand the linkages between basic needs, human rights, and sustainable development	Lectures, Class Presentations, Discussions.	As given below.
5	Enable the students to think about various legal systems of the world and its influence on India's Legal System	Lectures, Class Presentations, Discussions.	As given below.
6	Students would be able to understand the concept of 'patriarchy', and its linkages with gender discrimination, child rights, and LGBT rights	Lectures, Class Presentations, Discussions.	As given below.
7	Enabling the students to apply the tool of Public Interest Litigation in favour of disabled, poor people, and deprived sections of society	Lectures, Class Presentations, Discussions.	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.



2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester II/Semester IV**

**Course Code- 2YLM-EC-202/3YLM-EC-202**

**Course Name- Administrative Actions and Judicial Review**

**Marks: 100**

**Duration: 90 Hours**

**Course Objectives:**

1. To help students develop a critical legal understanding of meaning, need and scope of administrative actions and to make them aware about legal theories and provisions used to review the administrative actions and also about the methods and procedures to ensure fairness, efficiency, transparency and accountability in public administration.
2. To help students inculcate an insightful legal approach to appraise the limits and efficacies of judicial review of administrative actions in a given situation.
3. To make the students aware about the niceties of jurisdictions of High Courts and Supreme Court to review or appeal against the impugned administrative action.

**Learning Outcomes:**

On successful completion of this Course, the students will be able to:

1. Apply their knowledge and critical legal understanding to seek solutions to pressing problems in the area of public administration
2. Conduct effective legal research in the subject using fundamental tools of legal research.
3. Write research papers/notes and case comments and work in research houses.
4. Practice in the matters related to exercise of administrative discretion and adjudication or in related matters in law courts/tribunals.
5. Become law teachers or effectively work as administrators.

**Contents:**

**UNIT I : STATE AND ADMINISTRATIVE ACTIONS (1 Week)**

Concept of Social Welfare State; Classification of Administrative Actions - Rule-making action or quasi-legislative action, Decision-making action or quasi-judicial action, Rule-application action or purely administrative action; Ministerial actions; Administrative Discretion

**UNIT II : ADMINISTRATIVE DISCRETION AND JUDICIAL REVIEW (3 Weeks)**

Meaning and need of discretion; Legislative conferment of discretion on administrative authorities; limitations on conferment of discretion arising from constitutional provisions with special reference to Articles 14, 19 and 21

Doctrine of judicial review - Origin and importance, Judicial review as a part of 'basic structure of the Constitution, Exclusion of power of judicial review or 'ouster clause', Nature, scope and extent of power of judicial review, Judicial Self-restraints and Judicial Activism

### **UNIT III : GROUNDS OF JUDICIAL REVIEW OF EXERCISE OF DISCRETION (3 Weeks)**

Doctrine of *Ultra Vires*

Abuse/Misuse of discretion- *mala fides*/ bad faith, mixed motives/colourable exercise of power, improper purpose, leaving out relevant considerations, taking into account irrelevant considerations, arbitrary exercise of discretion, unreasonable exercise of discretion or violation of *Wednesbury* principle

Non application of mind- surrender, abdication, acting mechanically, acting under dictation, imposing fetters by self-imposed rules or policy decisions

Violation of principles of natural justice

Principle of proportionality

Doctrine of legitimate expectation

Estoppel against the Government (promissory estoppel)

### **UNIT IV: JUDICIAL REVIEW AND POLICY DECISIONS (1 Week)**

Limited power of judicial review of the courts over policy matters with special reference to policy of reservation, disinvestment, privatization etc.

### **UNIT V: ADMINISTRATIVE ADJUDICATION (1 Week)**

Meaning and need of administrative adjudication; *Lis inter partes*, concept of fairness; Difference between administrative, judicial and quasi-judicial actions

An overview of administrative tribunals established under Article 323 A and 323B of the Constitution of India

### **UNIT VI : PRINCIPLES OF NATURAL JUSTICE AND JUDICIAL REVIEW (4 Weeks)**

Nature, scope and importance of the principles of natural justice

*Nemo judex in causa sua* or rule against Bias - Components and Tests, Kinds of bias, Judicial Obstinacy, Exceptions to rule against bias

*Audi Alterum Partem* or rule of fair hearing – Notice, Right to cross examination, Right to counsel, Pre-decisional and Post decisional hearing; Right to inquiry report

*Reasoned decision* or speaking order – Rationale, Reasons by original and appellate authorities

Principles of Natural Justice: Exceptions and Failure to Comply - Exceptions will cover exclusion by statutory provisions, in public interest, emergency, confidentiality, impracticability, etc.

Consequences of Non-Compliance with Principles of Natural Justice – Action taken whether Void or Voidable, Test of prejudice or useless formality, Test of substantial compliance

## UNIT VII : WRIT JURISDICTION AND APPELLANT JURISDICTION OF THE SUPREME COURT AND HIGH COURTS: SCOPE AND EXTENT (2 Weeks)

Difference between judicial review, revision and appeal; Power of Judicial Review of the Supreme Court and the High Courts– Articles 32 and 226 of the Constitution of India; Writs – *Certiorari*, *Mandamus*, *Prohibition*, *Habeas Corpus*, *QuoWarranto*; Ouster clauses (constitutional and statutory exclusion); Curative Petition

Supervisory and Appellate Jurisdiction of the Supreme Court and High Courts– Articles 227 and 136 of the Constitution of India

### Suggested Readings:

1. Harry Woolf, Jeffery Jowell and Andrew Le Sueur, *De Smith's Judicial Review* (6<sup>th</sup> ed., 2007)
2. H.W.R. Wade & C.F. Forsyth, *Administrative Law* (11<sup>th</sup> ed., 2014)
3. Beatson, Matthews and Ellitto's *Administrative Law: Text and Materials* (4<sup>th</sup> ed., 2011)
4. J. Schwarze, *European Administrative Law* (1992)
5. David Foulkes, *Administrative Law* (8<sup>th</sup> ed. 1995)
6. P.P. Craig, *Administrative Law* (6<sup>th</sup> ed., 2008)
7. B.L. Jones & J.F. Garner, *Garner's Administrative Law* (8<sup>th</sup> ed., 1996)
8. K.C. Davis, *Administrative Law Treatise* (2<sup>nd</sup> ed., 1980)
9. M.P. Jain and S.N. Jain, *Principles of Administrative Law* (7<sup>th</sup> ed. revised, 2017)
10. M.P. Jain, *Cases and Materials on Indian Administrative Law* (1994)

### Reading Material:

1. Report of Committee on Ministers' Powers (1932) Reprint 1972
2. 108<sup>th</sup> Report of the Law Commission of India on Promissory Estoppel (Excerpts)
3. M. P. Singh, "The Constitutional Principle of Reasonableness", 3 *SCC(Jour.)* 31 (1987)
4. Stephen G. Breyer & Richard B. Stewart, The Problem of Administrative Discretion in *Administrative Law and Regulatory Policy* (2006) 103 – 135
5. Constantine Stephanou, "Good Governance and Administrative Discretion", Department of International & European Studies Panteion University, Athens Available at <https://www.unece.org/fileadmin/DAM/trade/workshop/OSCE.../Stephanou.doc>.
6. Tim Searchinger, "The Procedural Due Process Approach to Administrative Discretion: The Court's Inverted Analysis", Vol. 95 *The Yale Law Journal* 1017 (1986)
7. Justice A. M. Ahmadi, "Judicial Process: Social Legitimacy and Institutional Liability", 4 *SCC (Jour)* 1 (1996)

8. “Judicial Review of Facts – Efficacy of Wednesbury’s Principles and Contemporary Developments” (28 July 2007) available at [http://www.supremecourtindia.nic.in/speeches/speeches\\_2007/wednesday-%5B1%5D.28.7.07.pdf](http://www.supremecourtindia.nic.in/speeches/speeches_2007/wednesday-%5B1%5D.28.7.07.pdf)
9. Sudish Pai, “Is Wednesbury on the Terminal Decline?” 2 *SCC (Jour)* 15 (2008)
10. Sarbjit Kaur, “Principle of Proportionality- A Ground of Judicial Review”, 2 *Journal of Law Teachers of India* 36 (2011)
11. Justice Sunil Ambwani, *I R Coelho v. State of Tamil Nadu and others* – A Case Study (Lecture delivered at the ‘Advocates Association’ on 9 February 2007)
12. Sarbjit Kaur, “Judicial Review and the Ninth Schedule of the Constitution”, Vol. 40, Nos. 3-4 *Journal of Constitutional and Parliamentary Studies* 315 (2006)
13. S.N. Jain, “New Trends of Judicial Control of Administrative Discretion” 11 *Journal of Indian Law Institute* (1969) 544
14. Alice Jacob, “Requirement to Findings of Fact in Administrative Determinations- Judicial Experience in India and United States”, 8 *Journal of Indian Law Institute* 54 (1966)
15. S.N. Jain, “Is an Individual Bound by an Illegal Executive Order? Distinction between ‘Void’ and ‘Voidable’” Order, 16 *Journal of Indian Law Institute* 322 (1974)
16. S.N. Jain, “Administrative Law Aspects of *Maneka Gandhi*”, 21 *Journal of Indian Law Institute* 382 (1979)
17. M.P. Singh, “Administrative Action in Violation of Natural Justice Affecting Fundamental Rights: Void or Voidable?”, 2 *SCC (J)* 1(1979)
18. M.P. Singh, “Duty to Give Reasons for Quasi-Judicial Decisions and administrative Decisions”, 21 *Journal of Indian Law Institute* 45 (1979)
19. C.K. Thakker, “From Duty to Act Judicially to Duty to Act Fairly”, 4 *SCC (J)* 1(2003)

### Required Readings:

#### Books

1. Peter Cane, *An Introduction to Administrative Law* (1987)
2. W. Friedmann, *Law in a Changing Society* (1959)
3. David Pollard, Neil Parpworth and David Hughes, *Constitutional and Administrative Law* (4<sup>th</sup> ed. 2007).
4. Peter Leyland & Gordon Anthong, *Textbook on Administrative Law* (5<sup>th</sup> ed. 2005)
5. Paul Jackson, O. Hood Phillips, *Leading Cases in Constitutional and Administrative Law* (6<sup>th</sup> ed. 1988).
6. Bernard Schwartz, Roberto L. Corrada, J. Robert Broun, *Administrative Law : A Case Book* (6<sup>th</sup> ed. 2006)
7. D.J. Galligan, *Discretion Powers* (1990)
8. K.C. Davis, *Discretionary Justice* (1969)
9. Aharon Barak, [\*Proportionality Constitutional Rights and their Limitations\*](#) (2012)

#### Articles

- Aharon Barak, “The Supreme Court - Foreword: A Judge on Judging: The Role of a Supreme Court in a Democracy” Vol. 116:16 *Harvard Law Review* 16 (2002)

- D. Oliver, “[Is the ultra vires rule the basis of judicial review?](#)” *Public Law* 543 (1987)
- R. Williams, “[When is an error not an error? Reform of jurisdictional review of error of law and fact](#)”, *Public Law* 793 (2007)
- P Joseph, “The Demise of Ultra Vires – Judicial review in New Zealand Courts”, *Public Law* 354 (2001)
- Lord Diplock, “[Administrative Law: Judicial Review Reviewed](#)” 33 *Cambridge Law Journal* 233 (1974)
- H.F. Rawlings, “Judicial Review and Control of Government”, 64 *Public Administration* 135-145 (1986)
- T.R. Hickman, “[The reasonableness Principle: Reassessing its place in Public Sphere](#)” 63 *Cambridge Law Journal* 166 (2004)
- Le Sueur, A., “[The Rise and Ruin of Unreasonableness?](#)” 10 (1) *Judicial Review* 32 (2005)
- M.P. Singh, “The Constitutional principle of reasonableness” 3 *SCC (Journal)* 31 (1987)
- Markanday Katju, “[Administrative Law and Judicial Review of Administrative Action](#)” 8 *SCC (Journal)* 25 (2005).

## **Teaching Plan**

### **Week 1:**

Concept of Social Welfare State; Classification of Administrative Actions - Rule-making action or quasi-legislative action, Decision-making action or quasi-judicial action, Rule-application action or purely administrative action; Ministerial actions; Administrative Discretion

### **Week 2:**

Meaning and need of discretion; Legislative conferment of discretion on administrative authorities; limitations on conferment of discretion arising from constitutional provisions with special reference to Articles 14, 19 and 21

### **Week 3:**

Doctrine of judicial review - origin and importance, judicial review as a part of ‘basic structure of the Constitution, Exclusion of power of judicial review or ‘ouster clause’

### **Week 4:**

Nature, scope and extent of power of judicial review, Judicial Self-restraints and Judicial Activism

### **Week 5:**

Doctrine of *Ultra Vires*

Grounds of judicial review - Abuse/Misuse of discretion- *mala fides*/ bad faith, mixed motives/colourable exercise of power, improper purpose, leaving out relevant considerations, taking into account irrelevant considerations, arbitrary exercise of discretion, unreasonable exercise of discretion or violation of *Wednesbury* principle

Non application of mind- surrender, abdication, acting mechanically, acting under dictation, imposing fetters by self-imposed rules or policy decisions

Violation of principles of natural justice

**Week 6:**

Principle of proportionality

**Week 7:**

Doctrine of legitimate expectation

Estoppel against the Government (promissory estoppel)

**Week 8:**

Limited power of judicial review of the courts over policy matters with special reference to policy of reservation, disinvestment, privatization etc.

**Week 9:**

Meaning and need of administrative adjudication; *Lis inter partes*, concept of fairness; Difference between administrative, judicial and quasi-judicial actions

An overview of administrative tribunals established under Article 323 A and 323B of the Constitution of India

**Week 10:**

Nature, scope and importance of the principles of natural justice

*Nemo judex in causa sua* or rule against Bias - Components and Tests, Kinds of bias, Judicial Obstinacy, Exceptions to rule against bias

**Week 11:**

*Audi Alteram Partem* or rule of fair hearing – Notice, Right to cross examination, Right to counsel, Pre-decisional and Post decisional hearing

**Week 12:**

Right to inquiry report

*Reasoned decision* or speaking order – Rationale, Reasons by original and appellate authorities

**Week 13:**

Principles of Natural Justice: Exceptions and Failure to Comply - Exceptions will cover exclusion by statutory provisions, in public interest, emergency, confidentiality, impracticability, etc.

Consequences of Non-Compliance with Principles of Natural Justice – Action taken whether void or voidable, Test of prejudice or useless formality, Test of substantial compliance

**Week 14:**

Difference between judicial review, revision and appeal; Power of Judicial Review of the Supreme Court and the High Courts– Articles 32 and 226 of the Constitution of India; Writs – *Certiorari*, *Mandamus*, *Prohibition*, *Habeas Corpus*, *QuoWarranto*

**Week 15:**

Ouster clauses (constitutional and statutory exclusion); Curative Petition

Supervisory and Appellate Jurisdiction of the Supreme Court and High Courts– Articles 227 and 136 of the Constitution of India

**Facilitating the achievement of Course Learning Outcomes**

<b>Unit No.</b>	<b>Course Learning Outcomes</b>	<b>Teaching and Learning Activity</b>	<b>Assessment Tasks</b>
1.	To understand the role of a democratic state that governs the least but at the same time does the most for people for establishment of an egalitarian and welfare society.	A mix of lectures, discussion, case study method, presentations and assignments	As given below.
2.	To learn about the mechanisms and processes through which administrative authorities exercise their discretion.  To know the origin, scope and extent judicial review of administrative powers.	A mix of lectures, discussion, case study method, presentations assignments and hypothetical problems solving	As given below.
3.	To learn about the grounds of judicial review of exercise of discretion.	A mix of lectures, discussion, case study method, presentations assignments and hypothetical problems solving	As given below.
4.	Develop an understanding on limited power of judicial review over policy matters.	A mix of lectures, discussion, case study method, presentations assignments and hypothetical problems solving	As given below.
5.	Gain knowledge about need of administrative adjudication and difference between administrative judicial and quasi-judicial actions.	A mix of lectures, discussion, case study method, presentations assignments and hypothetical problems solving	As given below.
6.	Learn about the legal framework relating to the principles of Natural Justice and their application in administrative and adjudicatory administrative actions.	A mix of lectures, discussion, case study method, presentations and assignments	As given below.
7.	To learn about the double-rock foundation provided by the review jurisdiction of the Supreme Court and	A mix of lectures, discussion, case study method, presentations and	As given below.



	High Courts to ensure that the citizen should get justice and fair play by the administration.	assignments	
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**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester II/Semester IV**

**Course Code: 2YLM-EC-204/3YLM-EC-204**

**Course Name: Law of Corporate Finance and Securities Regulation**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objective:**

1. To understand the concept of corporate finance and securities regulation and apply in the real world situation, the technique that have been developed in corporate finance.
2. To understand the concept of capital market and its impact on financial market in India.
3. To understand how companies, make financing from capital market and public financing Institutions.

**Course Learning Outcomes:**

This course is designed to provide students with an understanding of the capital market and the structure of corporate financial transactions in India. The course will help students understand the finances behind transactions such as negotiating a merger, taking a client private through a leveraged buyout (LBO) or public through an initial public offering (IPO), or securing capital for expansion or operations.

This course also provides to understand concept of Corporate Security analysing the problem of modern company in market environment. It provides necessary knowledge in evaluating different management decisions and its influence on corporate performance and value. The Theoretical and legal framework for understanding and analysing major financial problems of modern company in market environment. The course covers fundamentals of source of finance in India Economy. The goal of this course is to develop the analytical and practical approach for making corporate investment along with application of regulatory compliance by using financial knowledge.

**CONTENTS:**

**UNIT I: INTRODUCTION OF CORPORATE FINANCE:**

1. Basics of Corporate Law
2. Meaning, Importance and Scope of Corporate Finance
3. Concepts of Corporate Finance:
  - a) Relationship between Risk and Return
  - b) Time Value of Money
4. Objectives of Corporate Finance
  - a) Profit Maximisation
  - b) Wealth Maximisation
  - c) Capital Investment: Needs and Factors effecting Capital Investment

**UNIT – II: SOURCES OF CORPORATE FINANCE**

1. Equity Finance
  - a) Share Capital
  - b) Equity and Preferential
  - c) Sweat Equity Shares
  - d) Employee Stock Ownership Plan
2. Debt Finance
  - a) Debentures
  - b) Charge

3. Other Sources of Finance
  - a) Venture Capital Financing
  - b) Angel Investors
  - c) Leverage Buy Out
  - d) Public Financing Institutions

### **UNIT-III: CONCEPTUAL UNDERSTANDING OF CAPITAL MARKETS & SECURITIES**

1. Overview of Capital Market
  - a) Indian Capital Market
  - b) Authorities Governing Capital Markets in India
2. Concept of Securities
  - a) Arena of Securities: Equity, Debentures, Preference Shares
  - b) Sweat Equity, Non-Voting Shares, Share Warrants
  - c) Issue and Listing of Securities
  - d) Listing of Securities
  - e) Issue of Capital and Disclosure Requirements (ICDR)
  - f) Procedure for Issue of Various Types of Shares and Debentures
  - g) Employee Stock Option Scheme and Employee Stock Purchase Scheme
  - h) Delisting of Securities
3. Securities Market Intermediaries
  - a) Primary Market and Secondary Market Intermediaries
  - b) Role and Functions, Merchant Bankers

### **UNIT IV: SECURITIES LAWS & REGULATIONS IN INDIA**

1. Securities Contracts (Regulation) Act, 1956
2. SEBI Act, 1992
  - a) Objective, Power and Functions of SEBI
  - b) Securities Appellate Tribunal, Appeals, Appearance before SAT
3. Depositories Act, 1996
  - a) Definitions, Setting up of Depository, its type, Role and Functions
  - b) Depository Participants
  - c) Admission of Securities
  - d) Difference between Dematerialization & Rematerialisation
  - e) Depository Process
  - f) Inspection and Penalties
  - g) Internal Audit and Concurrent Audit of Depository Participants, etc.
4. Issue and Listing of Securities
  - a) Listing of Securities
  - b) Various Types of Shares and Debentures
  - c) Employee Stock Option Scheme and Employee Stock Purchase Scheme
  - d) Delisting of Securities
5. SEBI (Substantial Acquisition of Shares and Takeover Regulations), 2011
6. SEBI (Prohibition of Insider Trading Regulations), 2015

### **SUGGESTED READINGS:**

1. Abhay Ahuja; Amritha Ahuja, Come on In - India's Attempts to Encourage Hedge Funds to Invest in Its Capital Markets Will Fail, Unless the Rules are Changed, 26 INT'L FIN. L. REV. 29, 29 (2007).
2. Abhinav Chandrachud, The Emerging Market for Corporate Control in India: Assessing (and Devising) Shark Repellents for India's Regulatory Environment, 10 WASH. U. GLOBAL STUD. L. REV. 187, 238 (2011).
3. Ajit Singh, Corporate Governance, Corporate Finance and Stock Markets in Emerging Countries, 3 J. CORP. L. STUD. 41, 72 (2003).
4. Bhavna Thakur, India Rising, 35 INT'L FIN. L. REV. 76, 77 (2016).
5. Cally Jordan, The Wider Context: The Future of Capital Market Regulation in the Developed Markets, 6 LAW & FIN. MKT. REV. 130, 135 (2012).
6. Changing Market, 27 INT'L FIN. L. REV. 20, 23 (2008).
7. E. C. Jr. Lashbrooke, The Divergence of Corporate Finance and Law in Corporate Governance, 46 S. C. L. REV. 449, 470 (1995).
8. Edward L. Pittman, Quantitative Investment Models, Errors, and the Federal Securities Laws, 13 N.Y.U. J.L. & BUS. 633, 774 (2017).
9. Geert Bekaert; Campbell R. Harvey, Capital Markets: An Engine for Economic Growth, 5 BROWN J. WORLD AFF. 33, 54 (1998).
10. George W. Jr. Dent, Venture Capital and the Future of Corporate Finance, 70 WASH. U. L. Q. 1029, 1086 (1992).
11. Girish Dave, Liberalising Mutual Funds and Venture Capital in India, 9 INT'L FIN. L. REV. 35, 38 (1990).
12. Ina Balukja, Evolution of Corporate Finance Methods, 8 JURIDICAL TRIB. 306, 312 (2018).
13. Janis Sarra, Corporate Governance in Global Capital Markets, Canadian and International Developments, 76 TUL. L. REV. 1691, 1748 (2002).
14. Lanny A. Schwartz, Suggestions for Procedural Reform in Securities Market Regulation, 1 BROOK. J. CORP. FIN. & COM. L. 409, 448 (2006).
15. Leland E. Crabbe; Margaret H. Pickering; Stephen D. Prowse, Recent Developments in Corporate Finance, 76 FED. RES. BULL. 593, 603 (1990).
16. Mark J. Roe, A Political Theory of American Corporate Finance, 91 COLUM. L. REV. 10, 67 (1991).
17. Martin Lipton, Corporate Governance in the Age of Finance Corporatism , 136 U. PA. L. REV. 1, 72 (1987-1988).
18. P. M. Vasudev, Capital Markets and Corporate Governance in India: An Overview of Recent Trends, 3 CORP. GOVERNANCE L. REV. 255, 282 (2007).
19. Peter H. Huang; Michael S. Knoll, Corporate Finance, Corporate Law and Finance Theory, 74 S. CAL. L. REV. 175, 192 (2000).
20. Pnakaj Kumar Gupta; Singh Shallu, Evolving Legal Framework of Corporate Governance in India - Issues and Challenges, 4 JURIDICAL TRIB. 239, 252 (2014).
21. Rumu Sarkar, The Legal Implications of Financial Sector Reform in Emerging Capital Markets, 13 AM. U. INT'L L. REV. 705, 726 (1997).
22. Sandeep Dave, Realty Investment Laws of India, 21 INT'L LEGAL PRAC. 97, 102 (1996).
23. Sandeep Parekh, Prevention of Insider Trading and Corporate Good Governance in India, 32 INT'L BUS. LAW. 132, 141 (2004).
24. Stanislav Dolgoplov, Linking the Securities Market Structure and Capital Formation: Incentives for Market Markers, 16 U. PA. J. BUS. L. 1, 56 (2013).

25. Stephen P. Smith, Greater Mutual Fund Transparency in India: Enhanced Disclosure Protection for India's Mutual Fund Unitholders in a Time of Market Volatility, 43 VAND. J. TRANSNAT'L L. 151, 190 (2010).
26. Sunil Thacker; Minal Kaul, The Evolution of Private Equity in India, 4 CT. UNCOURT 5, 7 (2017).
27. Umakanth Varottil, The Evolution of Corporate Law in Post-Colonial India: From Transplant to Autochthony, 31 AM. U. INT'L L. REV. 253, 326 (2016).
28. Walter Struber; Adriana Maria Godel; Jeff Kerbel; Michael E. Burke, International Securities and Capital Markets, 41 INT'L LAW. 443, 482 (2007).

#### **REFERENCE BOOKS:**

1. Alastair Hundson, The Law on Financial Derivatives (1998), Sweet & Maxwell.
2. Altman and Subramanian, Recent Advances in Corporate Finance (1985) LBC.
3. Asim Kumar Mishra: Venture Capital Financing in India; Shipra Publications, 115A, Vikas Marg, Shakarpur, Delhi-110092.
4. Babby Dutta, Indian Financial Markets the regulations framework, ICFAI-2005.
5. Board of Editors, Financial Strategy Conceptual Issue, ICFAI, 2006.
6. Bodie, Alex, Marcus and Mohanty, Investments, McGraw Hill Publishing Co.
7. Chandra, Prasanna, Investment Analysis and Portfolio Management, Tata McGraw Hill.
8. Damodaran, Aswath, Investment Valuation: Tool and Techniques for Determining the Value of Any Asset, Wiley Finance.
9. Denzil Watson and And honyhead, Corporate Finance Principles and Practice, P.S. Arson Education Ltd.(2007)
10. Diana R. Harrington-Corporate Financial Analysis-(2008).
11. Donald H. Chew, Studies in International Corporate Financial System, Oxford (1997)
12. E. Gordon & K. Natarajan: Capital Market in India; Himalaya Publishing House, Ramdoot, Dr. Bhalarao Marg, Girgaon, Mumbai – 400004.
13. Eil's Feran, Company Law and Corporate finance, (1999) Oxford.
14. Frank.B. Cross & Robert A. Prentice- Law and Corporate Finance, Edward Elgar Publishing Limited-U.K (2007).
15. H.L.J. Ford and A.P.Austen, Fords' Principles of Corporations Law, (1999) Butterworths.
16. Hirt and Block, Fundamentals of Investment Management, McGraw Hill Publishing Co.
17. Jonathan Charkham, Fair Share: The Future of Shareholders Power and Responsibility, Oxford.
18. M.Y.Khan: Indian Financial Systems; Tata McGraw Hill, 4/12, Asaf Ali Road, New Delhi – 110 002.
19. Mamta Bhargava: Compliances and Procedures under SEBI Law; Shreeji Publishers, 8/ 294, Sunder Vihar, New Delhi – 110 087
20. Pandiyan, Punithavathy, Security Analysis and Portfolio Management, Vikas Publications.
21. S. Suryanarayanan & : SEBI – Law, Practice & Procedure; Commercial Law Publishers (India) V. Varadarajan Pvt. Ltd., 151, Rajindra Market, Opp. Tis Hazari Court, Delhi – 110054
22. Sanjeev Aggarwal: Guide to Indian Capital Market; Bharat Law House, 22, Tarun Enclave, Pitampura, New Delhi – 110 034.
23. Taxmann: SEBI Manual

24.V.L. Iyer: SEBI Practice Manual; Taxman Allied Service (P) Ltd., 59/32, New Rohtak Road, New Delhi-110005.

### **TEACHING PLAN:**

#### **Week 1:**

- a) Introduction of this subject and importance of this law in Indian Corporate Market.
- b) Giving outline of this subject and introduction of all modules of this subject.
- c) Meaning, Importance and Scope of Corporate Finance
- d) Concept and development of Meaning, Importance and Scope of Corporate Finance.

#### **Week 2:**

- a) Introduction of this module and discuss relevant laws applicable in this module.
- b) Development of corporate fund requirement and relevant laws.
- c) Different models of sources of corporate finance
- d) New technique and regulatory approach to raise funds.
- e) Overview of Public Financing Institutions.

#### **Week: 3**

- a) Discuss the equity finance, Debt finance concept
- b) Introduction of Angel Investors in India
- c) How the Venture Capital can use for source of finance.
- d) General difference between Debentures and Charge and How Company Act, 2013 defines these terms.

#### **Weeks 4:**

- a) General overview and objective of this module.
- b) Discuss the historical perspective of the Indian economy and Role of Market in Economy.
- c) Concept of Capital and Capital Market
- d) Development of Capital Market in India.

#### **Week 5:**

- a) Discuss the Capital Markets & Securities laws in India
- b) Concept of Securities market in India.
- c) Discuss the role of Intermediary in Primary and Secondary Market.
- d) In details discuss with help of relevant provisions of company act's and role of company's security in India.

#### **Week 6:**

- a) Concept of shares of company under the Company Act, 2013.
- b) Allocation of shares in different groups of company such as shareholders, equity shareholder, and directors etc.
- c) Classification of shares
- d) Difference between Equity, Debenture and Preference Shares.

#### **Week 7:**

- a) Introduction of this module with historical development of securities laws.
- b) Difference between capital and security market in India.
- c) Regulatory body governing these two market.

**Weeks 8:**

- a) Explained and discussion of establishment of regulatory body which govern security market in India.
- b) Discuss the various laws and regulations regarding security laws and regulation in India.
- d) Issue and Listing of Securities and governing regulation of SEBI.

**Week 9:**

- a) Discuss the ICDR Regulation, 2009.
- b) Discuss the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.
- c) Legal issues under (Issues of Capital and Disclosure Requirement) Regulation, 2018.
- d) Procedure for Issue of Various Types of Shares and Debentures.

**Week 10:**

- a) Classification of Market in India.
- b) Role of Primary Market and Secondary Market in India.
- c) Regulatory body governing of these markets in India.
- d) Role and Function of Merchant Banker.

**Week 11:**

- a) Explained and discussion of establishment of regulatory body which govern security market in India.
- b) Discuss the various laws and regulations regarding security laws and regulation in India.
- c) Issue and Listing of Securities and regulation of SEBI.

**Week 12.:**

- a) Introduction of Security Contract (Regulations) Act, 1956.
- b) Power of SEBI under Security Contract (Regulations) Act, 1956.
- c) The Securities Contracts (Regulation) Act, 1956 [As amended by Finance Act, 2017]
- d) Role of National Stock Exchange in India

**Week 13:**

- a) Introduction of Depository Act, 1996
- b) Discuss; Definitions, Setting up of Depository, its type, Role and Functions
- c) Discuss the Depository Participants and Admission of Securities

**Weeks 14:**

- a) Issue and Listing of Securities
- b) Overview of Employee Stock Option Scheme and Employee Stock Purchase Scheme
- c) ESPOS better than stock purchase plans
- d) Tax implications on ESPOS

**Week 15:**

- a) Discuss the SEBI Regulations-
- b) Securities Contracts (Regulation) Act, 1956
- c) SEBI (Substantial Acquisition of Shares and Takeover Regulations), 2011
- d) SEBI (Prohibition of Insider Trading Regulations), 2015
- e) Depositories Act, 1996

### FACILITATING THE ACHIEVEMENT OF COURSE LEARNING OUTCOMES

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	Concept of Corporate law and development of Corporate finance in India. Understanding of Capital financing in India.	Lectures cum presentation	As given below.
2.	Different models to raise finance in India with approval of regulatory bodies.	Lectures cum presentation	As given below.
3.	Concept of Capital Market and Securities in India. Role of intermediary in capital market	Lectures cum presentation	As given below.
4.	Understanding of security laws and regulations in India. Application of these laws in companies.	Lectures cum presentation	As given below.

#### Maximum Marks:100 Marks

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

#### IMPORTANT NOTE:

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester II**

**Course Code: 2YLM-EC-206/3YLM-EC-206**

**Course Name: Intellectual and Industrial Property Laws – II  
(Trade Mark, Geographical Indication and Patent)**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Background**

The development in human society triggered by technology and trade saw emergence of Intellectual property laws leading to legal rights emanating from intellectual activity in the industrial, scientific, literary and artistic fields. Intellectual Property laws safeguard intellectual property for two broad reasons: One is to give impetus to creativity, innovation, scientific development, and dissemination to encourage fair trading which would contribute to economic and social development. The second is to give statutory expression to the moral and economic rights of creators and the rights of the public to access creations. The study of this discipline of law, therefore, becomes extremely important for progressing in all the domains of human activity in modern times.

**Course Objectives**

- To get acclimatized with the rationale and general principles of Intellectual Property Laws (IPL),
- To understand specific IPL; Trade Marks, Geographical Indications and Patents
- To study the provisions of Trade Mark Act, 1999, Geographical Indications Act, 1999 and Patent Act, 1970
- To untangle enforcement of Intellectual Property Rights. (Trade Mark, Geographical Indication and Patent)
- To understand implications of International Conventions in relation to Intellectual Property. (Trade Mark, Geographical Indication and Patent)

**Learning Outcomes**

- At the end of this paper, the students should be able to learn theoretical concepts of evolution of Intellectual Property Laws (Trade Mark, Geographical Indication and Patent) *vis a vis* the international development, the emergence of different branches of Intellectual Property Laws (Trade Mark, Geographical Indication and Patent)

The students learn:

- the legal basis of the Trade Mark, Geographical Indication and Patents) and its impact in economic, social and technological context
- synthesis of case laws, identification of issues, applicability of relevant provisions and critical analysis of the judicial decisions with reference to Trade Mark, Geographical Indication and Patents
- tracing the existing legal framework through latest judgments and applicability of provisions in the evolving as well as technological driven society with regard to Trade Mark, Geographical Indication and Patents

**Course Content**

**UNIT – I: International Treaties and Conventions in the specified areas - 08 classes**

1. Agreement on Trade-related Aspects of Intellectual Property Rights– Standard concerning the availability, scope and use of trademarks (section 2 of TRIPS); Geographical Indications (section 3) and Patents (section 5)
2. Paris Convention for the Protection of Industrial Property, 1883– Principles of National Treatment, Right of Priority; Provisions concerning trademarks; use and concurrent use; independence of trade marks; well known trade marks; non-registrable marks; assignment of trade mark; protection of trade mark registered in one country in other countries; service marks; collective marks and trade mark and trade names. Provisions concerning patents; independence of patents; right of inventor; importation; failure to work; compulsory licenses
3. Introduction to Patent Co-operation Treaty- History, objectives, Functioning and Advantage of PCT system. Brief Reference to Madrid system of International Registration for trademarks. Brief Reference to UPOV Conventions.

**UNIT – II: Trade Marks Law      08 classes**

1. Introduction: Concepts of trade mark
2. Nature and functions of trade marks, well-known trade marks
3. Registration of Trade Marks (Sections- 2, 9-17, 28, 30, 33, 37-45)
4. Absolute and Relative grounds for refusal of registration
5. Status of well-known marks and its determination
6. Concurrent registration of marks
7. Rights conferred by registration
8. Duration of trade mark rights

**UNIT – III: Licensing of Trade Mark      05 classes**

1. Licensing of trade marks; registered and unregistered licenses
2. Assignment of trade marks
3. The concept of registered users of trade marks
4. Concept of quality control in trade mark licensing

**UNIT – IV: Protection of Trade Marks/Names (Section 27 ,29,30,32,101-11,135) 0 5 classes**

1. Infringement of trade marks
2. Dilution of trade marks
3. Passing off action

**UNIT –V: Registration and Protection of Geographical Indications (Section 27,29,30,32,101-11,135) 05 classes**

1. Nature of right under the Geographical Indication Act as against other IPRs
2. Meaning and definition of Geographical Indication,
3. Difference between Trade mark and Geographical Indication, registration of geographical indications
4. Duration of registration
5. Effect of registration : Right conferred, Protection: Infringement
5. What constitutes infringement

6. Passing off

**UNIT –VI: The Patents Act, 1970 08 classes**

1. Introduction to Patent System & Patentability, Justification for the Monopoly, Invention – process and product; Inventive step- Novelty; Industrial application – (Utility); Patentable subject matter; Priority dates, Applicant for patent – True and first inventor, Particulars of application, Foreign applications, international application under PCT.
2. Specifications – provisional and complete, Disclosure of Invention in Application, Drafting of claims, Grounds for opposition. knowledge within local or indigenous community, Grant of Patents and Rights of Patentee; Grant and sealing of Patent; Rights of Patentee; Term of Patent.

**UNIT –VII: Working of Patent and Transfer of Rights 06 classes**

1. Assignment, General principles applicable to working of patented inventions, Voluntary licenses and compulsory licenses, Predatory practices,
2. Power of Controller of revocation for non-working, Use and acquisition of inventions by Central Government, Surrender and Revocation of patents; para 6 of Doha Declaration, Decisions with regard to Medicines.

**UNIT –VIII: Infringement of Patents 03 classes**

What constitutes infringement, Actions for infringement; grounds for defenses – s. 2, 5, 13, 25, 64, also 6-11, 13, 18, 29-34 also 25-28, 43-53) Sections 63-66, 68-70, 82-103, 140) (Sections 104-115).

**Prescribed Readings:**

**1. Prescribed Legislations and Treaties:**

Paris Convention – Provisions relating to above areas

TRIPS

The Trade Marks Act, 1999

The Geographical Indications of Goods (Registration and Protection) Act, 1999

The Patents Act, 1970

**Books**

- (i) WIPO, Background Reading Material on Intellectual Property (1995).
- (ii) Ashwani Kr. Bansal, Law of Trade Marks in India with introduction to Intellectual Property, 2009
- (iii) P. Narayanan, Law of Trade Marks and Passing off (7th ed., 2006).
- (iv) P. Narayanan, Patents Law (4th ed., 2006).
- (v) Kerly, Kitchin, David, Law of Trade Marks and Trade Names, (13th ed., 2001).
- (vi) W.R. Cornish, Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights latest edition.
- (vii) Raman Mittal, Licensing of Intellectual Property: Law & Management, 2009.

**Teaching Plan:**

Week 1: Unit 1: Agreement on Trade-related Aspects of Intellectual Property Rights— Standard concerning the availability, scope and use of trademarks (section 2 of TRIPS); Geographical Indications (section 3) and Patents (section 5)

Week 2: Contd... Unit 1: Paris Convention for the Protection of Industrial Property, 1883— Principles of National Treatment, Right of Priority; Provisions concerning trademarks; use and concurrent use; independence of trade marks; well known trade marks; non-registrable marks;

Week 3: Contd... Unit 1 assignment of trade mark; protection of trade mark registered in one country in other countries; service marks; collective marks and trade mark and trade names. Provisions concerning patents; independence of patents; right of inventor; importation; failure to work; compulsory licenses

Week 4: Contd... Unit-1: Introduction to Patent Co-operation Treaty- History, objectives, Functioning and Advantage of PCT system. Brief Reference to Madrid system of International Registration for trademarks. Brief Reference to UPOV Conventions.

Week 5: Unit-II: Introduction: Concepts of Trade mark and Service mark, Nature, Functions and Role in Economic Development, Trademark as a tool of Monopoly and Competition, Trade Marks Act 1999, Registered and Unregistered Trade marks,

Week 6: Contd... Unit-II: Introduction of Well known marks in India from 15-9-2003; Proprietors, Licensees registered users of trade marks, Definition of trade mark and well known marks, whether trade mark connotes any quality?

Week 7: Contd... Unit-II: Registration of Trade Mark (Sections- 2, 9-17, 28, 30, 33, 37-45) Absolute and Relative grounds for refusal of registration, specific requirements – distinctive character; Concept of deceptive similarity and its applicability in registration. Status of well known marks and its determination,

Week 8: Contd.... Unit-II: The law of concurrent registration. Rights conferred by registration, Duration of Trade Mark, Effect of acquiescence. Derived Works – Cinematograph film and Sound Recordings

Week 9: Unit III: One source of quality control instead of one source of goods, registered and unregistered licenses, Issues of licensing, supremacy of agreement, conditions in agreements, predatory practices, Assignment of trade mark.

Week 10: Unit IV

Infringement : what constitutes infringement, Dilution, Enlargement of Infringement jurisdiction in S. 29(3) to (9) including Advertising;

2. Passing off action. Passing off based on transborder reputation:

Week 11: **UNIT –V:** Registration and Protection of Geographical Indications (Section 27,29,30,32,101-11,135)

1. It is community right as against other IPRs which are private rights,

2. Meaning and definition of Geographical Indication,
3. Difference between Trade mark and Geographical Indication, registration of geographical indications
4. Duration of registration. Effect of registration : Right conferred, Protection: Infringement
5. What constitutes infringement. Passing off action.

Week 12: **UNIT –VI:** Introduction to Patent System & Patentability, Justification for the Monopoly, Invention – process and product; Inventive step- Novelty; Industrial application – (Utility); Patentable subject matter (inventions not patentable); Priority dates, Applicant for patent – True and first inventor, Particulars of application, Foreign applications, international application under PCT.

Week 13: Contd. UNIT-VI Specifications – provisional and complete, Disclosure of Invention in Application, Drafting of claims, Grounds for opposition knowledge within local or indigenous community, Grant of Patents and Rights of Patentee; Grant and sealing of Patent; Rights of Patentee; Term of Patent; Product Patents for drugs medicines and food substances; Refer Amendment Act 2005.

Week 14: **UNIT –VII:**

Assignment, General principles applicable to working of patented inventions, Voluntary licenses and compulsory licenses, Predatory practices,

Week 15: Contd...Unit VII and Unit VIII

Power of Controller of revocation for non-working, Use and acquisition of inventions by Central Government, Surrender and Revocation of patents; para 6 of Doha Declaration, Decisions with regard to Medicines etc and What constitutes infringement, Actions for infringement; grounds for defences Relevant Sections for above topics – s. 2, 5, 13, 25, 64, also 6-11, 13, 18, 29-34 also 25-28, 43-53) Sections 63-66, 68-70, 82-103, 140) (Sections 104-115).

### **Facilitating the achievement of Course Learning Outcomes**

At the end of each unit the student is able to learn:

<b>Unit No.</b>	<b>Course Learning Outcomes</b>	<b>Teaching and Learning Activity</b>	<b>Assessment Tasks</b>
1.	1. Impact of evolution, nature, concept of IPRs(Trade Mark, Geographical Indication And Patent) on society 2. Requirement of International conventions in shaping of Intellectual Property laws (Trade Mark, Geographical Indication And Patent)	<b>i) Classroom teaching</b>	<b>As given below.</b>

2.	1.definitional Contours Trade Marks 2.Registration of Trade Marks	<b>ii) Presentations/Discussions</b>	
3.	1. <b>Licensing of Trade Mark</b> 2. Assignment of trade mark.		
4.	<b>Protection of Trade Marks/Names</b> 1. Infringement 2. Passing off Action		
5.	1. Meaning and definition of Geographical Indication, 2. Difference between Trade mark and Geographical Indication, registration of geographical indications 3. Duration of registration. Effect of registration of Geographical Indication : Right conferred, Protection: Infringement		
6.	1. Introduction to Patent System & Patentability, Justification for the Monopoly etc. 2.Specifications – provisional and complete, Disclosure of Invention in Application, Drafting of claims, etc.		
7.	1.Assignment, General principles applicable to working of patented inventions, Voluntary licenses and compulsory licenses, Predatory practices, 2. Power of Controller of revocation for non-working, Use and acquisition of inventions by Central Government, Surrender and Revocation of patents etc.		
8.	<b>Infringement of Patents</b> -What constitutes infringement, Actions for infringement; grounds for defenses		

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term Paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester II**  
**Course Code: 2YLM-EC-207/2YLM-EC-207**  
**Course Name: Insurance Law and Banking**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Learning Objectives:**

1. To enable students to understand the regulatory framework governing the banking sector
2. To impart students an sound understanding regarding the functioning the banks and financial institutions and the role of the regulatory authorities
3. To develop an idea about insurance contracts and the legal framework that operates in the field
4. To analyse the importance, role and functions of the sector regulator in insurance
5. To enable the students to acquire understanding on the legal foundation of different kinds of negotiable instruments
6. To give an opportunity to the students to explore the nuances of the legalities in the area and help them to develop legal knowledge in this field.

**Learning Outcomes:**

After successful completion of the course, the students will be able to:

1. Understand the law of banking and its application
2. Develop an idea about the regulatory framework in the banking sector
3. Know the functioning of the banks and financial institutions and their role in the economy
4. Develop an understanding about the insurance laws and the regulatory framework
5. Understand the functioning of insurance agencies and their role in the economy
6. Acquire knowledge about the legality of negotiable instruments
7. Develop an edge in the practical nuances about the dishonor of negotiable instruments

**Part A**

**INSURANCE LAWS**

**Topic I**

**General Principles of Law of Insurance and Markets (Lecture-10)**

- Introduction: Nature- Definition
- History of Insurance- History and development of Insurance in India
- The Insurance Act, 1938- (main sections)
- The Insurance Regulatory Authority Act, 1999, IRDA- Its role and functions.

**Topic II**

**Concepts and Principles of Insurance Law (Lecture-10)**



- Insurance Law: Essential tenets
- Formation, performance and discharge of contract
- Proposal and policy
- Classification, commencement, duration and revival of policy
- Utmost Good faith
- Insurable Interest
- Indemnity, Subrogation and contribution
- The risk, premium, proximate cause, Re-insurance

### **Topic III**

#### **Types of Insurance (Lecture-10)**

- Life Insurance Contracts
- Motor Vehicle Insurance
- Fire Insurance
- Marine Insurance

### **Part B**

### **BANKING LAWS**

### **Topic IV**

#### **Introduction to Banking (Lecture-10)**

Indian Banking and Financial Institutions Structure in India

- Indian Banking System –Features, Money Lenders
- Narsimham Committee and its report
- Nationalization of Commercial Banks and its Effects
- Banking Companies (Acquisition of Undertaking and Transfer) Act, 1970 and 1980
- Classification of Banking Institutions
- Banking (Regulations) Act, 1949
- Development Banking In India

### **Topic V**

#### **Negotiable Instruments (Lecture-10)**

Introduction of Negotiable Instruments

- Holder and Holder in Due Course
- Transfer of Negotiable Instruments
- Liability and Discharge of Negotiable Instruments
- Dishonor of Cheque and Liabilities associated with it.

### **Topic VI**

#### **New Concepts in Banking: Issues and Challenges (Self Study & Group Discussion Module) (Lecture-10)**

- Internet Banking
- Mobile banking
- E- Payments
- ATM Card/Debit/Credit card, EFT, ECS (credit/debit)

- RTGS/NEFT
- Law relating to E-banking/commerce in India.
- Micro Finance: Issues and challenges
- Green Banking and Sustainable development
- Banking Ombudsman
- Consumer Protection and banking services

## **PRESCRIBED READINGS**

### **Banking Law:**

1. Tannan, M.L, *Banking law and practice in India*, (21st ed., Wadhwa & Co., 2005)
2. Gupta, S N, *Banking law in theory and practice*, Vol. 1,2&3,( 5th edn, Universal Law publishing co. pvt. ltd., 2010)
3. Datta. C R, Kataria, S K, *Banker's manual* , Vol. 1 & 2 *Commentary on banking laws & allied acts*, (24th edn, LexisNexis Butterworth's Wadhwa Nagpur,2011)
4. Ranganath, Mishra, Bhashyam & Adiga, *Negotiable Instruments Act*, (17th edn, Bharat Law house Pvt. Ltd. New Delhi, 2003)
5. Singh Avatar, *Banking and Negotiable Instruments*, (2nd edn., Eastern book Co. Lucknow, 2011)s
6. Saharay, H K; Saharay, Madhusuda, *Negotiable instruments act 1881*, Dishonour of cheques, (3rd edn. Premier Publishing co., Allahabad, 2011)
7. Sharma, D K, *Dishonour of cheques*, ( India law house New Delhi, 2012)
8. Laxmanrao, Narayan, *Dishonour of cheques: law and practice* (2nd ed., S Gogia and company Hyderabad, 2004)
9. Singh Avtar, *Negotiable Instruments*, (4th Edition, Eastern Book Company, Lucknow, 2005)
10. Elumalai, E, *Consumer protection act and banking service with digest of case laws*, (2008 edn., law publishers (India) Pvt. Ltd. Allahabad, 2008)
11. Hapgrood, Mark, *Paget's Law Of Banking*, (13th edn. Butterworths Law, 2006)
12. Gupta. S.N.: *Dishonour of Cheques-Liability civil & criminal* (5th Edn. Universal Law publishing co. pvt. ltd., New Delhi, 2006)

### **Insurance Law:**

1. David L. Bickelnaupt, *General Insurance*, 10th ed. (USA; Richard D. Irwin, Inc,
2. Avtar Singh, *Principles of Insurance law*, 7<sup>th</sup> ed. (Nagpur; Wadhwa & Co, 2002).
3. E.R. Hardy Ivamy, *General Principles of Insurance Laws*, 6<sup>th</sup> ed. (London; Butterworth's, 1993).
4. John Birds & Norma J. Hird, *Bird's Modern Insurance law*, 6<sup>th</sup> ed. (London; Sweet & Maxwell, 2004).
5. K.S.N Murthy & Dr. KVS Sarma, *Modern Law of Insurance in India*, 4<sup>th</sup> ed. (New Delhi; Lexis Nexis Butterworths, 2002).
6. M N Srinivasan's *Principles of Insurance law*, 7<sup>th</sup> ed. (Nagpur; Wadhwa & Co, 2002).

### **Bare Acts (Relevant sections):**

- The NI Act, 1881
- The Negotiable instruments (Amendment) Bill, 2015
- The RBI Act, 1934
- The Banking Regulation Act, 1949
- The Recovery of Debts due to Banks and Financial Institutions Act, 1993

- The Securitization And Reconstruction of Financial Assets And Enforcement Of Security Interest Act, 2002
- The Insurance Act, 1938
- The Motor Vehicles Act, 1988 (relevant sections)
- The Marine Insurance Act 1963
- The Life Insurance Corporation (LIC) Act, 1956
- The General Insurance Business (GIB) (Nationalization) Act, 1972
- The Insurance Regulatory and Development Authority (IRDA) Act, 1999.
- The Insurance Regulatory and Development Authority (Registration of Insurance companies) regulations, 2000
- The Indian Contract Act, 1872 (relevant sections)
- The Companies Act, 1956 (relevant sections)
- The public Liability Insurance Act
- The workmen's compensation Act, 1923
- The relevant IRDA Rules

**Law Commission of India Reports:**

- 21<sup>st</sup> Law commission of India Report
- 112<sup>th</sup> Law commission of India Report
- 210<sup>th</sup> Law commission of India Report
- 190<sup>th</sup> Law commission of India Report
- The Narsimham Committee Report
- The KPN committee Report on Provisions of Insurance Act 1938
- Justice Rangarajan committee Report on Motor Insurance

**TEACHING PLAN-**

Week 1: Unit 1  
Week 2: Unit 1  
Week 3: Unit 1  
Week 4: Unit 2  
Week 5: Unit 2  
Week 6: Unit 2  
Week 7: Unit 3  
Week 8: Unit 3  
Week 9: Unit 4  
Week 10: Unit 4  
Week 11: Unit 5  
Week 12: Unit 5  
Week 13: Unit 5  
Week 14: Unit 6  
Week 15: Unit 6

**Facilitating the achievement of Course Learning Outcomes**

At the end of each unit the student is able to learn:

Unit No.	Course Outcome	Learning	Teaching & Learning Activity	Assessment Tasks
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1.	<ul style="list-style-type: none"> <li>• Nature and history of Insurance;</li> <li>• Classification;</li> <li>• General Laws related to Insurance Law</li> </ul>	<p>Teaching:</p> <ul style="list-style-type: none"> <li>• Classroom lecture</li> <li>• Case Analysis</li> </ul> <p>Learning: Develop theoretical and historical understanding of the insurance laws and their applicability</p>	As given below.
2.	<ul style="list-style-type: none"> <li>• General Principles of Insurance Laws</li> <li>• Applicability of the doctrine</li> </ul>	<p>Teaching</p> <ul style="list-style-type: none"> <li>• Classroom lecture</li> <li>• Case Analysis</li> <li>• Discussion of practical examples</li> </ul> <p>Learning: Understand the doctrine and its applicability in insurance contracts</p>	As given below.
3.	<ul style="list-style-type: none"> <li>• Nature and Scope of Insurance;</li> <li>• Classification;</li> <li>• General Principles – Proximate Cause</li> <li>• Construction rules applicable Reasons</li> </ul>	<p>Teaching:</p> <ul style="list-style-type: none"> <li>• Classroom lecture</li> <li>• Case Analysis</li> </ul> <p>Learning: Develop practical understanding of the insurance laws and their applicability</p>	As given below.
4.	<ul style="list-style-type: none"> <li>• History of Banking in India,</li> <li>• Bank Nationalization and social control over banking, Various types of Banks and their functions</li> <li>• Development of banking business and companies;</li> <li>• Regulations and restrictions;</li> <li>• Powers and control exercised by the Reserve Bank of India</li> </ul>	<p>Teaching:</p> <ul style="list-style-type: none"> <li>• Classroom lecture</li> <li>• Case Analysis</li> <li>• Group Discussion</li> </ul> <p>Learning: Understand the banking system and the regulatory framework in the country</p>	As given below.
5.	<ul style="list-style-type: none"> <li>• Promissory Note,</li> <li>• Bill of Exchange,</li> <li>• Cheque – Definition and</li> </ul>	<p>Teaching:</p> <ul style="list-style-type: none"> <li>• Classroom lecture</li> <li>• Case Analysis</li> <li>• Discussion of</li> </ul>	As given below.

	<p>Nature</p> <ul style="list-style-type: none"> <li>• N.I. Act, sections 4-7, 13</li> <li>• Definition of Holder and Holder in Due Course;</li> <li>• Comparison between Indian and English Law;</li> <li>• Rights of holder in due course;</li> <li>• Law Commission of India,</li> <li>• Eleventh Report, 1958 (N.I. Act, section 8 read with 78; 9, 19-25, 53, 58, 59 and 118;</li> <li>• English Bills of Exchange Act, 1882, sections 2, 29 and 90)</li> </ul>	<p>practical examples</p> <p>Learning: Understand the different NIs and their nature mandates and concept of holder in due course and the effects and applicability of the concept in case of NIs</p>	
6.	<ul style="list-style-type: none"> <li>• Internet Banking</li> <li>• Mobile banking</li> <li>• E- Payments</li> <li>• Law relating to E-banking/commerce in India.</li> <li>• Micro Finance: Issues and challenges</li> <li>• Green Banking and Sustainable development</li> <li>• Banking Ombudsman</li> <li>• Consumer Protection and banking services</li> </ul>	<p>Teaching:</p> <ul style="list-style-type: none"> <li>• Classroom lecture</li> <li>• Case Analysis</li> <li>• Discussion of practical examples</li> </ul> <p>Learning: Understand the new concepts in banking and new challenges.</p>	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester II**

**Course Code: 2YLM-EC-208/3YLM-EC-208**

**Course Name: Cyber and Information Technology Law**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objective:** The cyberspace has a borderless environment and that results in many legal challenges. The focus in the course is to understand the legal challenges of cyberspace which includes jurisdictional issues, issues relating evidence, e-contracts, intellectual property violations in cyberspace (copyright, trademark and domain name, databases), cyber crimes, freedom of speech and other human rights issues on internet and cyber warfare.

**Learning outcomes:**

1. At the end the students are not only able to learn the legal challenges faced by ever changing technology but able to analyse the legal problems and put forward suggestions for further development of cyber jurisprudence.
2. They have learned the provisions of Information Technology Act, 2000 and also the application of other laws like contract, procedural laws, intellectual property laws, Indian Penal Code, human rights law and international law relating cyber warfare.
3. The students also learn to do deeper research in the area of cyber law and information technology law.
4. The students also learn to do deeper research in the area of cyber law and information technology law.

**Content**

**UNIT -1 Introduction to Cyber Space and Cyber Law**

**2 Weeks**

Cyber space, regulation, scope; Cyber law - the Information technology law and its application; meaning of computer, computer network, computer system, communication device, addressee, originator

**UNIT -2 Jurisdiction in Cyber Space**

**8 hours**

No geographical boundaries, applicability of traditional rules of jurisdiction on internet, rules of private international law; passive/interactive web sites; personal jurisdiction on defendant - Cause of action; plaintiff carries on business; Party autonomy - Hague convention on Choice of court agreements, 2005; adjudicating officer and cyber appellate tribunal under the Information Technology Act

**UNIT -3 Electronic Contracts**

**12 hours**

Types of Electronic Contracts; International efforts to resolve the legal issues in electronic contracts; Indian Position under the Contract and Information Technology law, Formation of cyber contract & Writing and Signature Requirement; Standard Form Contracts. Legal

recognition of electronic record and electronic signatures, digital signature, Secure electronic record and secure electronic signature, Public key Infrastructure

**UNIT 4 - IPR in Cyber Space**

**12 hours**

**(i) Copyright in Digital Environment**

Subject matter ; Rights and Infringement in cyberspace; Fair Dealing; ISP liability; Digital Rights Management and Circumvention of Technological Measures ; WIPO Copyright Treaties, 1996

**(ii) Trademark and Domain Name**

Infringement and Passing Off, Reputed marks registered as domain names, Cybersquatting, Sale of Keywords by web portals identical with trade marks to advertisers, use as metatags, Typosquatting; Dispute Resolution under UDRP and INDRP

**(iii) Databases**

Copyright Protection, Protection under IT Act – liability for failure to protect sensitive data, disclosure of personal information, preservation of information by intermediaries; Right to be forgotten

**UNIT 5 Cyber Crimes**

**10 hours**

Introduction to Cyber crimes and cyber forensics ; Kinds of cyber crimes – Fraud and identity theft, cyber stalking; cyber pornography; Cyber terrorism; cyber defamation, Phishing, Hacking etc.; Issues relating to Investigation, Jurisdiction, Evidence

**Obscenity and Pornography**

Internet and Potential of Obscenity, pornography and Article 19(1)(a), child pornography, Voyeurism

**UNIT 6 Freedom of Speech & Human Rights Issues in Internet**

**5 hours**

Freedom of Expression in Internet; Issues of Censorship -Blocking of content- hate speech, national security, liability of intermediary; Privacy Issues – Information Privacy; interception, monitoring; Computer emergency response team (CERT)

**UNIT 7 VII. Cyber Warfare**

**5 hours**

National Security and Cyberspace – threats to cyber domain; International Cases on Cyber attacks – Estonia Case, Georgia Case and Stuntext & Iranian Nuclear Programme; Cyber Terrorism; Cyber attack– war or a conflict or espionage? – application of international principles of *jus ad bellum* and *jus in bello*

**References**

**Statute/Case Laws/Readings**

**UNIT -1**

*Statute*



The Information Technology Act, 2000 - Section 1(2), Definitions -Section 2, subsections (b), (ha), (i), (j), (k), (l), (o), (v), (w), (za)

*Reference Cases*

*Syed Asifuddin v. State of Andhra Pradesh*, 2006 (1) ALD (CrL.) 96, 2005 CRILJ 4314;  
*Diebold Systems Pvt. Ltd. v. Commissioner of commercial taxes*, ILR 2005 Kar 2210; (2006) 140 STC 59 Kar; *Routhermania Technologies v. ITO*, Income Tax Appellate Tribunal Mumbai, decided on 26/4/2007

*Readings*

1. Richard Kemp, “Legal Aspects of Artificial Intelligence”, (*Kemp IT Law*, v.2.0, Nov 2016) available at <https://www.lexology.com/library/detail.aspx?g=25d955d3-9421-42fd-a7b1-8a54f0b9b235>
2. Nishith Desai, E-commerce in India – Legal, tax and regulatory analysis available at [http://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Research%20Papers/E-Commerce\\_in\\_India.pdf](http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/E-Commerce_in_India.pdf)

**UNIT 2**

*Statute*: The Civil Procedure Code, s.20; The Information Technology Act, s, 43, s.46, s.57, s.61, s.75, s.81

*Cases*:

*Banyan Tree Holdings (P) Ltd v. A Murali Krishna Reddy*, CS (OS) No. 894/2008, Del(DB), decided on 23/11/2009; *World Wrestling Entertainment v. Reshma Collections*, FAO (OS) 506/2013 in CM Nos. 17627/2013, 18606/2013, Del(DB) decided on 15/10/2014; *Big Tree Entertainment v. Saturday Sunday Media Internet*, CS (COMM) Nos. 53/2015 and 54/2015 (Del) decided on 21/12/2015; *Impresario Entertainment & Hospitality Pvt. Ltdv. S & D Hospitality*, I.A. Nos. 1950/2017 in CS(COMM) 111/2017 (Del) decided on 3/01/2018; *Super Cassettes Industries Ltd v. Myspace Inc.*, IA No.15781/2008 & IA No. 3085/2009 in CS (OS) 2682/2008(Del) decided on 29/07/2011; *P.R. Transport Agency v. Union of India*, AIR 2006 All 23; *Shailabh Jain vs The State of Madhya Pradesh*, (Madhya Pradesh HC) M.Cr.C.No.7894/2013 decided on 01/11/2013; *State Bank Of India v. Mr. Chander Kalani And Anr*, FAO. No. 547/201(Del) decided on 14 February, 2019 (s.62 IT Act); *Driplex Engineering Ltd v. Mukesh Aggarwal*, Adjudicating Officer (Del), decided on 15/10/2010; *Vinod Kaushik v. Madhvika Joshi*, WP(C) 160/2012, Delhi High Court, order dt. 27/01/2012 available at <https://it.maharashtra.gov.in/Site/Upload/ACT/Madhvika%20Vs%20Kaushik-highcourt.PDF>

*Amit Dilip Patwardhan v. Rud India Chains Pvt. Ltd.*, Adjudicating Officer, decided on 15/04/2013 complaint no. 1 of 2013 available at <https://it.maharashtra.gov.in/Site/Upload/ACT/AmitPatwardhanVsRudIndiaVipinRao%2015Apr%202013%20Rajesh%20Aggarwal.pdf>

*Reading*:

Justice S. Muralidhar, “Jurisdictional Issues in Cyberspace”, 6 Indian Journal of Law and Technology 1 (2010) [NSUI- Bangalore] available at Westlaw India

### **UNIT 3**

#### *Statute*

The Information Technology Act, 2000 - Sections 2 (d), (p), (r), (t), (ta), (tb), (x), (zc), (zd), (zh), ss.3 to 5, ss.10A to 26, ss. 35-42

#### *Cases*

*World Wrestling entertainment v. Reshma Collections*, FAO (OS) 506/2013 in CM Nos. 17627/2013, 18606/2013, Del(DB) decided on 15/10/2014; *P.R. Transport Agency v. Union of India*, AIR 2006 All 23

#### *Readings*

1.E-books -available at [uncitral.org](http://uncitral.org)

Guide to Enactment of the UNCITRAL Model Law on Electronic Commerce (1996)

Guide to Enactment of the UNCITRAL Model Law on Electronic Signatures (2001)

United Nations Convention on the Use of Electronic Communications in International Contracts, 2005- Explanatory Note by the UNCITRAL secretariat

2.Hemali Shah and Aashish Srivastava “Signature Provisions in the Amended Indian Information Technology Act 2000: Legislative Chaos”, 43 Comm. L. World Rev. 208 2014 available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2748441](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2748441)

3.Videos and Power point presentations on :

i) Digital Signatures, ii) Creating Trust in electronic environment, iii) PKI Technology- Role of CCA

available at [www.cca.gov.in](http://www.cca.gov.in)

### **UNIT 3**

#### **Copyright**

#### *Statute*

The Copyright Act, 1957 - Sections 16, 13, 14, 37, 51, 52(a), (b), (c), 65A, 65B

The Information Technology Act, 2000- s.79, s.81

#### *Case Law*

*Google book Project Case*; On line Plagiarism detection services Case (~ *A.V. v. iParadigms*, 502 F.3d 630 (4<sup>th</sup> Cir. 2009))

*Myspace Inc. v. Super Cassettes Industries Ltd*, FAO(OS) 540/2011, C.M. APPL.20174/2011, 13919 & 17996/2015 (Del DB) decided on 23/12/2016; *Star India Pvt. Limited v. Haneeth Ujwal*, I.A. No.13873/2014 (Del) in CS(OS) 2243 of 2014 decided on 26/07/2014, available at <http://lobis.nic.in/ddir/dhc/MAN/judgement/31-07-2014/MAN28072014S22432014.pdf>

### *Readings*

Lawrence Lessig, “Code:Version 2-Intellectual property”, 2 Indian Journal of Intellectual Property 1 (2009) [NALSAR Hyderabad] , available at Westlaw India

Arnab Naskar <sup>1</sup>& Shubhangi Gupta, “ Digital Rights Management: a Pandora's Box Trying To Wipe Off The Rights Of Consumers”, 5 Indian Journal of Intellectual Property Law 45 (2012) [NALSAR- Hyderabad] availble at Westlaw India

## **Trade Marks**

### *Cases*

*Satyam Infoway Ltd v Sify net solutions Pvt. Ltd.*, AIR 2004 SC 3540, *Super Cassettes Industries Ltd.v. Mr. Wang Zhi Zhu Ce Yong Hu*, MANU/DE/2000/2008] *Aqua Minerals v. Pramod Barse*, 2001 PTC 619 (Del); *Yahoo Inc. v. Manoj Taslani*, 2015(61) PTC 263 (Del)];

*Consim India Pvt. Ltd v. Google Inc. Pvt. Ltd.*, (Mad) OA No. 977 and 978 of 2009 in CS(OS) Mo. 832 of 2009 decided on 30/09/2010 and Mad(DB) OSA No. 406 and 407 of 2008 decided on 10/09/2012. Supreme Court order dated 19/10/2012 SLP (C) Nos. 32134-32135 of 2012; *Amway India Enterprises Pvt. Ltd. v.1Mg Technologies Pvt. Ltd.*, I.A. 11335/2018 in CS(OS) 410/2018 (Del) decided on 08/07/2019 available at <https://indiankanoon.org/doc/145401736/>

## **Databases**

### *Statute*

The Information Technology Act, 2000, ss.43 A, 72A , 67C., the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 - Rule 2(b), (h), (i); Rule 3

### *Cases*

*Sanjay Dhande v. ICICI Bank and Vodafone complaint no. 30 of 26<sup>th</sup> Sep.2013* available at: [https://it.maharashtra.gov.in/Site/Upload/ACT/DIT\\_Adjudication\\_SanjayDhande\\_vs\\_ICICI&Ors-16012014.pdf](https://it.maharashtra.gov.in/Site/Upload/ACT/DIT_Adjudication_SanjayDhande_vs_ICICI&Ors-16012014.pdf) (s. 43 A); *Chander Kalani v. SBI Bank*, complaint no. 1 of 2014 decided on 12/01/2015 available at [https://it.maharashtra.gov.in/Site/Upload/ACT/DIT\\_Adjudication\\_Chander%20Kalani\\_Vs\\_SBI\\_Ors-12012015.PDF](https://it.maharashtra.gov.in/Site/Upload/ACT/DIT_Adjudication_Chander%20Kalani_Vs_SBI_Ors-12012015.PDF); *State Bank of India v. Chander Kalani*, Cyber Appeal No. 13/2015 and MA No. 282/2017 (TDSAT) decided on 31<sup>st</sup> July 2018 <http://tdsat.gov.in/Delhi/services/judgment.php> (s. 43 A); *State of Maharashtra v. Vishal Hiranman Bhodade*, R.C.C. No. 2095/2013, Court of Judicial Megistrate Ist Class, Pune decided on 31/07/2015 available at [www.prashantmali.com](http://www.prashantmali.com) (s.67C)

*Readings*

David J. Kessler, Sue Ross and Elonnai Hickok, “A Comparative Analysis of Indian Privacy Law and the Asia Pacific Economic Cooperation Cross-Border Privacy Rules”, 26 (1) National Law School of India Review(NLSIRev.) 31 (2014) [NLSIU Bangalore] available at Westlaw India

Deepu Jacob Thomas&Prasan Dhar, “Of Square Pegs and Round Holes: Towards a new paradigm of Database Protection”, 4 Indian Journal of Law and Technology 35 (2008) [NLSIU Bangalore] available at Westlaw India

Report of the Group of Experts on Privacy (Chaired by Justice A P Shah, Former Chief Justice, Delhi High Court) available at [http://planningcommission.nic.in/reports/genrep/rep\\_privacy.pdf](http://planningcommission.nic.in/reports/genrep/rep_privacy.pdf)

**UNIT 5**

**Cyber Crimes**

*Statute*

The Information Technology Act, - ss. 43, 66, 66A, 66 B, 66C, 66D, 66F, 67, 67A; s. 78, s.75; Indian penal Code s. 354 D, the POCSO Act,- ss.11-15, the Code of Criminal Procedure, 1973 - ss. 177-179 , 186,188 and 189; the Evidence Act, 1872 -ss. 65A and 65 B

*Reference Cases*

*SMC Pneumatics (India) Pvt. Ltd. v. Jogesh Kwatra.*, suit no. 1201/2001 , New Suit No. 65/14decided on 12/02/2014 Delhi District Court; *State of Tamil Nadu v. Suhas Katti*,Decided by CMM, Egmore, decided on Nov. 5, 2004available at <http://www.prashantmali.com/cyber-law-cases>;<http://www.legalserviceindia.com/lawforum/index.php?topic=2238.0>; *Shreya Singhal v U.O.I*, SC decided on 24/03/2015, available at <http://indiankanoon.org/doc/110813550/>; *Rakeshv.Central Bureau*, Delhi District Court, decided on 5 February, 2011, available at: <http://indiankanoon.org/doc/90364172/>; *State of A.P. through Inspector of Police, Cyber Crimes P.S., CID, Hyderabad v. Prabhakar Sampath*, Add. CMM Hyderabad, decided on 31/03/2015, CC 489 Of 2010 avaiable at: [www.prashantmali.com/cyber-law-cases](http://www.prashantmali.com/cyber-law-cases); *NAASCOM v. Ajay Sood*, 119 (2005) DLT 5960,2005 (30) PTC 437 Del; *State of Maharashtra v. Opara Chilezian*, Regular Criminal Case No. 724/2012 decided on 28/10/2013 (Nigerian Email Scam Case) available at [www.prashantmali.com](http://www.prashantmali.com); *Aveek Sarkar v. State of West Bengal* (SC) Criminal Appeal no. 902 of 2004 decided on 3/2/2014; *Maqbool Fida Husain v. Raj Kumar Pandey*, Delhi HC decided on 8/5/2008, CRL. REVISION PETITION NO.114/2007, available at <http://indiankanoon.org/doc/1191397/>; *Anvar P.V v. P.K.Basheer*, Supreme Court, decided on 18 September, 2014, Civil Appeal No.. 4226 of 2012, available at <http://indiankanoon.org/doc/187283766/>

*Readings*

Swati Mehta, “Cyber Forensics and admissibility of Digital Evidence”, 2012 Practical Lawyer January S-23, available at:

[http://www.supremecourtcases.com/index2.php?option=com\\_content&itemid=135&do\\_pdf=1&id=22821](http://www.supremecourtcases.com/index2.php?option=com_content&itemid=135&do_pdf=1&id=22821)

Sherry L. Xie, "Building Foundations for Digital Records Forensics: A Comparative Study of the Concept of Reproduction in Digital Records Management and Digital Forensics", 74(2) *The American Archivist* 576-599 (Fall/Winter 2011) available at: <http://www.jstor.org/stable/23079051>

## **Obscenity and Pornography**

### *Statute*

The Information Technology Act -Sections 66E, 67, 67A, 67B, Indian **Penal Code- S. 292, S. 354C**

### *Reference Cases:*

*Kamlesh Vaswani v Union of India and others*, Supreme Court of India. Order dated 26 February 2016, I.A. No.5 of 2015 in WP (C) No.177 of 2013, 2016 INDLAW SCO 12; *The State (Cyber Cell)v.Yogisha @ Yogesh Pandurang Prabhu*, ACMM, 37TH COURT, ESPLANADE, MUMBAI C.C. NO. 3700686/PS/2009 decided on 3/07/2015 available at:

<http://www.cyberlawconsulting.com/Yogesh%20Prabhu%20Vs%20State-%20Cyber%20Stalking.pdf>;

*State v. Jayanta Kumar Das*, GR Case No. 739 of 2012, TR No. 21/2013, Sub divisional Judicial Megistrate, Puri (Orissa) decided on 04/08/2017 available at [http://services.ecourts.gov.in/ecourtindia\\_v5/cases/display\\_pdf.php?filename=/orders/216300014342017\\_1.pdf&caseno=G.r.case/1434/2017&cCode=12&appFlag=web](http://services.ecourts.gov.in/ecourtindia_v5/cases/display_pdf.php?filename=/orders/216300014342017_1.pdf&caseno=G.r.case/1434/2017&cCode=12&appFlag=web)

*Maqbool Fida Husain v. Raj Kumar Pandey*, Delhi decided on 8/5/2008 (*Supra*); *Avinash Bajaj v.State Delhi HC* decided on 29/05/2008, available at <http://indiankanoon.org/doc/309722/>; *Vaibhav Jain v. Vice Chancellor Devi ahilya Vishwavidyalaya*, MP (HC)decided on 3<sup>rd</sup> Jan 2002 , available at <http://indiankanoon.org/doc/521882/>

### *Readings*

Geetha Hariharan, "Our Unchained Sexual Selves: a Case For The Liberty To Enjoy Pornography Privately", 7(2) NUJS L Rev. 89 (2014), available at Westlaw India

Chinmayi Arun, "Gatekeeper Liability and Article 19(1)(a) of The Constitution Of India", 7(2) NUJS L. Rev. 73 (2014), available at Westlaw India

Yaman Akdeniz, "Governing Pornography & Child Pornography on the internet- the UK Approach", available at [http://www.cyber-rights.org/documents/us\\_article.pdf](http://www.cyber-rights.org/documents/us_article.pdf)

## **UNIT 6**

### *Statute*

The Information Technology Act, 2000 - ss 69, 69A, 70B, s.79

### *Case:*

*Shreya Singhal v U.O.I*, SC decided on 24/03/2015 (*Supra*)

*Justice K S Puttaswamy (Retd.) v. Union of India*, WRIT PETITION (CIVIL) NO 494 OF 2012 (SC) delivered on 24/08/2017

*Readings*

Kamlesh K Bajaj, “Apple v. National Security”, Indian Express (7<sup>th</sup> March, 2016<sup>^</sup>)

Kamlesh K Bajaj, “Papa don’t preach”, Hindu Business Line (27<sup>th</sup> Sep. 2013)

Kamlesh K Bajaj, “Right to privacy in digital age”, The Hindu (12 Jan. 2014)

**UNIT 7**

*Statute*

S. 66F, the Information Technology Act, 2000; s.1, the U.K. Terrorism Act, 2000

*Readings*

Derek S. Reversion, “An Introduction to National Security and Cyberspace” in Derek S. Reversion (ed.), *Cyberspace and National Security; Threats, opportunities and power in a virtual world* pp.4 -19 (2013)

Johann Christoph Woltag, Cyber warfare; Military Cross Border Computer Network Operations under International Law, Chapter 1(Case Studies-Estonia, Georgia etc.) pp.38-51 (2014)

Stuart Macdonald, “Cyber terrorism and Enemy Criminal Law” in Jens David Ohlin et. al.(eds.), *Cyberwar; Law and ethics for virtual conflicts* pp. 57-75 (2015)

Clair Finkelstein and Kevin Govern, “Introduction; Cyber and Changing face of War” in Jens David Ohlin et. al.(eds.), *Cyberwar* pp ix-xvi (2015)

Kamlesh K. Bajaj, Virtual Force; Cyberspace entails critical protection just like land, air, sea and space 9(2) FORCE (National Security and Defence News Magazine) pp. 77-80 [October 2011]

Christopher S. Yoo, “Cyber Espionage or Cyberwar; International Law, Domestic Law, and Self Protective Measures” in Jens David Ohlin et. al.(eds.), *Cyberwar; Law and ethics for virtual conflicts* 175-194.

**Books on Cyber Laws**

- Kamath Nandan, *Law Relating to Computers Internet & E-commerce - A Guide to Cyberlaws & The Information Technology Act, Rules, Regulations and Notifications along with Latest Case Laws* 2012
- Kamlesh K Bajaj, Debjani Nag, *E-commerce: the cutting edge of business*, 2<sup>nd</sup> Ed. 2005
- Vakul Sharma, *Information Technology Law & Practice*, 5<sup>th</sup> ed.2016
- Karnika Seth, *Computers Internet and New Technology Laws* 2013
- Apar Gupta *Commentary on Information Technology Act* 2011

- Alwyn Didar Singh, *E-Commerce In India: Assessments And Strategies For The Developing World* 2008
- Chris Reed, *Internet Law Text and Materials* 2010
- [Aparna Viswanathan](#), *Cyber Law (Indian & International Perspectives on key topics including Data Security, E-commerce, Cloud Computing and Cyber Crimes)* 2012
- Ashwani K. Bansal, *Law of Trade Marks in India* 2014
- Lawrence Lessig, *Code and Other Laws of Cyberspace* 1999, Code version 2.0, Basic Books Publication (2006)
- Ferrera et al, *Cyber Law Text and Cases* 3<sup>rd</sup> Ed. (2012)
- Prashant Mali, *Cyber Law and Cyber Crimes*, Snow white Publications 2nd Ed.(2015)
- Debrati Halder & H Jaishanker, *Cyber Crimes Against Women*, Sage Publications 1st Ed.(2017)
- Internet Law and Practice by International Contributors, West Thomson Reuters, South Asian Edition (2013)
- Derek S. Reversion (ed.), *Cyberspace and National Security; Threats, Opportunities, and Power in the Virtual World*, Satyam Law International, First Indian Reprint (2013)

#### WEEKLY TEACHING PLAN

WEEK	TOPIC
1st	Unit I: INTRODUCTION
2nd	Contd... Unit I: INTRODUCTION
3rd	UNIT 2 JURISDICTION IN CYBERSPACE
4th	Contd. UNIT 2 JURISDICTION IN CYBERSPACE
5th	Contd. UNIT 3 ELECTRONIC CONTRACTS
6th	Contd. UNIT 3 ELECTRONIC CONTRACTS
7th	Contd. UNIT 3 ELECTRONIC CONTRACTS
8th	UNIT 4 IPR IN CYBERSPACE
9th	Contd. UNIT 4 IPR IN CYBERSPACE
10th	Contd. UNIT 4 IPR IN CYBERSPACE
11 <sup>th</sup>	Contd. UNIT 5 CYBER CRIMES
12 <sup>th</sup>	Contd..UNIT 5 - CYBER CRIMES
13 <sup>th</sup> week	Contd UNIT 5 - CYBER CRIMES UNIT 6. FREEDOM OF SPEECH & HUMAN RIGHTS ISSUES IN INTERNET

14 <sup>th</sup> week	Contd..UNIT 6. FREEDOM OF SPEECH & HUMAN RIGHTS ISSUES IN INTERNET  UNIT 7 – CYBER WARFARE
15 <sup>th</sup> week	Contd..UNIT 7 – CYBER WARFARE

**Facilitating the achievement of Course Learning Outcomes**

At the end of each unit the student is able to learn:

Unit No.	Course Learning Outcome	Teaching and Learning Activity	Assessment Tasks
1.	1. Key technologies which comprises “cyber space” and legal challenges in cyberspace  2. Significance of Information Technology Act, 2000 and definition of key terms  3. Requirement of regulation of “cyber space”	<b>Classroom teaching/ /Paper Presentations /workshops/ Seminar/</b>	<b>As given below.</b>
2.	1. the concept of civil jurisdiction of courts in cyberspace  2. the process of adjudication under the Information Technology Act, 2000		
3.	1. the law applicable for formation of electronic contracts  2. Recognise the relevance of electronic records and electronic signature  3. the infrastructure required to facilitate E-commerce and E- governance		



	4. the international efforts to resolve legal issues of formation , writing and signature requirement		
4.	<p>1. the relevancy/ importance of protecting digital information vis a vis stakeholders</p> <p>2. the extent of protection IP rights ie copyright, trade marks and domain names in digital environment and the liabilities of intermediaries</p> <p>2. the legal provisions of data protection and establishment of enforcement mechanism under the copyright and Information technology Act.</p>		
5.	<p>1. Changing dynamics of crimes due to digital technology.</p> <p>2. cyber crimes under the Information Technology Act, POCSO Act and IPC</p> <p>3. Interface between terrestrial Laws (IPC, Evidence, CrPC) and crimes under the Information Technology Act.</p> <p>4. the concept of admissibility of electronic evidence, criminal jurisdiction of courts in cyberspace</p>		
6.	<p>1. Protection of Freedom of speech and Privacy in cyberspace</p> <p>2. legal provisions on interception and blocking and their interface with Fundamental rights.</p>		

7.	1. Altering national security issues due to the emergence of cyber space.  2 concept and cases of Cyber attacks under international law		
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**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester II**  
**Course Code: 2YLM-EC-209/3YLM-EC-209**  
**Course Name: Corporate and White Collar Crimes**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objectives:**

This Course masters the students to face and tackle a new kind of criminality which was earlier not considered as criminality at all and to explain them the reasons for the same. The students shall learn how dangerous the impact of this criminality *viz.*, Corporate and White-Collar offences on the economy of any country including India and that the impact is far graver than any traditional criminality whatsoever. Further, it has been so designed as to enable the students to understand the special principles of this criminality, to identify the ingredients of offences, to know about special mechanisms for investigation and trial, and special punishment policy, as well as to sensitize the students about need of studying these offences and its impact on common people of the country. The course will enable students to critically analyse the provisions of various Special Statutes related to these offences and to scrutinize the recent developments and changes that have taken place in this field. Students shall also learn how to use this expertise in teaching the students, filing and contesting the cases before the Courts of Law and judging them.

**Course Learning Outcomes:**

*After successful completion of this Course, students should be able to:*

1. Learn a new kind of criminality, its nature and its basic concepts that are required for its better understanding and about the difference between this criminality and other kinds of criminalities.
2. Know about the history and the evolution of the Corporate and White-Collar crimes with the help of different approaches taken by eminent criminologists/jurists in this regard for the better understanding of the need, purpose and urgency of enacting these laws.
3. Have knowledge of emergent areas of this criminality with special reference to Corporate crimes, Corruption, Money Laundering, fugitive offenders and food safety related offences.
4. Acquire expertise on the relevant legal mechanism which is different kind of investigation and trial of these cases and enforcement procedure specially required for combating such type of crimes.
5. Acquire the analytical skill in analysing provisions of various Special Statutes in this area of law and can use their knowledge and skills on the subject to build a just human society in various capacities.

**Contents:**

**Unit I:**

- (a) Evolution of the concept of Economic Crimes.
- (b) Emergence of Economic Crimes in India.

**Unit II:**

- (a) White Collar Crime: Definitional issues, Sutherland's definition of white-collar crime, Various types of white-collar crime, Relationship with other types of crimes, Blue collar crime, Corporate crime, Organised transnational crime, Occupational crime.
- (b) Explanation of white-collar criminality:

Social learning Theory: (a) Sutherland's Differential Association theory; (b) Differential reinforcement theory; (c) Neutralization theory.  
(c) Rationalization of White-Collar offences.

**Unit III:**

- (a) Development of the Corporate crime, Impact of industrial revolution and advancement of technological and scientific developments on corporate crime.
- (b) Nature, extent and consequences of corporate corruption.
- (c) Prominent patterns and incidences, Corporate Tax evasion.

**Unit IV:**

- (a) Theories of Corporate Criminal Liability: Theory of Vicarious liability, Identification theory, Aggregation theory.
- (b) Analysis of corporate criminal liability in India, USA and U.K.

**Unit V:**

Special enforcement procedure:

- (a) Issues in detection, investigation, prosecution and trial.
- (b) Sentencing policy and practices with respect to economic offences.
- (c) Difficulty in the enforcement of laws.

**Unit VI:**

Study of selected legislations in India:

- (a) Provisions in The Companies Act 2013 to prevent Corporate frauds.
- (b) The Prevention of Corruption Act, 1988
- (c) Prevention of Money Laundering Act 2002
- (d) Food Safety and Standards Act, 2006 and Food Safety and Standard Rules, 2011
- (e) The Fugitive Economic Offenders Act, 2018

**Suggested Readings:**

1. Payne, Brian, 2012, White-Collar Crimes, Sage Publications.
2. Mishra. Girish, 1998, White-Collar Crimes, Gyan Publishing House, New Delhi.
3. Coleman, James W., 1985, Criminal Elite: The Sociology of White-Collar Crimes, St. Martin's Press Inc. New York.
4. Croall. Hazell, 2001, Understanding White Collar Crime, McGraw-Hill Education, Buckingham.
5. Minker, John, 2008, Corporate and White-Collar Crime, Sage Publications, London.
6. Gerber, Jurg, 2007, Encyclopaedia of White Collar Crime, Greenwood Press, U.S.A.
7. Sutherland, Edwin, 1985, White-Collar Crime: The Uncut Version, Yale University Press.
8. Strader, J. Kelly, 2012, Understanding White-Collar Crime, Lexis Nexis.
9. Simpson, Sally S., 2010, The criminology of White-Collar Crime, Springer.
10. Bologna, Jac, 1984, Corporate Fraud, Buttersworth Publishers.
11. Clinard, Marshall B. and Peter C. Yeager, 1980, Corporate Crime, The Free Press, New York. .
12. Croall, Hazel, 2009, Corporate Crime, Sage Publications.
13. Mahajan, Manish, 2011, Socio-Economic Offences Laws, Global India Publications Pvt. Ltd., Delhi.

14. Mallory, Stephen, 2012, Understanding Organized crime, Jones and Bartlett Learning, U.S.A.
15. Padhy, Prafullah, 2006, Organised Crime, Isha Books, Delhi.
16. Singh, Joginder, 1999, Inside CBI, Chandrika Publications, Delhi.
17. Mahesh Chandra, *Socio- Economic Offences* (1979).
18. J.S.P. Singh, *Socio- Economic Offences* (1<sup>st</sup> Ed., 2005, Reprint 2015).
19. Ahmed Siddiqui, *Criminology: Problems and Perspectives* (4th Ed., 1997).
20. Seth and Capoor, *Prevention of Corruption Act with a treatise on Anti-Corruption Laws* (3<sup>rd</sup> Ed., 2000).
21. Dr. J. N. Barowalia, *Commentary on the Narcotics Drugs and Psychotropic Substances Act, 1985*, 2nd Edition, 2004.
22. Bhure Lal, *Money-Laundering: An Insight into the Dark World of Financial Frauds* (2003).
23. Pillai & Julian, Ed. *Prevention of Money Laundering Legal and Financial Issues* (2008.)
24. M. C. Mehanathan, *Law on Prevention of Money Laundering in India* (2014).
25. Arun Kumar, *The Black Economy in India* (2014.)
26. Upendra Baxi, *Liberty and Corruption Antulay Case and Beyond* (1989).

**Prescribed Readings:**

1. Sutherland, Introduction and Overview of White-Collar Crime: A Systems Perspective (2012), available at [http://www.sagepub.com/upm-data/43841\\_1.pdf](http://www.sagepub.com/upm-data/43841_1.pdf).
2. Sutherland, White-Collar Criminality (1940) available at <http://www.sjsu.edu/faculty/hart/PDF%20upload/White-Collar%20Criminality.pdf>.
3. Stuart P. Green, The Concept of White Collar Crime in Law and Legal Theory, 8 Buff. Crim. L. Rev. 1, 1 (2004) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=521762](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=521762).
4. Victims of White-Collar and Corporate Crime, Hazel Croall (2009) available at [http://www.ulc.sagepub.com/stout/croall\\_white\\_collar%20-%20Ovics\\_crim\\_soc.pdf](http://www.ulc.sagepub.com/stout/croall_white_collar%20-%20Ovics_crim_soc.pdf).
5. Sally S. Simpson, The Criminological Enterprise and Corporate Crime, *Criminologist*, July-Aug. 2003, at 1,3-5.
6. Sally S. Simpson et al., Measuring Corporate Crime, in *Understanding Corporate Criminality* 115, 133-34 (Michael B. Blankenship ed., 1993).
7. Sutherland, White Collar Crime, Holt & Rinehart M.Y. (1961).
8. Donald R. Coessey & A. Ward, *Delinquency, Crime and Social process*, Harper & Row, N. Y. (1969).
9. Geis, Gilbert et al. *White Collar Crime Offences in Business, Politics and Professions* (1977).
10. Siddique, Ahmed 'Criminology: Problems & Perspectives', Eastern Book co. 3rd Ed (1993), Chapters I, III, XI, XII, XIII
11. Braithwaite, John 1982 "Enforced for self-regulation: A New strategy for corporate crime control." *Michigan Law Review* 80 (June): 1466-1507
12. Braithwaite, John and Gilbert Geis 1982 "On action for corporate crime control." *Crime and Delinquency* 28 (January): 292-314.
13. Clinard, Marshall B. and Peter C. Yeager 1980 corporate crime. New York: The Free Press.

**Reports:**

1. White Paper on Black Money (2012), Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, available at
2. [http://finmin.nic.in/reports/WhitePaper\\_BackMoney2012.pdf](http://finmin.nic.in/reports/WhitePaper_BackMoney2012.pdf).
3. Report of the National Institute of Public Finance at 'Aspects of the Black Economy in India' (1985).
4. The KPMG's India Fraud Survey Report 2012 available at [http://www.businessworld.in/c/document\\_library/get\\_file?uuid=3f13daf0-c87d-4050-af99-ef18ff5925c8&groupId=520986](http://www.businessworld.in/c/document_library/get_file?uuid=3f13daf0-c87d-4050-af99-ef18ff5925c8&groupId=520986).
5. The KPMG's India Anti-Money Laundering Survey 2012 available at [http://i.vww.kpmg.com/IN/en/IssuesAndInsights/ArticlesPublications/Documents/AML\\_Survey\\_2012.pdf](http://i.vww.kpmg.com/IN/en/IssuesAndInsights/ArticlesPublications/Documents/AML_Survey_2012.pdf)
6. Report of the Comptroller and Auditor General of India, Adarsh Co-operative Housing Society, Mumbai available at [http://saiindia.gov.in/english/home/Our\\_Products/Audit\\_Report/Government\\_Wise/state\\_audit/recent\\_reports/Maharashtra/2010/Adarsh\\_Main.pdf](http://saiindia.gov.in/english/home/Our_Products/Audit_Report/Government_Wise/state_audit/recent_reports/Maharashtra/2010/Adarsh_Main.pdf). [Pravin P. Wategaonkar v. CBI (Cr.PIL/ 20/ 2011), Born H.C.]
7. Audit of Fraud and Fraud Detection Techniques and Forensic Audit, Report available at <http://www.icisa.cag.gov.in/resources%5CPublications%200f%20Regional%20Training%20Institute,Nagpur%20on%20Fraud%20Auditing%5CEconomic%20Crime.pdf>.
8. Report of Crime in India 2017 on "Economic crimes".
9. Report of the Law Commission of India (29th and 47th) available at <http://lawcommissionofindia.nic.in/1-50/index1-50.htm>.
10. Santhanam Committee report on Prevention of Corruption in Central Government (1964).
11. Wanchoo Committee report on tax evasion (1971).
12. The Food Safety and Standards Regulations, 2011; Food Safety and Standards Rules, 2011 available at <http://www.fssai.gov.in/>.
13. Relevant Provisions of Universal Declaration on Human Rights, 1948.
14. UN Convention against Corruption, 2003.
15. UN Political Declaration & Action Plan against Money Laundering 1998.

#### **Case Law:**

1. *A. B. Bhaskara Rao v. CBI*, (2011) 10 SCC 259.
2. *Arun Kumar Aggarwal v. State of Madhya Pradesh*, Cr. Appeal Nos. 1706-1708 of 2011 (Arising out of S.L.P. (Crl.) Nos. 364-366 of 2010).
3. *B. Noha v. State of Kerala*, (2006) 12 SCC 277.
4. *B. S. Goraya v. U.T. of Chandigarh*, (2007) 6 SCC 397.
5. *P.V. Narsimha Rao v. State*, (1998) 4 SCC 626.
6. *The Assistant Commissioner, Bangalore v. Velliappa Textiles Ltd. and others*, (2004) 1 Comp LJ 21(SC).
7. *Standard Chartered Bank Case and others etc v. Directorate of Enforcement and others*, (2005) 4 Comp LJ 464(SC).
8. *Iridium India Telecom Ltd v. Motorola Incorporated and others*, (2011) 8 Comp LJ(SC).
9. *Kalicharan Mahapatra v. State of Orissa*, AIR 1998 SC 2595.
10. *Kanwarjit Singh Kakkar v. State of Punjab*, (2011) 6 S.C.R. 895.

11. *Abhay Singh Chautala v. C.B.I.*, (2011) 7 SCC 141.
12. *Ram Jethmalani v. Union of India*, (2011) 9 SCC 761.
13. *Binod Kumar v. State of Jharkhand & Ors*, (2011) 11 SCC 463.
14. *B. Ramaraju v. Union of India*, W.P. No. 10765 of High Court of A.P. 2011 (164) Company Case.

**Teaching Plan:**

Week 1	(4 Lectures):	<b>Unit I</b>
Week 2 – Week 3	(8 Lectures):	<b>Unit II</b>
Week 4 – Week 5	(8 Lectures):	<b>Unit III</b>
Week 6 – Week 7	(8 Lectures):	<b>Unit IV</b>
Week 8	(4 Lectures):	<b>Unit V</b>
Week 9 – Week 12	(16 Lectures):	<b>Unit VI</b>
Week 13 – Week 15	(12 Lectures):	<b>Presentations in the Class</b>

**Facilitating the achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	Acquire knowledge about a new kind of criminality, its history and evolution, its nature and basic concepts and its emergence in India and also about the need, purpose and urgency of enacting these laws.	Primarily classroom Lectures and discussion about the theoretical part of the topic.	As given below.
2.	Acquire knowledge about the white-collar crimes, its definitional issues, Sutherland's definition, various types, relationship with other types of crimes, its difference from other kinds of criminalities, explanation of white-collar criminality as per various social learning theories, and rationalization of White-Collar offences.	Primarily classroom Lectures and discussion about the theoretical part of the topic.	As given below.
3.	Acquire knowledge about the development of the Corporate crime, impact of industrial revolution and advancement of technological and scientific developments on corporate crime, nature, extent and	Primarily Classroom Lectures and discussion, discussing relevant Legal Statutes and Landmark Cases emphasising on	As given below.

	consequences of corporate corruption, prominent patterns and incidences, corporate tax evasion. Further, acquire the skill to apply the provisions of this law in legal problems.	latest developments in this field of law. Participatory Methods. Discussion on current developments, on relevant news items from media, on Law Reports and on Statistics from other Reports.	
4.	Acquire knowledge about the various theories of Corporate Criminal Liability and its analysis in India, USA and U.K.	Primarily Classroom Lectures and discussion, discussing relevant Legal Statutes and Landmark Cases emphasising on latest developments in this field of law at international level. Participatory Methods. Discussion on current developments, on relevant news items from media, on Law Reports and on Statistics from other Reports.	As given below.
5.	Acquire knowledge about the special enforcement procedure for white-collar offences including issues in detection, investigation, prosecution and trial. Further, acquire the knowledge of sentencing policy and practices for economic offences and difficulty in the enforcement of these laws.	Primarily Classroom Lectures and discussion, discussing relevant Legal Statutes and Landmark Cases emphasising on latest developments in this field of law. Participatory Methods.	As given below.



		Discussion on current developments, on relevant news items from media, on Law Reports and on Statistics from other Reports.	
6.	Acquire knowledge about the selected legislations in India viz., provisions in the Companies Act 2013 to prevent corporate frauds, the Prevention of Corruption Act, 1988, the Prevention of Money Laundering Act 2002, the Food Safety and Standards Act, 2006 and Food Safety and Standard Rules, 2011 and the Fugitive Economic Offenders Act, 2018, their legal mechanism including investigation, trial and enforcement procedure. Further, acquire the skill to apply the provisions of these laws in legal problems.	Primarily Classroom Lectures and discussion, discussing relevant Legal Statutes and Landmark Cases emphasising on latest developments in this field of law. Participatory Methods. Discussion on current developments, on relevant news items from media, on Law Reports and on Statistics from other Reports.	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester II**

**Course Code: 2YLM-EC-210/3YLM-EC-210**

**Course Name: Law of Torts and Disaster Management**

**Marks-100 (80+20) Duration – 90 Hours**

**Course Objectives:**

1. To familiarize students with specific torts and the principles of liability underlining them.
2. To explore in detail and critically analyze the specific torts so that they can apply their knowledge and critical legal thinking to explore and develop their own perspectives and interpretations and support them with logical arguments.
3. To discuss the developments in English and Indian Law with respect to specific torts and the expanding horizons of liability of the State.
4. Giving an overview of Disaster Management Act, 2005 so as to make the student aware of the Disaster Management law, policy and practices in India.

**Learning Outcomes**

1. Have knowledge and understanding of specific torts and be able to apply the Law of Torts in the Indian and International context.
2. Know the problems and issues concerning specific torts and be able to do critical appraisal of their logical progression
3. Be aware of the developments in the Indian Law and English law with respect to specific torts and apply their knowledge to solve factual situations under tort law and support them with cogent arguments
4. Know about the Disaster Management Law and its application in India and the way forward.

**CONTENTS:**

**TOPIC – I**  
**NEGLIGENCE**

- (i) Theories of Negligence
- (ii) Essentials and Constituents —Concept of duty, notional duty, duty in fact, standard of care, guidelines, concept of reasonable person, duty of care for economic loss.
- (iii) Negligence by public authority
- (iv) Professional Negligence, The Consumer Protection Act 1986
- (v) Proof of Negligence, - *Res Ipsa Loquitor*.
- (vi) Contributory Negligence — The Law Reform (Contributory Negligence) Act 1945
- (vii) Remoteness of Damages
  - test of causation
  - test of reasonable foreseeability

**Readings**

1. Ashish Chugh, “Recent Developments in the Law Relating to Negligence” (2002) 7 SCC(J)25

2. Markandey Katju, “Medical Negligence”, JT (2007) 12 SC (J) I
3. Winfield, “The History of Negligence in the Law of Torts” (1925) L.Q.R. 184.
4. Dias, “The Duty Problem in Negligence” (1965) C.L.J. 198;
5. Ernest J. Weinrib, “A Step Forward in Factual Causation” (1975)38 MLR 518.
6. Jyoti Dogra Sood, “Responsibility of Doctors for Rash/Negligent Act.” 46 JIL 588 (2004)
7. S.Bailey, “Public Authority Liability in Negligence : The continued search for coherence” (2006) 26LS 155
8. The students have to study all cases prescribed by the Faculty from time to time.

**Books**

1. W.V.H. Rogers. **Winfield & Jolowicz on Tort**(16th ed. 2002)
2. R.F.V. Heuston and R.A. Buckley, **Salmond & Heuston on the Law of Tort** (21st ed. 2000)
3. Nicholas J. Mc Bride and Roderick Bagshaw, **Tort Law** (1 Indian Reprint, 2003).
4. John Murphy, **Street on Torts** (11<sup>th</sup> ed. 2006)
5. Tony Weir, **A Casebook on Tort** (9<sup>th</sup> ed., 2001)
6. R.Kidner, casebook on torts
7. John G. Fleming, **An Introduction to the Law of Tort** (1967)
8. Clerk and Lindsell **on Torts** (17<sup>th</sup> ed. 1995)
9. G.P. Singh, **Ratan Lal and Dhiraj Lal’s The Law of Torts** (25<sup>th</sup> ed. 2010)
10. Lakshminath and M. Sridhar, **Ramasami Iyer’s The Law of Torts** (9<sup>th</sup> ed. 2003)
10. **Annual Survey of Indian Law**, Indian Law Institute

**List of Cases**

1. Blyth v Birmingham Waterworks Co.(1856)1ExCh781
2. Donoghue v Stevenson (1932)AllERRep1
3. X (minors)v Bedford Shire County Council (1995)3 AllER353(HL)
4. (Hay or) Bourhill v. Young (1942) 2 All ER 396 (HL)
5. Caparo Industries (P)Ltd.Co. v Dickman(1990)1AllER568
6. Home Office v Dorset Yatch Co.Ltd(1970)2AllER294
7. Anns v merton London Borough(1977)2AllER294
8. Hill v Chief Constable of West Yorkshire Police(1988)2AllER238
9. Van Colle v Chief Constable of Herfordshire(2008)UKHL50
10. Jain v Trent Strategic HA (2009)UKHL4
11. Hedley Byrne v Heller (1964)AC 465
12. Rajkot Municipal Corporation v Manjulben Nakum (1997)9SCC552
13. Cholan Roadways Ltd. G. Thirugnanasambandam(2005)3SCC241
14. Murphy v Brentwood DC (1990)2AllER908
15. Barrett v Enfield London Borough Council (1999)3 AllER193
16. Municipal Corporation of Delhi v. Subhagwanti, AIR 1966 SC 1750
17. Bolam v Friern Hospital Management Committee(1957)2AllER118
18. Whitehouse v Jordon (1981)AllER267(HL)
19. Bolitho v City and Hackney Health Authority (1998)JAC232
20. *Pinnamaneni Narasimha Rao v. Gundavarapu Jayaprakas,* AIR 1990 AP 207
21. India Medical Association v V.P. Shantha, AIR 1996 SC 550
22. M/S Spring Meadows Hospital v Harjot Ahluwalia AIR1998SC1801

- 23 Dr.Suresh Gupta v Govt. N.C.T. of Delhi (2004)6SCALE432
- 24 *Jacob Mathew v. State of Punjab* (2005) 6 SCC
- 25 *State of Punjab v Shiv ram* (2005) 7SCC1
- 26 *Kusum Sharma v Batra Hospital* (2010) 3SCC 480
- 27 *Malay Kumar Ganguly v. Sukumar Mukherjee & Ors* AIR 2010 SC 1162
- 28 *Martin F. Douza v Mohd.Isfaq* AIR 2009 SC2004
- 29 *V. Kishan Rao v. Nikhil Super Speciality Hospital*,[2010]5 (S.C.C).513
- 30 ‘*Canterbury vs. Spence* – 1972 [464] Federal Reporter 2d. 772’
- 31 *Sidaway v. Bethlem Royal Hospital Governors & Ors*, [1985] 1 All ER 643
- 32 *Samira Kohli vs. Prabha Manchanda* [(2008) 2 Supreme Court Cases 1]
- 33 *Butterfield v Forrester* (1809)11East 60
- 34 *Davies v Mann* (1842) 10M&W546
- 35 *In Re An Arbitration between Polemis and Furness, Withy & Co.* (1921) All ER Rep. 40
- 36 *Overseas Tankship [UK] Ltd. v. Morts Dock & Engineering Co. [The Wagon Mound]* (1961) 1 All ER 404
- 37 *Smith v. Leech Brain & Co.* (1961) 3 All ER 1159
- 38 *Hughes v. Lord Advocate* (1963) AC 837
- 39 *Jolly v Salton London Borough Council* (2000)3AllER409
- 40 *Corr v IBC Vehicles* (2008)2WLR499

## **TOPIC - II** **NERVOUS SHOCK**

### **Nervous Shock**

- i. by intentional wrongs
- ii. fear of injury to self
- iii. fear of injury to another person

### **Prescribed Reading:**

1. H. Teff, “Liability for Psychiatric Illness After Hillsborough”, (1992) 12 OJLS 441
2. C. MC Ivor,”A Stressful Business”, (2005) 21 PN 123
3. D. Howarth “My Brothers keeper?” Liability for the acts of Third parties(1994) 14 LS 88
4. C. Mcloor, “Getting Defensive about Police Negligence : the Hill Principle, the Human Right Act and the House of Lords”, (2010) 69 CLJ 133
5. B. Markesinis, “Negligence , Nuisance and Affirmative Duties of Action” (1989) 105 LQR 104
6. K.M.Stanton, “Hedley Byrne and Heller : The Relationship factor”, (2007) 23 PN 94
7. M. Brazier & J Miola, “Bye-Bye Bolam: A Medical Litigation Revolution” (2000) 8 Med LR 85
8. H. Teff, “The Standard of care in Medical Negligence-Moving on Form Bolam,” 18 OJLS 473
9. R. Kidner,” The variable standard of Care, Contrubutory Negligence and Volent,” (1991) 11 LS7

10. The students have to study all cases prescribed by the Faculty from time to time.

**TOPIC - III**

**LIABILITY FOR DANGEROUS THINGS AND ACTIVITIES - STRICT LIABILITY  
- ABSOLUTE LIABILITY — NO FAULT LIABILITY**

- (i) Origin, introduction and rationale of no fault liability.
- (ii) Rule of Ryland v. Fletcher.
- (iii) Application of the Rule in India.
- (iv) Absolute Liability — Rule in M.C. Mehta v. Union of India.
- (v) The Public Liability Insurance Act 1991.

**Reading**

- 1. G.H.L. Fridman, “The Rise and Fall of Rylands v. Fletcher”, 34 Can. B. Rev. 810 (1956).
- 2. Donal Nolan, “The Distinctiveness of Rylands v. Fletcher”, 121 L.Q.R. 421 (2005)

**List of Cases**

- 1 Rylands v. Fletcher (1868) LR 3 HL 330.
- 2 Ready v Lyons & Co.(1946) 2AllER47
- 3 Rickards v Lothian (1913) AC263
- 4 The Madras Railway Co. v. The Zemindar of Carvatenagarum, LR (1874) 1 IA 364
- 5 State of Punjab v Modern Cultivators AIR 1965SC17
- 6 Cambridge Water Aorks Co.Ltd.v Eastern Counties Leather Plc.(1994)1 AllER 53(HL)
- 7 M.C. Mehta v Union of India, AIR 1987 SC 1086
- 8 Indian Council for Enviro legal Actionn v Union of India AIR 1996 SC 1446
- 9 M.C. Mehta v Kamalnath, AIR 2000 SC 1997
- 10 Union Carbide Corporation v Union of India AIR 1992 SC 248

**TOPIC IV**

**VICARIOUS LIABILITY**

- (i) Principles and Basis of Liability
- (ii) Master and Servant — Meaning
- (iii) Liability of State –
  - (a) Position in UK before 1948 and after 1948 - Crown Proceedings Act 1947
  - (b) Position in India before 1950 and after 1950.
  - (c) Liability for violation of Fundamental Rights with special reference to Article 21.
  - (d) Position in USA — Federal Tort Claim Act 1946.
  - (e) Position in France
  - (f) Human Rights Protection Act 1998.

**Readings**

- 1. Law Commission of India, First Report 1956.
- 2. Kidner, “Vicarious Liability; For whom should the employer be liable” (1995) 15 L.S. 47;

3. McKendric. “Vicarious Liability and Independent contractor a Re-examination” (1990) 53 MLR 770
4. Dalip Kumar, “Tortious Liability of the State A need for Legislation in India”, MDU Law Journal 2005, Part — 11, p. 83
5. G. Yethirajulu. “Article 32 and the Remedy of Compensation”, (2004) 7 SCC (J) 49
6. Aman Hingorani. “State Liability in Tort— Need for a Fresh Look”, (1994) 2 SCC (J) 7
7. The students have to study all cases prescribed by the Faculty from time to time.

**List of Cases**

*1 Peninsular and Oriental Steam Navigation Co v Secretary of State for India (1868-1869) 5 Bom HCR App 1*  
*2 State of Rajasthan v. Vidyawathi (1962) Supp. 2 SCR 989*  
*3 Kasturilal Ralia Ram Jain v. State of U. P. (1965) 1 SCR 375*  
*4 N. Nagendra Rao & Co. v. State of A. P., AIR 1994 SC 2663*  
*5 Chairman, Railway Board v. Chandrima Das (2002) 2 SCC 465*  
*6 Pushpa Thakur v Union of India (1984) ACJ 559 (SC)*  
*7 Kaushnqma Begum v new India Assurance Co.Ltd.(2001) 2 SCC 9*

**TOPIC - V**  
**NUISANCE**

- (ii) Introduction and Rationale
- (iii) Meaning and Components — Main feature of the wrong of nuisance
- (iv) Nuisance and Trespass Distinction
- (v) Categories of Nuisance.
- (vi) Private and Public Nuisance — Standard of Liability in Nuisance
- (vii) Nuisance relating to highways
- (viii) Environmental Wrongs
- (ix) Persons who can sue for nuisance
- (x) Persons who are liable for nuisance
- (xi) Defences and Remedies

**Reading**

1. J.R. Spencer, “Public Nuisance — A Critical Examination” (1989) CLJ 55
2. F.H. Newark, “The Boundaries of Nuisance”, 65 L.Q.R 480 (1949)
3. C. Gearty, The Place of Private Nuisance in Modern Law of Torts (1989) CLJ 214
4. The students have to study all cases prescribed by the Faculty from time to time.

**List of Cases**

- 1 Attorney General v P.Y.A (1975) 1 All ER 894
- 2 Hunter v Canary Wharf Ltd.(1997) 2 All ER 426 (HL)
- 3 Rajat Ali v Sugjani Bal AIR 1999 283
- 4 Allen v Gulf Oil Refining Ltd.(1981) All ER 353 (HL)
- 5 Diaware Ltd. V Wesiminister City Council (2001) 4 All ER 737 (HL)
- 6 St. Helen Smelting Co. v Tipping (1865) 11 HLCas 642
- 7 Baxter v Camden L.B.C.(1999) 3 WLR 79 (1994) 4 All ER 449
- 8 Hollywood Silver Fox Farm Ltd v Emmett (1936) 1 All ER 825
- 9 Kachrulal Bhagirath Agrawal v State of Maharashtra (2005) 9 SCC 36
- 10 Kuldip Singh v Subhash Chander Jam (2000) 4 SCC 50
- 11 GMM Pfaudler Limited v Tata Life Insurance Co. Ltd (2010) 6 ALIMR 561

**TOPIC VI**  
**DEFAMATION**

- (i) General — Meaning of Defamation
- (ii) Libel and Slander — Distinction UK and India
- (iii) Components of Defamation — Points to be proved in an action for defamation
- (iv) Innuendo.
- (v) Defamation of Deceased Person
- (vi) Defamation of Corporation
- (vii) Defamation and Media
- (viii) Defences — Justification or Truth. Fair Comment. Privileges — Absoluter & Qualified
- (ix) Remedies - Apology. Compensation, Injunction etc.
- (x) Defamation Act 1996 (UK)

**Readings**

- 1. Farooq Ahrned. “Service Providers Liability for Defamation”, XXIII *DLR* 91 (2001)
- 2. Gately, Libel and Slander, (1981, 8th ed.)
- 3. J.M. Kaye. “Libel and Slander Two Torts or one”? , 91 *LQR* 524 (1975)
- 4. Kenin Williams, “Defaming Politicians : The Not So Common Law”, 63 *MLR* 748 (2000).
- 5. Subarnanian Swamy, “Defamation Litigation : A Survivor’s Kit”, The Hindu, dated 21.09.2004
- 6. R. Mullender,” Defamation Fair Comment and Public Concern” (2010) 60 *CLJ* 443
- 7. The students have to study all cases prescribed by the Faculty from time to time.

List of Cases

- 1 Melepuruth Sankuni Ezhuthassan v Thekittil Geopalankutty Nair (1986) 1 *SCC* 118
- 2 Nemichand v Khemraj AIR 1973 Raj 240
- 3 Thusar kanti Ghosh v Bina Bhaumic (1953) 57 *CWN* 378
- 4 R K Karanjia v K M D Thakersy AIR 1970 Bom 424
- 5 E Hulton & Co. v Jones (1910) *AC* 20 (HL)
- 6 Ahybimon v Haridar 2010 (2) *KLT* 158
- 7 Mustaq Ahmed Mir v Akash Awin Bhat AIR 2010 J&K 11
- 8 Cassidy v Daily Mirror Newspaper Ltd. (1929) 2 *KB* 231
- 9 Tolby v J.S.Fry & Sons Ltd (1931) *AC* 333 (HL)
- 10 Reynolds v Times Newspaper (1999) 3 *WLR* 1010
- 11 Joseph v Spiller (2010) *UKSC* 53
- 12 Imtiaz Ahmad Vs. Durdana Zamir AIR 2009 *SC* 122
- 13 Bharat Bhushan v. Kamal Baugh (2015) 4 *SCC* 54
- 14 Subramanyan Swamy V. UOI (2016) 7 *SCC* 221
- 15 Dr Shashi Tharoor v. Arnab Goswami (2017) *SCC* 12049

**TOPIC VII**  
**TRESPASS TO THE PERSON**

- (i) Introduction - constitutional safeguards for Personal Liberty
- (ii) Battery

- (a) Defendant's state of mind
- (b) No consent by the claimant
- (c) The Character of defendants act
- (d) Damages
- (iii) Assault
- (iv) Tort of Sexual Harassment
- (v) Injury to a Child in the womb
- (vi) False Imprisonment
  - (b) What Constitutes False Imprisonment
  - (c) Who is liable
  - (d) Arrest by Public Officer
  - (e) Arrest by Private Person
- (vii) Justification
- (viii) Damages

**Readings:**

1. F. Trindade, International Torts: Some Thoughts on Assault and Battery (1982) 2 OJLS 211
  2. Tan, A Misconceived Issue in the Tort of false Imprisonment, (1981) 44 MLR 166
- List of Cases
- 1 S.Saiduddin v Court of Welfare Commissioner 1996(3)Scale28
  - 2 Stephen v Mvess (1830)4pp349
  - 3 A C Cama v H F Morgan (1864)1BHC205
  - 4 Colev v Turner (1704)6 Mod 149
  - 5 ready v Coker,138ER1437
  - 6R Ireland(1997)4AllER225
  - 7 Ashley v Chief Constable of Sussex Police (2008)UKHL25
  - 8 Austin v Commissioner of Police (2009)UKHL5

**TOPIC VIII**  
**MALICIOUS PROSECUTION**

- (i) Meaning of the Tort of malicious prosecute
- (ii) Nature and Components
- (iii) Malicious Civil Proceedings
- (iv) Malicious Legal Process
- (v) Abuse of Legal Process

**Reading:**

1Law Commission of India, 277th Report (page no. 99 ) on Wrongful Prosecution (Miscarriage of Justice): Legal Remedies, (2018).

The students have to study all cases prescribed by the Faculty from time to time.

1. Gregory v Pro ismouth city council (2000)1AllER560(HL)
2. Mohammad Amin v Jogendra Kumar AIR 1974PC108
3. Balbhattar v Badrisah AIR1926PC46
4. Ravinder Kumar Sharmuv State of Assam 1999 SC3751
5. Amar Singh v Bhagwati AIR2001Raj14
6. Radhey Mohan Singh v. Kaushalaya Devi AIR2003 Delhi 413.



7. Bhupindar Choudhary v. Chander Prakash MANU/DEL/4799/2009.)

**TOPIC - IX**  
**DISASTER RISK MANAGEMENT**

- (i) Initiatives in Disaster Management in India
- (ii) The Disaster Management Act, 2005
- (ii) National Policy on Disaster Management, 2009
- (iii) National Disaster Management Plan, 2016
- (iv) International Instruments: The Sendai Framework
- (v) Role of NGO's in Disaster Management
- (vi) Disaster Risk Reduction, Disaster mitigation planning and safety regulations

List of Cases:

- 1 Swaraj Abhiyan v. Union of India AIR 2016 SC 2929
- 2 Gaurav Kumar Bansal v. Union of India 2016 (3) SCALE 637

**Reading :**

- 1. **W. Nick Carter**, Disaster Management: A Disaster Managers Hand Book, Manila; Asian Development Bank, 1991.
- 2. **Vinod K. Sharma** (ed.), Disaster Management, 5<sup>th</sup> Ed., New Delhi: IIPA, 2010.
- 3. **T.N. Khoshoo** (1988) Environment Concerns and Strategies. Ashish Pub. House, Delhi.
- 4. **Vinod K. Sharma**, IDNDR and Beyond, New Delhi: IIPA, 2001.
- 5. M.C. Gupta & Vinod K. Sharma, Orissa Super Cyclone, 1999, New Delhi: IIPA, 2001

**Teaching Plan**

**Week 1:**

Meaning, origin of law of Torts and growth and development of Specific Torts. Discussion on theories of negligence, meaning, definition and essential constituents of negligence.

Week 2: Professional Negligence and the Consumer Protection Act 1986.

**Week 3:** Negligence by public authority and contributory negligence and

**Week 4:** Remoteness of Damage: Causation – But for Test, Concurrent Causes, Consecutive Causes, Proof of Causation; Novus Actus Interveniens; Tests of Remoteness of Damage – Natural and Proximate Consequence, Test of Directness

**Week 5:** Nervous Shock: Meaning, Impact Theory, From Personal Injury, From Property Damage

**Week 6:** Test of Foreseeability of Psychiatric illness; Nervous Shock: Primary Victims, Secondary Victims; Rescuers

**Week 7:** No fault Liability: Meaning and Rationale; Strict Liability – Rule in Rylands v. Fletcher – Origin, Nature, Scope and Exceptions

**Week 8:** Application of the Rule of Strict Liability in India; Role of Absolute Liability – Rule in M.C. Mehta v. Union of India; Bhopal Gas Leak Disaster case; Multinational Enterprise Liability Object and Salient features of the Public Liability Insurance Act, 1991; No fault liability in hit and run cases under Motor Vehicles Act, 1988.

**Week 9:** Vicarious Liability of State: Meaning and Basis of Liability - Position in England

and India

**Week 10:** Government Liability in Torts – Constitutional Provisions, Sovereign and Non-sovereign Functions; Law Commission of India First Report, 1956

**Week 11:** Violation of Fundamental Rights and Sovereign Immunity; Concept of Constitutional Tort

**Week 12:** Defamation: Meaning - Libel and Slander; Defamation as a reasonable restriction on freedom of speech and expression under Article 19(1)(a) of the Constitution of India, 1950 Essential Conditions; Defences - Justification by Truth, Fair Comment, Privilege (Absolute and Qualified), Consent and Apology.

**Week 13:** Concept of Nuisance, meaning, definition, categories, defences and remedies. Trespass to the person, categories, justifications and damages

**Week 14:** Discussion on Tort of Malicious Prosecution and legal remedies

**Week 15:** Initiatives in Disaster management in India, Legal provisions and Ground realities

**Facilitating the achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	<p>Explain the legal framework relating to the Negligence in India and its origins in the common law system.</p> <p>Analyse the complexities involved in it and construct legally cogent responses.</p> <p>Apply their knowledge to solve factual situations under tort law, under the Consumer Protection Act, 1986 and support them with logical arguments.</p> <p>Write research papers/notes and case comments.</p>	<p>A mix of lecture, discussion and case study method;</p> <p>presentations;</p> <p>assignments;</p> <p>hypothetical problems</p>	As given below
2.	<p>Explain the legal framework relating to the Nervous Shock in India and its origins in the Common Law System.</p> <p>Analyse the complexities</p>	<p>A mix of lecture, discussion and case study method;</p> <p>presentations;</p> <p>assignments;</p>	

	involved in it and construct legally cogent responses.  Apply their knowledge to solve factual situations under tort law and support them with logical arguments.	hypothetical problems	
3.	Explain the legal framework relating to the Remoteness of Damage in India and its origins in the Common Law System.  Analyse the complexities involved in it and construct legally cogent responses.  Apply their knowledge to solve factual situations under tort law and support them with logical arguments	A mix of lecture, discussion and case study method; presentations; assignments; hypothetical problems and quizzes	
4.	Explain the legal framework relating to the No Fault Liability in India and its origins in the Common Law System.  Analyse the complexities involved in it and construct legally cogent responses.  Apply their knowledge to solve factual situations under tort law and support them with logical arguments.  Write research papers/notes and case comments.	A mix of lecture, discussion and case study method; presentations; assignments; hypothetical problems	
5.	Explain the legal	A mix of lecture,	

	<p>framework relating to the Vicarious Liability of State in India and its origins in the Common Law System.</p> <p>Analyse the complexities involved in it and construct legally cogent responses.</p> <p>Apply their knowledge to solve factual situations under tort law and support them with logical arguments.</p> <p>Write research papers/notes and case comments</p>	<p>discussion and case study method;</p> <p>presentations;</p> <p>assignments;</p> <p>hypothetical problems</p>	
6.	<p>Explain the legal framework relating to the Defamation in India and its origins in the Common Law System.</p> <p>Analyse the complexities involved in it and construct legally cogent responses.</p> <p>Apply their knowledge to solve factual situations under tort law and support them with logical arguments.</p> <p>Write research papers/notes and case comments.</p>	<p>Lecture Method, Discussion Case Method, Student Presentations, Hypothetical Problem A mix of lecture, discussion and case study method;</p> <p>presentations;</p> <p>assignments;</p> <p>hypothetical problems</p>	
7.	<p>Explain the legal framework relating to Nuisance in India and its origins in the Common Law System.</p> <p>Analyse the complexities involved in it and construct</p>	<p>A mix of lecture, discussion and case study method;</p> <p>presentations;</p> <p>assignments;</p> <p>hypothetical</p>	

	<p>legally cogent responses.</p> <p>Apply their knowledge to solve factual situations under tort law and support them with logical arguments.</p> <p>Write research papers/notes and case comments.</p>	problems	
8.	<p>Explain the legal framework relating to the Trespass to the person and malicious prosecution in India and its origins in the Common Law System.</p> <p>Analyse the complexities involved in it and construct legally cogent responses.</p> <p>Apply their knowledge to solve factual situations under tort law and support them with logical arguments.</p> <p>Write research papers/notes and case comments.</p>	<p>A mix of lecture, discussion and case study method; presentations; assignments; hypothetical problems and quizzes</p>	
9.	<p>Explain the legal framework relating to the Disaster Management in India. Critically analyse the initiatives taken in India for disaster management and disaster risk reduction.</p>	<p>A mix of lecture, discussion and case study method; presentations; assignments; hypothetical problems.</p>	

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and	20 Marks

Presentations)	
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**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester II/ Semester IV**

**Course Code: 2YLM-EC-211/3YLM-EC-211**

**Course Name: Law, Media and Censorship**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objective :** Law relating to mass media considered a significant branch of legal education in India. In this paper, the students examine the various aspects of laws, regulations and regulating bodies that govern and restrict the media and journalism practice. Freedom of the press is a fundamental right guaranteed by the Constitution of India as an associated right to freedom of speech and expression. However, legislative bodies have not been hesitant to impinge on that freedom on the ground of reasonable restriction of fundamental rights. The different media organisations are regulated by different agencies in the country. Mass Media systems of the world vary from each other according to the economy, polity, religion and culture of different societies. In this age of media explosion, one cannot simply remain confined to the boundaries of the traditional media. The media world has expanded its dimensions by encompassing within its orbit, the widening vistas of cyber media etc. As a consequence, the laws governing them are also numerous. The laws on media will be discussed in detail in this paper. The paper primarily would focus on the laws and legal challenges faced by the media in India and situation in other developing countries. The ever-expanding dimensions of the media and its complex character which invokes non-traditional regulatory mechanism will form part of the paper.

**Objectives and Learning Outcomes.**

Upon successful completion of this course, the students will be equipped with:

1. To critically analyse the legal and regulatory restrictions on freedom of speech and expression and their impact on journalism practice.
2. To report on court hearings and legal issues.
3. To explain and apply the laws of defamation and contempt of court, privacy law, broadcasting law and human rights law to their practice.
4. To compare and contrast the different roles of courts, tribunals and regulatory bodies in relation to press and media institutions.
5. To evaluate the role and impact of self-regulation on the media and journalists.
6. To develop the research-oriented understanding in the field of media law and journalistic ethics.

**Content:**

**Unit-1. Historical Perspective of Press and Media Law**

1. Historical Perspective of Mass Media Laws.
2. Law relating to Press during Pre-Independence Period.
3. Role of Press and Media in India's Struggle for Independence.

4. Censorship Methods during British India.

**Unit-2. Constitution of India and Freedom of Speech and Expression**

1. Constitutional provisions regarding speech and expression.
2. Restrictions on freedom of speech and expression.
3. Right to broadcast and telecast.
4. Power of State to legislate u/a 246 read with 7<sup>th</sup> Schedule.
5. Misleading advertisement vis a vis consumer rights.

**Unit-3. Different Legal Regime of Indian Media-Regulatory Mechanism**

1. Legislative mechanism for the regulation media.
2. Institutional mechanism for the media.
3. Independent and autonomous media organization.
4. Media, Law and Ethics.

**Unit-4. Press and Media-Democratic Aspiration and Social Ordering**

1. Role of Media in social ordering and socialization of community.
2. Media and ethos of secularism in multi-cultural, multi-linguist and multi-ethnic society.
3. Media as watchdog of democracy.
4. Media and socially excluded communities.
5. Mass media and sustainable development.
6. Mass media-national security, terrorism and separatism.
7. Mass media and objectives of democracy.

**Unit-5. Understanding the Controlling Mechanism of Mass Media-Press, Films, Radio and Television**

1. Ownership pattern of print-journalism in India.
2. Ownership pattern of films in India-regional and mainstream cinema.
3. Ownership pattern of radio, television and web-based media organization.
4. Ownership pattern of international channels/media/press operating in India.

**Unit-6. Law relating to Mass Media-Issues and Challenges**

1. Protection of civil liberties and human rights-right to privacy, law of defamation, obscenity, blasphemy and sedition.
2. Investigative journalism and sting operation-harmonizing the social interest and promoting transparency.
3. The Press Council Act 1978-issue of autonomy.
4. The Press and Registration of Books Act 1867.
5. The Indian Official Secret Act 1923.
6. The Working Journalist Act 1958-employees connected with press and media organization.
7. Prize Competition Act 1955-price and page schedule regulation.
8. Telecom Regulatory Authority of India Act 1997.



### **Unit-7. Press Censorship in India**

1. Censorship and constitutional provisions.
2. Difference between Films and Press-Why Pre-Censorship valid for films but not for the press?
3. Censorship under Cinematography Act 1952.
4. The Newsprint Control Order.
5. Whether advertisement includes freedom of speech and expression.

### **Unit-8. Radio and Television: Why Government Monopoly**

1. Why radio and television controlled by the state.
2. Prasar Bharti-history, objective and functional mechanism.
3. Debate between liberal autonomous corporation and government control.
4. Chanda Committee Report.

### **Unit-9. Indian Press and Media-The Major Threats and Challenges**

1. Problem of fake news, yellow journalism, paid news, misleading reporting etc.
2. Problem of biased and prejudiced reporting.
3. Corporatization of Indian media.
4. Abuse and misuse of social media platforms.
5. Mitigating the cyber risk on Indian press and media platforms.
6. Crisis of media credibility in India.
7. Religious nationalism and media freedom.
8. Rising graph of media violence.

### **Recommended Reading:**

1. M P Jain, *Constitutional Law of India*, 2017
2. H M Seervai, *Constitutional Law of India*-Vol- 1 and 2, 2018
3. Rosemary Pennington and Hilary E. Kahn (Ed.), *On Islam: Muslims and the Media*
4. John B Howard, *The Social Accountability of Public Enterprises in Law and Community Control in New Development* (International Centre for Law in Development)
5. D D Basu, *The Law of Press of India*, 2018
6. Justice E S Venkatramiah, *Freedom of Press: Some Recent Trends*, 1984
7. Soli Sorabjee, *Law of Press Censorship in India*, 1976
8. Rajeev Dhavan, *On the Law of the Press in India*, JILI 1984
9. Vartika Nanda, *Media Law and Ethics: An Introduction of Legal and Ethical Issues in Journalism*, 2018
10. Law Commission Report 200, (Trial By Media)
11. Verhulst, Stefaan G; Price, Monroe E, Ed, *Broadcasting Reforms in India-Media Law from Global Perspective*
12. Guha, Pranjoy Thakurata, *Media Ethics-Truth, Fairness and Objectivity*
13. Dixit, Anil Kumar, *Press Law and Media Ethics*

### **Teaching Plan:**

**Week 1:** Formal introduction of the class with the aim to understand student's background and rational for choosing the LL.M. course in particular the optional paper Law, Media and Censorship. Explanation of the method of study including lectures, case study, problem solving, field work, discussions, research work, writing and presentation of term papers by students. Explaining that expert lectures, audio- visual methods, symposia, assignment of tasks including teaching the undergraduate students, library visit- searching the offline and online resources may also form part of the study. Introduction of the subject by providing an overview of its different parts and units and explanation of the method of making term papers and allocation of topics to student for preparing and presenting term papers including explanation of rules of plagiarism. To start the first unit and explain its various components. To trace the historical evolution of press and media organisation and to highlight importance and contribution of British, American and other international institutions for the development of media law, freedom of speech and expression. **(4 classes)**

**Week 2:** First unit continues. Introduction of basic concepts and principles including types, political and functional aspects, rights and duties, personality, privileges and immunities of media organization. Overview of the legal framework of mass media during pre-Independence era and the role that media organizations in India's struggle for independence. Class discussions and presentations by students shall simultaneously take place. **(4 classes)**

**Week 3:** Second unit starts. Introduction of basic concepts and principles concerning freedom of speech and expression under Indian legal system. The constitutional protection and rights of press and media institutions. To trace historical evolution of freedom of speech and expression and how this provision incorporates in Indian constitution. To analyse the contemporary issues, challenges and relevant national approaches including role of Supreme Court, State Governments and different organizations about freedom of speech and expression. Class discussions and presentations by students shall simultaneously take place. **(4 classes)**

**Week 4:** Second unit continues. To discuss the cases decided by the Supreme Court and different High Courts and Tribunals with regard to violation of certain principles of freedom of speech and expression. To critically analyse the legal and regulatory restrictions on expression and their impact on journalism practice. To understand the contemporary and recent developments and evolving practice of states and media organizations and their varying interpretations by individuals and nations. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 5:** Third unit starts. Introduction of institutional framework of Indian press and media organisation. In this unit main objective of teaching to explain the power and position of different institutions working to regulate the media organisations. To explain the functioning and authority of different legal/independent/autonomous bodies working to strengthen the freedom of speech and expression as enshrined under the Constitution of India. To evaluate the role and impact of various bodies of regulation on the media and journalists. To identify

and act within the relevant laws, policies and regulations governing the news media. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 6:** Third unit continues. To introduce the concept of role of Media and ethics and how media can play the role in nation building. Different issue and subjects will be undertaken in this week for extensive debate and discussion. The focus of the study would be remain on ethical decline of Indian press and media organisation. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 7:** Fourth unit starts. Introduction of the concept of role of media in social ordering. Media and its relation with minorities. To explain the role of the media in secular and multi-religious and multi-ethnic societies. How media can play a crucial role in national security and achieving the goals of democracy. Topics like media and environment protection will be covered in this period. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 8:** Fifth unit starts. Introduction of ownership pattern of media industry. The advantage and disadvantage of corporatisation of media industry. To explain the ownership pattern in different countries including India's neighbouring countries and how their media industry works. To explain the concepts of affirmative action, social justice, environment reporting under corporate culture. To give students the tasks of assessment of different media reporting, corruption, political patronage enjoyed by the reporters and to opine if any reform is needed in present state of affairs of Indian media. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 9:** Sixth unit starts. To introduce the concept of human rights, civil liberties, defamation and sedition in Indian press and media. To explain and understand the various approaches of journalism and contentious issues surrounding the journalism. In this unit attempt will be made to decipher the various modes of journalism and harmonising the social interest, human rights and national interest. To explain the role of the press and media in development of human rights movement in India. To understand the civil liberties movement under the United Nations and role of media in strengthening national human rights institutions. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 10:** Sixth unit continues. To discuss the national and international legal framework to protect the press rights, freedom of media and their regulation. In this unit the main focus will be on critical analysis of different laws developed aiming to ensure freedom of speech and expression in India. To discuss the role of the TRAI and Ministry of Information and Broadcasting and other enforcement instruments in India. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 11:** Seventh unit starts. To introduce the concept of censorship in India and civil liberties approaches under Constitution of India. To explain the various methods of censoring the contents and its legitimacy. To examine the censoring power of the state and evaluating

the justification under different laws. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 12:** Eighth unit start. To explain the role of government and reasoning behind the state control of national broadcasts. To critically examine the power and position of Prasar Bharti and its main function. The issue of desirability of liberal and autonomous broadcast service in India. To encourage discussions regarding the desirability of an independent and impartial media institution in India. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 13:** Ninth unit start. To introduce the major threats to the Indian press and media organisations. This unit would also focus on challenges posed by Indian media and how to tackle the same. How Indian law sufficient enough to contain these problems. To discuss the current state of Indian press and media with special reference to problem of fake news, yellow journalism, paid news and misleading reporting etc. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 14:** Ninth unit continue. In this session the major challenges faced by the Indian media will be discussed in length. What are factors responsible for credibility crisis of Indian media. Attempt will be made to discuss the what are problems of social media platforms. To explain the basic ethos of journalism in the era of corporatisation of media industry. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 15:** Revision of the course, queries from the students, problem solving and presentations by students shall take place. **(4 classes)**

### **Facilitating the achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	<b>Historical Perspective of Press and Media Law</b>	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
2.	<b>Constitution of India and Freedom of Speech and Expression</b>	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
3.	<b>Different Legal Regime of Indian Media-Regulatory</b>	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.

	<b>Mechanism</b>		
<b>4.</b>	<b>Press and Media-Democratic Aspiration and Social Ordering</b>	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>5.</b>	<b>Understanding the Controlling Mechanism of Mass Media-Press, Films, Radio and Television</b>	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>6.</b>	<b>Law relating to Mass Media-Issues and Challenges</b>	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>7.</b>	<b>Press Censorship in India</b>	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>8.</b>	<b>Radio and Television: Why Government Monopoly</b>	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
<b>9.</b>	<b>Indian Press and Media-The Major Threats and Challenges</b>	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester II/Semester IV**

**Course Code: 2YLM-EC-203/3YLM-EC-203**

**Course Name: Law of Air and Space**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objectives**

The objective of the course is to understand and analyse the growth and development of International Air and Space Law. It will help to understand how the developments in aircraft and spacecraft technology have contributed to the growth and evolution of International Law to regulate various aspects and use of air space and outer space. The first part of the course helps in understanding jurisprudential debates on freedom and sovereignty over air space; legal aspects of safety and security of International aviation and liability of the carriers for ensuring safe carriage to the passengers, baggage and goods. The second part helps to understand the developments in outer space technology and consequent regulation of uses and exploration of outer space by International law. It shall explain delimitation and legality of military use of outer space including menace of space debris and environmental degradation. It explains the legal status of the objects launched into outer space and return and rescue of astronauts and concerns of countries relating to access to moon. It finally deals with various space applications such as telecommunication, remote sensing, space research, resource exploitation, space tourism and offences against space aircraft.

**Course Learning Outcome**

At the completion of course the LL.M. students shall know and understand important aspects of the law of air space and outer space. They shall have skills of understanding difficult and important issues of national and international concern. They shall be able to carry out researches upon these issues and write scholarly works. Students shall have capacity of communication with others on international aviation and outer space matters and shall be able to make presentations before the wider audience to put their views forward. This course shall provide them the necessary edge and competence to take up the national concerns before the international fora and successfully compete with their foreign counterparts.

Through this course, the students shall know the intricacies of this subject and get in-depth understanding of a relatively unconventional area that offers vast opportunities and avenues to the Masters of Law students at national and international level. The whole course is designed in a way to provide not just theoretical understanding of this specialized area but also practical exposure and understanding that shall be useful for students in their career in academics and in profession. The students having studied Law of Air and Space may seek jobs in the academia, airlines sector, corporate, in government sector, international organizations, foreign national universities and institutions and may make career in the practice of Air and Space Law before courts.

**Contents:**

**Unit I: Development of Air Law**

1. Sovereignty over Air Space
2. Freedom of Air

## **Unit II: Safety and Security in Aviation**

1. Aviation Terrorism
2. Unlawful Seizure of Aircraft
3. Offence of Hijacking
4. Extradition of Hijackers
5. Prosecution of Hijackers
6. Aviation Security in India

## **Unit III: Liability in Air Law**

1. Nature of Liability
2. Liability Limits
3. Exemption from Liability, Limitation of Liability, Unlimited Liability of Career
4. Recent Developments in International Air Career Liability

## **Unit IV: Space Law**

1. Concept of Space Law
2. Delimitation of Outer Space
3. Legality of Military Uses of Outer Space: Nuclear weapon tests, Reconnaissance, Jurisdictional issues, Threat or use of force
4. Space Debris: Mitigation and Prevention

## **Unit V: Legal Status of Objects Launched into Outer Space and of Astronauts**

1. The problem of ownership
2. Assistance and Rescue of Astronauts and the Return of Astronauts
3. Recovery and return of objects launched into outer space.
4. Expenses incurred in rescue, recovery and return of astronauts and space objects
5. The state of Registry and Launching Authority

## **Unit VI: Moon Treaty**

1. Scope of Moon Treaty
2. Review of Moon Treaty
3. Controversial Aspects of Moon Treaty
  - (i) Concerns of Developed Countries - Common Heritage of Mankind, Moratorium, Problems of Establishing a Regime
  - (ii) Concerns of Developing Countries- Failure to achieve equity, Neo-neocolonialism
4. Framework for the Future

## **Unit VII: Space Applications**

1. Telecommunications
2. Remote Sensing
3. Space Research
4. Resource Exploitation
5. Space Tourism - Space careers, Astronauts as envoys of mankind in outer space, Offences against spacecraft



## **Unit VIII: Air and Space Dispute Settlement Mechanisms**

1. Existing Mechanisms
2. National and International Adjudicating Bodies
3. Need for the Establishment of a Permanent Arbitration Tribunal for the Settlement of Air and Space Disputes

### **Suggested Readings:**

#### **Prescribed Books:**

1. I.H.Ph. Diederiks -Verschoor, An Introduction to Air Law, Kluwer Law International, (2001).
2. Dempsey, P, Public International Air Law, McGill University, (2007).
3. Dempsey, P, Public International Air Law: Cases and Materials, Institute of Air and Space, McGill University, (2007).
4. A McNair, The Law of the Air, International Civil Aviation Organisation (ICAO), (1964).
5. J.C. Batra, International Air Law Reliance Publishing House, New Delhi, (2003).
6. S. Bhatt, V.S. Mani and V. Balakista Reddy (ed.) Air Law and Policy in India Lancers Books, (1994).
7. S. Bhatt, An Introduction to Space Law, Martinus Nijhoff Publishers, The Hague, (1999).
8. Cheng, B, Studies in International Space Law, Oxford University Press/Clarendon Press, (1997).
9. Jakhu, Ram S, Space Law: General Principles, Documents and Materials, McGill University (2006).

#### **Treaties, Conventions and Resolutions:**

1. Paris Convention, 1919
2. Chicago Convention, 1944
3. Tokyo Convention, 1963
4. Hague Convention, 1970
5. Montreal Convention, 1971
6. Montreal Protocol for Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, 1988
7. Convention on the International Marking of Plastic Explosives, 1991
8. The Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982
9. Warsaw Convention, 1929
10. Guatemala City Protocol, 1971
11. The Protocol of 1978 amending the Rome Convention
12. Amendments of the Warsaw Convention with reference to basis of Convention, Limits of Liability, Unbreakability of Limits of Liability
13. Montreal Convention, 1999
14. Treaty on Principles Governing the Activities of States in the Exploration and the Use of Outer Space, including the Moon and other Celestial Bodies; entered into force on Oct. 10, 1967.
15. Resolution of the UN General Assembly on Prevention of an Arms Race in Outer Space, UN Doc. A/RES/61/58 of 6 December 2006.
16. Space Debris Mitigation Guidelines of the Scientific and Technical Subcommittee

of the Committee on the Peaceful Uses of Outer Space, UN Doc. A/AC.105/890 of 6 Mar. 2007

17. Agreement on the Return of Astronauts on the Rescue of Astronauts, Return of Astronauts and Return of Objects Launched into Outer Space, 1968
18. Convention on International Liability for damages caused by Space Objects, 1971
19. Convention on International Liability of Objects, 1973
20. Convention on Registration of Objects Launched into Outer Space, 1976
21. Agreement on Activities of States on the Moon and other Celestial Bodies, 1979
22. Principles Relating to Remote Sensing of the Earth from Outer Space, 1986.
23. Resolution of the UN General Assembly on the Application of the Concept of the 'Launching State', UN Doc. A/RES/59/115 of 25 January 2005.
24. Resolution of the UN General Assembly on Prevention of an Arms Race in Outer Space, UN Doc. A/RES/61/58 of 6 December 2006.
25. Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting, 1982.
26. Principles Relating to Remote Sensing of the Earth from Outer Space, 1986.

**Other Materials:**

1. Dean N. Reinhardt, The Vertical Limit of State Sovereignty, 72 J. Air L. & Com. 65 (Journal of Air Law and Commerce, 2007).
2. G.S. Sachdeva, Challenges in Air Law, 47 IJIL 200 (2007).
3. P.C.K. Ravindran, Control of Terrorism in Air Space: Efforts by the International Community, 37 IJIL 27-42 (1997).
4. Paul Stephen Dempsey, Compliance & Enforcement in International Law: Achieving Global Uniformity in Aviation Safety, 30 N.C.J. Int'l L. & Com. Reg. 1 (North Carolina Journal of International Law & Commercial Regulation, 2004).
5. Paul R. Verkuil, Terrorism, Globalization and the Rule of Law: The Publicization of Airport Security, 27 Cardozo L. Rev. 2243 (Cardozo Law Review, 2006).
6. Thomas Conlon, The Unlawful Seizure of Aircraft – An International Legislative Response, 45/46 Yearbook of the Association of Attenders and Alumni of the Hague Academy of International Law, The Hague, (1975-76), p. 87.
7. Paul Stephen Dempsey, Aviation Security: The Role of Law in the War Against Terrorism, 41 Colum. J. Transnat'l L. 649 (Columbia Journal of Transnational Law, 2003).
8. V.S. Mani, Aviation Security, International Terrorism and the Law, 32 IJIL 1 (1992).
9. M.K. Nawaz, Liability for Aerial Collisions, 37 IJIL 88-92 (1997).
10. Frans G. Von Der Dunk, Navigating Safely Through the 21<sup>st</sup> Century: ICAO and the Use of GNSS in Civil Aviation, 47 IJIL 1 (2007).
11. Daniel A. Porras, The "Common Heritage" of Outer Space: Equal Benefits For Most of Mankind, 37 Cal. W. Int'l L.J. 143, (California Western International Law Journal, 2006).
12. Peter T. Limperis, Orbital Debris And the Spacefaring Nations: International Law Methods For Prevention And Reduction Of Debris, And Liability Regimes For Damage Caused By Debris, 15 Ariz. J. Int'l & Comp. Law 319, (Arizona Journal of International and Comparative Law, 1998).
13. David Everett Marko, A Kindler, Gentler Moon Treaty: A Critical Review of the Current Moon Treaty and a Proposed Alternative, 30 IJIL 1 (1990).
14. Vladimír Kopál, Introduction to the United Nations Treaties and Principles on Outer Space, Proceedings of the United Nations/International Institute of Air and Space Law Workshop on Capacity Building In Space Law, United Nations, New York, 2003, p.10.

15. S. Bhatt, The Role of the United Nations in the Regulation of Uses of Air Space and Outer Space, 35 IJIL 201(1995).
16. Armel Kerrest, The Liability Convention and Liability for Space Activities, Proceedings of the United Nations/International Institute of Air and Space Law Workshop on Capacity Building In Space Law, United Nations, New York, 2003, p. 25.
17. Case Concerning US Diplomatic and Consular Staff in Tehran (US v. Tehran), ICJ Reports, 1980, p.42.
18. Case Concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libya v. USA & UK), ICJ Reports, 1992, p.3.

### **Teaching Plan:**

**Week 1:** Formal introduction of the class with the aim to understand student's background and rational for choosing the LL.M. course. Explanation of the method of study including lectures, case study, problem solving, field work, discussions, research work, writing and presentation of term papers by students. Explaining that expert lectures, audio- visual methods, symposia, assignment of tasks including teaching the undergraduate students, library visit- searching the offline and online resources may also form part of the study. Introduction of the subject by providing an overview of its different parts and units and explanation of the method of making term papers and allocation of topics to student for preparing and presenting term papers including explanation of rules of plagiarism. To start the first unit and explain its various components. To trace the historical evolution of International Air and Space Law and to highlight its importance and necessity in regulating the use of air space and outer space. **(4 classes)**

**Week 2:** First unit continues. To introduce the basic concepts and principles such as air space, sovereignty over it and doctrine of freedom of air. To explain the emergence of aircraft technology and the national concerns about the rights over their air spaces and evolution of international customary law of sovereignty over airspace. To have an overview of the legal framework of Paris Convention 1919 and Chicago Convention 1944 and the role that they played in regulating the use of airspace. Class discussions and presentations by students shall simultaneously take place. **(4 classes)**

**Week 3:** Second unit starts. Introduction of the threat to aviation security through acts of terrorism, seizure of air craft and hijacking of air craft etc. and their regulation by International law. To discuss and analyse the provisions in the relevant international treaties providing for prosecution and extradition of the offenders. To examine contemporary issues, challenges and relevant national approaches including role of United Nations and its organs especially the International Courts. Class discussions and presentations by students shall simultaneously take place. **(4 classes)**

**Week 4:** Second unit continues. To discuss the cases decided by the national and international Courts and the major international Conventions including Tokyo Convention 1963, Hague Convention 1970, and Montreal Convention 1971etc. To highlight the contemporary and recent developments, evolving practice and laws within states and their varying interpretations by individuals and nations. To explain the Indian laws regulating the security of its aviation sector. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 5:** Third unit starts. To introduce the issues for which an aircraft carrier becomes liable. To explain the nature of liability, limits of liability, exemption from liability, limitation of Liability, and unlimited liability of career. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 6:** Third unit continues. To introduce the recent developments in International air career liability and to explain the provisions of different international conventions and other instruments that regulates the liability of the career. Major focus shall be upon the Warsaw Convention 1929 and Montreal Convention 1999. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 7:** Fourth unit starts. To introduce the concept of Outer Space and its various uses. To explain the Space law and its delimitation by international agreements. To discuss the legality of military uses of outer Space, its use for nuclear weapon tests and for reconnaissance. To discuss the jurisdictional issues and the threat or use of force in the Outer Space. To explain the problem of Space debris and the methods of its mitigation and prevention. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 8:** Fourth unit continues. To discuss and explain the objectives and provisions of various International treaties, agreements and resolutions of UN bodies such as Outer Space Treaty, 1967, GA Resolution on Prevention of Arms Race in Outer Space etc. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 9:** Fifth unit starts. To introduce the phenomena of launching various objects and astronauts in the Outer Space by nations. To explain the problem of ownership of such objects and the necessity of assistance and rescue and the return of astronauts. To explain the issue of recovery and return of objects launched into outer space and expenses incurred in rescue, recovery and return of astronauts and space objects. To discuss the state of registry and launching authority. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 10:** Fifth unit continues. To discuss the International Treaties and Conventions including Agreement on Return and Rescue of Astronauts and Return of Objects Launched in Outer Space, 1968, Convention on International Liability for Damages caused by Space Objects, 1971, Convention on International Liability of Objects, 1973 and Convention on Registration of Objects Launched into Outer Space, 1976. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 11:** Sixth unit starts. To introduce the aims and provisions of Moon Treaty, 1979 and to examine if its review is required. To explain the controversial aspects of Moon Treaty and discuss various concerns of developed and developing countries. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 12:** Seventh unit starts. To introduce the use of Outer Space for telecommunications, remote sensing and space research. To explain the concept of resource exploitation, space tourism - space careers. To explain the role of astronauts as envoys of mankind in outer space and also to discuss the offences against spacecraft. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 13:** Seventh unit continues. To introduce the objectives and provisions of international treaties and agreements including Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting, 1982 and Principles Relating to Remote Sensing of the Earth from Outer Space, 1986 etc. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 14:** Eighth unit starts. To introduce the existing mechanisms for settlement of Air and Space disputes. To discuss the role of National and International adjudicating bodies and to examine the need for the establishment of a permanent arbitration Tribunal for the settlement of air and space disputes. Class discussions and student's presentations shall simultaneously take place. **(4 classes)**

**Week 15:** Revision of the course, queries from the students, problem solving and presentations by students shall take place. **(4 classes)**

**Facilitating the Achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	Development of Air Law	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
2.	Safety and Security in Aviation	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
3.	Liability in Air Law	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
4.	Space Law	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
5.	Legal Status of Objects Launched into Outer Space and of Astronauts	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
6.	Moon Treaty	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
7.	Space Applications	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.

<b>8.</b>	Air and Space Dispute Settlement Mechanisms	Case Discussion; Lecture Method; Group Discussion and Student's Presentation	As given below.
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**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester II/Semester IV**

**Course Code: 2YLM-EC-205/3YLM-EC-205**

**Course Name: Competition and Consumer Protection Law**

**Marks-100 (80+20) Duration – 90 Hours**

**Learning Objectives**

- (1) To impart students with an overview of the legal foundations of competition law and consumer law at the national as well as international level.
- (2) To enable students to apply fundamental principles of consumer based laws and develop an understanding of the interconnectedness of the laws.
- (3) To enable students to critically examine the implementation of competition and consumer laws in light of the leading decisions of the national courts.

**Learning Outcomes**

- (1) Students would be able to identify the key underlying foundations of the competition and consumer law.
- (2) Students would be able to understand the interconnectedness of the laws and how the fora under the respective laws may be accessed.
- (3) Students would understand the challenges in the implementation of the laws and how one law complements the other.

**Content**

**PART- A**

**THE COMPETITION ACT, 2002**

**UNIT – I  
INTRODUCTION**

**4 hrs**

1. Basic Concepts –Constitutional aspect of Elimination of Concentration of Wealth and Distribution of Resources Article 39 (b) (c) Relation between Competition Policy and Competition Law
2. Objectives of Competition Law
3. Legislative History and Development of Competition Law/Antitrust Law, Liberalization and Globalization
4. Raghavan Committee Report, Competition Act 2002
5. Difference between MRTP Act and Competition Act,
6. Salient feature of Competition Act
7. Important Definitions under the Competition Act, 2002
8. The Competition (Amendment) Bill, 2012
9. Draft National Competition Policy, 2011

**Required Readings:**

1. Raghavan Committee Report
2. Competition Act 2002
3. The Competition (Amendment) Bill, 2012
4. Draft National Competition Policy, 2011

**UNIT – II  
ANTI- COMPETITIVE AGREEMENTS**

8hrs

1. Anti- Competitive Agreements
2. Horizontal and Vertical agreements
3. Rule of Perse and Reason
4. Appreciable Adverse Effect on Competition (AAEC) in India
5. Exemption
6. Prohibition of Anti competitive agreement/ Cartel/bid rigging.

**Comparative Law:**

- *Section 1 of Sherman Antitrust Act, 1890 & The Clayton Act, 1914*
- *Agreements, decisions and concerted practices under Article 101 of the TFEU*

**Required Readings:**

1. Competition Act 2002
2. Sherman Antitrust Act, 1890 & The Clayton Act, 1914
3. TFEU

**UNIT – III  
ABUSE OF DOMINANCE**

8 hrs

1. Enterprise
2. Relevant Market
3. Dominance in Relevant Market
4. Abuse of dominance
5. Predatory Pricing.

**Comparative Law:**

- *Section 2 of Sherman Antitrust Act, 1890*
- *Abuse of dominant position under Article 102 of the TFEU*

**Required Readings:**

1. Competition Act 2002
2. Sherman Antitrust Act, 1890 & The Clayton Act, 1914
3. TFEU

**UNIT – IV  
COMBINATIONS**

8hrs

1. Merger, Acquisition, Amalgamation and Takeover
2. Horizontal, Vertical and Conglomerate Mergers
3. Combinations covered under the Competition Act, 2002
4. Regulations, Penalties.

**Comparative Law:**

- *Merger Analysis under US Law*
- *European Community Merger Regulation*

**Required Readings:**

1. Competition Act 2002

**UNIT – V  
ESTABLISHMENT AND CONSTITUTION OF COMPETITION COMMISSION OF  
INDIA**

2 hrs

1. Powers and Functions
2. Jurisdiction of the CCI



3. Adjudication and appeals
4. Director General of Investigation (DGI)
5. Penalties and Enforcement.

**Required Readings:**

1. Competition Act 2002

**PART-B**  
**THE CONSUMER PROTECTION ACT, 1986**

**UNIT – VI**  
**INTRODUCTION TO CONSUMER PROTECTION LAW**

*2 hrs*

1. Constitutional validity of the Consumer Protection Act, 1986
2. Object and Reasons, Scope and Applicability
3. Definitions- Complainants, Complaint, Consumer, Defect, Deficiency, Goods, Manufacturer, Services, Spurious, Restrictive Trade Practice, Unfair Restrictive Trade Practice.

**Required Readings:**

1. Consumer Protection Act, 1986

**UNIT – VII**  
**CONSUMER DISPUTE REDRESSAL AGENCIES: THREE-TIER-STRUCTURE**

*2 hrs*

1. District Consumer Dispute Redressal Forum - Constitution, Powers, Jurisdiction, Procedure, Appeals.
2. State Consumer Dispute Redressal Commission - Constitution, Powers, Jurisdiction, Procedure, Appeals.
3. National Consumer Dispute Redressal Commission - Constitution, Powers, Jurisdiction, Procedure, Appeals.
4. Nature of relief which can be provided by the consumer dispute redressal agencies including Cease & Desist Order, Compensation and Corrective Advertisements etc.

**Required Readings:**

1. Consumer Protection Act, 1986

**UNIT – VIII**  
**MEANING AND SCOPE OF SERVICES**

*6 hrs*

1. Splitting the definition of service into three parts- Main, Inclusionary, exclusionary i.e. rendering of any service free of charge or under a contract of personal service
2. Medical Services rendered by medical practitioners, Government Hospital/ Nursing Homes and Private Hospitals/ Nursing Homes- Whether service rendered free of charge would make the patient a ‘Consumer’?

**Required Readings:**

1. Consumer Protection Act, 1986

**UNIT – IX**

**UNFAIR TRADE PRACTICES: MEANING AND SCOPE OF THE EXPRESSION “  
UNFAIR TRADE PRACTICE”**

**4 hrs**

1. General Definition - Unfair method or unfair or deceptive practice- Scope of unfairness standard, Deceptive Practice- Deceptive to whom- Basic Rules of General Application for determining the meaning of a representation. The puffing privilege reference to section 5 of the U.S Federal Trade Commission Act, 1914.
2. Specific Categories of Unfair Trade Practices
  - (i) False and misleading representations occurring in connection with promotion of goods and services such as:
    - False Representation about particular standard Grade, Quality, Quantity, Composition, Style and Model.
    - False Representation that goods are new.
    - False Representation that supplier has sponsorship or approval or affiliation.
    - False and Misleading Representation Concerning the needs for or usefulness of any Goods and Services.
    - Misleading and illusionary Guarantees/ Warranties.
    - Misleading statements concerning prices.
    - False Representation
    - Disparaging the Goods, Service or trade of others.
3. Bait Advertisings
4. Offers of Gifts, Prices and conduct of promotional contests and lotteries- withholding information about results of schemes offering gifts/ prizes.
5. Non- compliance of standard prescribed to reduce risk of injury.
6. Hording/ Destructions of goods.
7. Manufacturing/ offering spurious goods.

**Required Readings:**

1. Consumer Protection Act, 1986
2. U.S Federal Trade Commission Act, 1914.

**UNIT – X**

**THE CONSUMER PROTECTION BILL, 2015**

**4 hrs**

1. Inclusion of services in product liability
2. Conditions to claim product liability
3. Unfair contracts
4. Consumer rights
5. Misleading advertisements
6. Consumer Disputes Redressal Commissions -Central Consumer Protection Authority, Pecuniary jurisdiction of district commissions
7. Consumer Mediation Cell
8. Adulteration of products

9. Comparison of the 1986 Act with the 2015 Bill.

**Required Readings:**

1. Consumer Protection Act, 1986
2. Consumer Protection Bill 2015

**Teaching Plan**

**Week 1:**Unit I

**Week 2:**Unit II

**Week 3:** Unit II

**Week 4:** Unit III

**Week 5:** Unit III

**Week 6:** Unit IV

**Week 7:** Unit IV

**Week 8:** Unit V + Unit VI

**Week 9:** Unit VII + Unit VIII

**Week 10:** Unit VIII

**Week 11:** Unit IX

**Week 12:** Unit X

**Week 13:** Class Presentations

**Week 14:** Class Presentations

**Week 15:** Class Presentations

**Facilitating the achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	The students would be oriented towards the subject area of competition law and be familiar with its development through the years.	Lectures to be delivered	As given below.
2.	The students would be able to recognise and appraise key conceptual principles of anti-competitive agreements.	Lectures to be delivered	As given below.
3.	The students would be able to recognise and appraise key conceptual principles of abuse of dominant position in relevant markets.	Lectures to be delivered	As given below.
4.	The students would be able to recognise and appraise key conceptual principles of combinations.	Lectures to be delivered.	As given below.
5.	The students would be able to recognise the structure and functions of the Competition Commission	Lectures to be delivered.	As given below.

	of India as well as its enforcement mechanisms.		
6.	The students would be able to understand the basics of Consumer Protection Law	Lectures to be delivered.	As given below.
7.	The students would be oriented towards the subject area of consumer protection law and be familiar with its development through the years.	Lectures to be delivered.	As given below.
8.	The students would be able to recognise the structure and functions of the various consumer protection fora.	Lectures to be delivered.	As given below.
9.	The students would be able to critically analyse the expanse of the unfair trade practices.	Lectures to be delivered.	As given below.
10.	The students would be able to identify and critically analyse the differentiating factors of the Consumer Protection Bill from the Consumer Protection Act.	Lectures to be delivered.	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester III**

**Course Code: 2YLM-EC-104/3YLM-EC-104**

**Course Name: Interpretation and Drafting of Treaties and Legislations**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objectives:**

- (a) The primary objective of this course is to introduce students to the law of treaties.
- (b) In doing so, the effort would be to acquaint students with international law instruments and practices, diverse literature on the subject and the cases decided by the international courts and tribunals.
- (c) The purpose of this course, however, is not limited to accumulating information from different sources rather to understand and develop critical perspectives on the law of treaties. The teaching method would primarily adopt, though would not limit itself to, the critical third world approaches to international law.
- (d) In addition, one of the objectives is to develop a peer group of students interested in the law of treaties, and provide a platform for rigorous engagement on the subject.
- (e) Significantly, it aims to encourage research on diverse aspects of the law of treaties.

**Course Learning Outcomes:**

**At the completion of the course, the students will be able to:**

- (a) Understand different aspects of the law of treaties, its development and application.
- (b) Develop critical perspectives on the law of treaties, particularly a third world perspective.
- (c) Understand and critically analyze India's treaty practice.
- (d) Acquaint and engage themselves with the works of international law scholars working on the law of treaties.
- (e) Develop research skills and appreciate the contemporary debates on the law of treaties.

**CONTENTS:**

**Unit 1: Introduction to the law of treaties**

- (a) Evolution of international law and the role of treaties
- (b) Colonialism and the law of treaties
  - i. Unequal treaties
- (c) Sources of international law with a particular focus on treaties
  - i. *Proces-Verbaux* of the Proceedings of the Advisory Committee of Jurists with Annexes (16 June 1920 - 24 July 1920)
  - ii. United Nations Conference on International Organization (San Francisco, 1945)
  - iii. Article 38 of the Statute of the International Court of Justice and its scope
- (d) Development of the Law of Treaties: An Overview

- i. Havana Convention on the Law of Treaties (1928)
  - ii. Harvard Draft Convention on the Law of Treaties (1935)
  - iii. Work of the International Law Commission (1949-1966)
  - iv. United Nations Conference on the Law of Treaties (Vienna, 26 March–24 May 1968 and 9 April–22 May 1969)
  - v. United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 18 February — 21 March 1986)
- (e) Definition of treaty
- i. Treaties between states and international organizations or between international organizations
  - ii. Can non-state actors make treaties?
  - iii. Secret treaties
  - iv. Unsigned treaties
  - v. Memorandum of Understanding; Exchange of notes
- (f) Concept of treaty
- i. Contractual analogy in law of treaties
  - ii. Theory and significance of *Pacta Sunt Servanda*
  - iii. Principle of good faith

## **Unit 2: Process of Treaty-making, Conclusion and Entry into force**

- (a) Duty to negotiate in good faith
- (b) Process of treaty-making
- (c) Consent to be bound by a treaty
  - i. Signature
  - ii. Act of ratification – Need and significance
  - iii. Accession or Adhesion to treaties
- (d) Obligations prior to entry into force
- (e) Entry into force of treaties and its effects

## **Unit 3: Scope of treaty obligations**

- (a) Reservation to treaties and its effect on states' obligations
  - i. Work of the ILC on the reservations to treaties
  - ii. Reservations to human rights treaties
- (b) Treaty obligations on third party/parties
- (c) Observance of treaties and internal law

## **Unit 4: Interpretation, conflict, revision of treaties**

- (a) Interpretation of treaties
  - i. Discussions in the United Nations Conference on the Law of Treaties (Vienna, 26 March–24 May 1968 and 9 April–22 May 1969)
  - ii. The Role of subsequent agreement and subsequent practice
  - iii. ILC work on the subsequent agreements and subsequent practice in relation to interpretation of treaties
  - iv. Principle of systemic integration
  - v. Significance of *travaux préparatoires* in the interpretation of treaties
  - vi. ILC work on the Fragmentation of international law
- (b) Conflict of treaties
  - i. Conflict between Article 103 of the UN Charter and a treaty
- (c) Conflict between customary international law and treaties
- (d) Revision, amendment and modification of treaties

#### **Unit 5: Legal aspects of invalidity, termination and suspension of treaty obligations**

- (a) Invalidity of treaties
  - i. Effect of municipal law, error, fraud, corruption, coercion
  - ii. Peremptory norms of general international law (*jus cogens*)
    - 1) What is *jus cogens*?
    - 2) Identification
    - 3) Illustrations
    - 4) Work of the ILC on the Peremptory norms of general international law (*jus cogens*)
    - 5) Conflict between Article 103 of the UN Charter and *jus cogens*.
- (b) Termination of treaties
  - i. *Lex generalis*
  - ii. Denunciation of human rights treaties
  - iii. Termination of bilateral investment treaties [with India as a case study]
  - iv. Municipal law and denunciation of treaties [Brexit; Withdrawal of South Africa from the Rome Statute]
- (c) Suspension of the operation of treaties
- (d) Effects of armed conflicts on treaties
  - i. ILC work on the Effects of Armed Conflicts on Treaties

#### **Unit 6: Inadequacies of the Vienna Convention on the law of treaties**

- (i) Limitations of the Vienna Convention on the law of treaties
- (ii) Law of treaties beyond the Vienna Convention on the law of treaties

**Unit 7: Treaty practice of India**

- (a) Constitution of India and international law
- (b) Implementation of international law in India
- (c) Constitution of India and treaty making powers
- (d) Indian courts and the law of treaties

Prescribed Books:

- (a) Anthony Aust, *Modern Treaty Law and Practice*, (3<sup>rd</sup> edn., Cambridge University Press 2018)
- (b) J Klabbers, *The Concept of Treaty in International Law* (Kluwer Law International 1996)
- (c) M Fitzmaurice and Olufemi Elias, *Contemporary Issues in the Law of Treaties* (Eleven International Publishing 2005)
- (d) Robert Kolb, *The Law of Treaties: An Introduction* (Edward Elgar 2016)
- (e) T O Elias, *The Modern Law of Treaties* (Oceana Publications 1974)

Reference Books:

- (a) Christian J Tams, Antonios Tzanakopoulos, Andreas Zimmermann and Athene E. Richford (eds), *Research Handbook on the Law of Treaties* (Edward Elgar 2016)
- (b) Duncan B Hollis, *The Oxford Guide to Treaties* (Oxford University Press 2012)
- (c) J Klabbers and R Lefeber (eds), *Essays on the Law of Treaties: A Collection of Essays in Honour of Bert Vierdag* (Martinus Nijhoff 1998)
- (d) Mark E Villiger, *Commentary on the 1969 Vienna Convention on the Law of Treaties* (Brill 2008)
- (e) Mark E Villiger, *Customary International Law and Treaties: A Manual on the Theory and Practices of the Interrelation of Sources* (2<sup>nd</sup> rev edn, Kluwer Law International 1997)
- (f) Martii Koskeniemi (ed), *Sources of International Law* (Routledge 2000)
- (g) O'Connor, *Good Faith in International Law* (Darmouth 1991) 124.
- (h) Oliver Dörr and Kirsten Schmalenbach (eds), *Vienna Convention on the Law of Treaties: A Commentary* (Springer 2012)
- (i) Olivier Corten and Pierre Klein (eds), *The Vienna Conventions on the Law of Treaties: A Commentary* (Oxford University Press 2011)
- (j) Paul Reuter, *Introduction to the Law of Treaties* (2<sup>nd</sup> edn., Routledge 1995)
- (k) Richard Gardiner, *Treaty Interpretation* (2<sup>nd</sup> edn., Oxford University Press 2017)
- (l) Seyed Ali Sadat-Akhavi, *Methods of Resolving Conflicts between Treaties* (Brill 2003)



- (m) Surabhi Ranganathan, *Strategically Created Treaty Conflicts and the Politics of International Law* (Cambridge University Press 2014)
- (n) Wolfrum, R. and Roben, V. (eds), *Developments of International law in Treaty Making* (Springer 2005)

### **Prescribed Conventions:**

- (a) Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI.
- (b) Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3.
- (c) Statute of the International Court of Justice (signed 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI.
- (d) Statute of the Permanent Court of International Justice (16 December 1920) (1923) UKTS 23.
- (e) Vienna Convention on Succession of States in respect of Treaties (adopted 23 August 1978, entered into force 6 November 1996) 1946 UNTS 3.
- (f) Vienna Convention on the Law of Treaties (adopted 22 May 1969, entered into force 27 January 1980) 1155 UNTS 331.
- (g) Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations 1986 ((1986) 25 ILM 543).

### **Works of the International Law Commission**

[For a comprehensive understanding of the diverse issues, links to the analytical guide containing all the ILC documents on a given work is mentioned below]

- (a) Analytical Guide to the Work of the International Law Commission on Subsequent agreements and subsequent practice in relation to interpretation of treaties (2008-present) <[http://legal.un.org/ilc/guide/1\\_11.shtml](http://legal.un.org/ilc/guide/1_11.shtml)>
- (b) Analytical Guide to the Work of the International Law Commission on the Law of treaties (1949-1966) <[http://legal.un.org/ilc/guide/1\\_1.shtml](http://legal.un.org/ilc/guide/1_1.shtml)>
- (c) Analytical Guide to the Work of the International Law Commission on the Identification of customary international law (2012-present) <[http://legal.un.org/ilc/guide/1\\_13.shtml](http://legal.un.org/ilc/guide/1_13.shtml)>
- (d) Analytical Guide to the Work of the International Law Commission on Peremptory norms of general international law (*Jus cogens*) (2016-present) <[http://legal.un.org/ilc/guide/1\\_14.shtml](http://legal.un.org/ilc/guide/1_14.shtml)>

- (e) Analytical Guide to the Work of the International Law Commission on the Succession of States in respect of treaties (1968-1974) <[http://legal.un.org/ilc/guide/3\\_2.shtml](http://legal.un.org/ilc/guide/3_2.shtml)>
- (f) Analytical Guide to the Work of the International Law Commission on the
- (g) Analytical Guide to the Work of the International Law Commission on the Reservations to treaties (1993-2011) <[http://legal.un.org/ilc/guide/1\\_8.shtml](http://legal.un.org/ilc/guide/1_8.shtml)>
- (h) Effects of armed conflicts on treaties (2004-2011) <[http://legal.un.org/ilc/guide/1\\_10.shtml](http://legal.un.org/ilc/guide/1_10.shtml)>
- (i) Report of the Study Group of the International Law Commission [ILC] Finalized by Martti Koskenniemi, *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law*, UN doc A/CN.4/L.682 (13 April 2006)

### **Other documents**

- (a) Constitution of India, 1950
- (b) Declarations recognizing the jurisdiction of the Court as compulsory: India <<https://www.icj-cij.org/en/declarations/in>>
- (c) Documents of the United Nations Conference on International Organization, vol XIV (San Francisco, 1945)
- (d) Documents of the United Nations Conference on International Organization, vol XIII (San Francisco, 1945)
- (e) Draft-Scheme for the Institution of the Permanent Court of International Justice mentioned in article 14 of the Covenant of the League of Nations presented to the Council of the League by the Advisory Committee of Jurists (1920)
- (f) *Proces-Verbaux* of the Proceedings of the Advisory Committee of Jurists with Annexes (16 June 1920 - 24 July 1920)

### **Prescribed Articles:**

- (a) A Aust, 'The Theory and Practice of Informal International Instruments', 35 *Int'l Comparative L Quarterly* (1986) 787
- (b) Andreas L Paulus, 'Jus Cogens in a Time of Hegemony and Fragmentation: An Attempt at a Reappraisal', 74 *Nordic J Int'l L* (2005) 297
- (c) B S Chimni, 'An Outline of a Marxist Course on Public International Law', 71 *Leiden J of Int'l L* (2004) 1
- (d) C H Hyde, 'The Interpretation of Treaties by the Permanent Court of International Justice', 24 *American J Int'l L* (1930) 1
- (e) C Redgwell, 'Universality or Integrity? Some Reflections on Reservations to General Multilateral Treaties', 64 *British Yearbook Int'l L* (1993) 245

- (f) C W Jenks, 'Conflict of Law-Making Treaties', 30 *British Yearbook Int'l L* (1953) 401
- (g) Campbell Mc Lachlan, 'The Principle of Systemic Integration and Art 31(3)(c) of the Vienna Convention', 54 *Int'l Comp L Quarterly* (2005) 279
- (h) Curtis A Bradley, 'Unratified Treaties, Domestic Politics, and the U.S. Constitution', 48 *Harvard Int'l L J* (2007) 307
- (i) D P Myers, 'The Names and Scope of Treaties', 51 *American J Int'l L* (1957) 574
- (j) Duncan B Hollis, 'Why State Consent Still Matters- Non-State Actors, Treaties, and the Changing Sources of International Law', 23 *Berkeley J Int'l L* (2005) 137.
- (k) G Gaja, 'A "New" Vienna Convention on Treaties between States and International Organizations or between International Organizations: A Critical Commentary', 58 *British Yearbook Int'l L* (1987) 253
- (l) Gary L Scott, and Craig L. Carr, 'Multilateral Treaties and the Formation of Customary International Law', 25 *Denv J Int'l L & Pol'y* (1996-1997) 71.
- (m) H Wehberg, '*Pacta Sunt Servanda*', 53 *American J Int'l L* (1959) 775
- (n) Harvard Study, 'Draft Convention on the Law of Treaties', 29 *American J Int'l L* (Supp. 1935) 652, 712
- (o) I Detter, 'Problem of Unequal Treaties', 15 *Int'l Comp. L Quarterly* (1966) 1069
- (p) J K Koh, 'Reservations to Multilateral Treaties: How International Legal Doctrine Reflects World Vision', 23 *Harvard Int'l L J* (1982) 71
- (q) J Klabbers 'How to Defeat a Treaty's Object and Purpose Pending Entry into Force: Towards Manifest Intent', 34 *Vanderbilt J Transn'l L* (2001) 283
- (r) John King Gamble & Kevin Belknap, 'The Emergence of a Pacific or Asia-Pacific Region in Multilateral Treaty Making: A 500 year Perspective', 12 *Australian L J* (2005) 17
- (s) K Widdows, 'What is an International Agreement in International Law?', 50 *British Yearbook Int'l L* (1979) 117
- (t) Mark A. Weisburd, 'Customary International Law: The Problem of Treaties', 21 *Vanderbilt J of Trans L* (1988) 1.
- (u) Mathew Craven, 'What Happened to Unequal Treaties? The Continuities of Informal Empire', 74 *Nordic J of Int'l L* (2005) 335
- (v) Myres S McDougal, 'The International Law Commission's Draft Articles upon Interpretation Textuality Redivivum', 61 *American J Int'l L* (1967) 992
- (w) O Lissitzyn, 'Treaties and Changed Circumstances (*Rebus Sic Stantibus*)', 61 *American J Int'l L* (1967) 895
- (x) R Kearney & R Dalton, 'The Treaty on Treaties', 64 *American J Int'l L* (1970) 495
- (y) R P Anand, 'Reservations to Multilateral Conventions', 1 *Indian J Int'l L* (1960) 84
- (z) R R Baxter, 'International Law in "Her Infinite Variety"', 29 *Int'l Comparative L Quarterly* (1980) 549

- (aa) Srinivas Burra, 'India's Reservations to Human Rights Treaties', 44 *Indian J of Int'l L* (2004) 749
- (bb) Yogesh Tyagi, 'The conflict of law and policy on reservations to human rights treaties' 71 *British Yearbook of Int'l L* (2000) 181
- (cc) Yogesh Tyagi, 'The Denunciation of Human Rights Treaties', 79 *British Yearbook of Int'l L* (2008) 86
- (dd) Yoram Dinstein, 'The Interaction between Customary International Law and Treaties', 322 *Recueil des Cours* (2006) 242.

**Prescribed Cases:**

- (a) *Advisory Opinion on Reservations to the Genocide Convention*, ICJ Rep. (1951) 15
- (b) *Advisory Opinion on the Competence of the General Assembly on Admission of a State to the U.N.*, ICJ Rep. (1950) 4
- (c) *Advisory Opinion on the Interpretation of the Agreement of 25 March 1951 between the W.H.O. and Egypt*, ICJ Rep. (1980) 73
- (d) *Anglo-Iranian Oil Co. Case*, ICJ Rep. (1952) 93
- (e) *Appeal Relating to the Jurisdiction of the I.C.A.O. Council (India v. Pakistan)*, ICJ Rep. (1972) 46
- (f) *Belilos v. Switzerland*, Eur. Court H.R., Series A, Vol.132 (1988)
- (g) *Bhavesh Jayanti Lakhani v.Stateof Maharashtra & Others* JT (2009) 11 SCC 279
- (h) *Blackburnv. A.G.* (1917) 2 All ER 1380
- (i) *Case Concerning Oil Platforms (Iran v. U.S.A.)*, 42 Int'l Legal Materials (2003) 1334
- (j) *Case Concerning the Gabcikovo- Nagymaros Project (Hungary v. Slovakia)*, ICJ Rep. (1997) 7
- (k) *Certain Norwegian Loans (France v. Norway)*, ICJ Rep. (1957)
- (l) *Committee of US Citizens Living in Nicaraguav. Reagan*,83 American J Int'l L (1989) 380
- (m) *D.K.Basu v. State of West Bengal* (1997)1 SCC 416
- (n) *Democratic Alliance v Minister of International Relations and Cooperation and Others (Council for the Advancement of the South African Constitution Intervening)* (83145/2016) [2017] ZAGPPHC 53
- (o) *Divya Pharmacy v. Union of India and Ors*, MANU/UC/0940/2018 (21 December 2018)
- (p) *Factory of Chorzow case*,1927PCIJ Series A, No. 9, p. 31
- (q) *Fishery Jurisdiction Cases*, ICJ Rep. (1973) 49
- (r) *Free Zones of upper Savoy and the District of Gex*, 1932 PCIJ Series A/B, No. 46
- (s) *In re Berubari Union No. (I)*(1960) 3 SCR 250

- (t) *Justice K.S.Puttaswamy(Retd) v Union Of India* (2017) 10 SCC 1
- (u) *Land and Maritime Boundary between Cameroon and Nigeria*, ICJ Rep. (2002) 303
- (v) *Legality of the Use of Force (Yugoslavia v. USA)*, Provisional Measures Order, ICJ Rep. (1999) 916
- (w) *Maritime Delimitations and Territorial Questions Between Qatar and Bahrain (Merits)*, ICJ Rep. (2001) 40
- (x) *Maritime Delimitations and Territorial Questions Between Qatar and Bahrain (Jurisdiction No.2)*, ICJ Rep. (1995) 6
- (y) *North Sea Continental Shelf cases*, ICJ Rep. (1969) 97
- (z) *Nuclear Test cases(Australia v. France; New Zealand v. France)* ICJ Rep. (1974) 253, 457
- (aa) *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)* IC Rep. (2016) 255.
- (bb) *Oil Platforms (Preliminary Objections) Case*, ICJ Rep. (1996) 803
- (cc) *Prosecutor v. Dusko Tadic* (Judgement of Appeals Chamber of ICTY), 38 Int'l Legal Materials (1999) 1518
- (dd) *R (Miller) v Secretary of State for Exiting the European Union* [2017] UKSC 5
- (ee) *R v. Bow Street Metropolitan Stipendiary Magistrate and others ex p Pinochet Ugarte (No. 3)* (1999) 2 All ER 97; 38 Int'l Legal Materials (1999) 581
- (ff) *Ram Kishore Senv. Union of India*(1966) 1 SCR 430
- (gg) *Reparations for Injuries suffered in Service of the U.N.*, ICJ Rep. (1949) 174
- (hh) *Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)* [Request for indication of Provisional Measures] (2011) ICJ
- (ii) *Right of Passage over Indian Territory (Preliminary Objections) (Portugal v. India)*, ICJ Rep. (1957)
- (jj) *Sei Fujiv. State of California* (Supreme Court of California), 1952, 38 California (2<sup>nd</sup> Series), p. 718, 242
- (kk) *Temple of Preah Vihear*, ICJ Rep. (1962) 6
- (ll) *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, ICJ Rep. (2007)
- (mm) *The Wimbledon Case (France, Italy, Japan and the U.K. v. Germany)*, (1923) P.C.I.J. Reports, Series A, No.1
- (nn) *UK/French Continental Shelf Arbitration*, 54 Intern'l L Reports (1978) 6
- (oo) *Union of Indiav. Sukumar Sen Gupta*AIR 1990 SC 1692
- (pp) *United States Diplomatic and Consular Staff in Tehran*, ICJ Rep. (1980) 3

## TEACHING PLAN:

**Week One:** Present the overview of the course; explain the teaching methodology and plan; discuss and identify the expectations of the students from the course

**Week Two:** Evolution of international law and the role of treaties; colonialism and the law of treaties

**Week Three:** Sources of international law with particular focus on treaties; definition of treaty; concept of treaty.

**Week Four:** Process of treaty making, conclusion and entry into force

**Week Five:** Parties to treaties; Reservation to treaties and its effect on obligations

**Week Six (First lecture):** Treaty obligations on third party/parties; Observance of treaties and internal law

**Week Six (Second lecture):** Conflict of treaties; Conflict between customary international law and treaties

**Week Seven (First lecture):** Revision, amendment and modification of treaties

**Week Seven (Second lecture):** Interpretation of treaties

**Week Eight:** Legal aspects of invalidity, denunciation and suspension of treaty obligations

**Week Nine:** Legal aspects of invalidity, denunciation and suspension of treaty obligations

**Week Ten:** Inadequacies of the Vienna Convention on the law of treaties

**Week Eleven:** Treaty practice of India

**Week Twelve:** Discuss the outcome of the course; get students' feedback for the improvement of the course and teaching methodology.

**Week Thirteen-Fifteen:** Class Presentations/Revision

#### **Facilitating the achievement of Course Learning Outcomes**

<b>Unit No.</b>	<b>Course Learning Outcomes</b>	<b>Teaching and Learning Activity</b>	<b>Assessment Tasks</b>
1.	Understand different aspects of the law of treaties, its development and application	Lectures; classroom presentations and discussion	As given below.
2.	Develop critical perspectives on the law of treaties, particularly a third world perspective	Lectures; classroom presentations and discussion; Inviting experts subject to the University rules	As given below.
3.	Acquaint and engage	Lectures; classroom	As given below.

	themselves with the works of international law scholars working on the law of treaties	presentations and discussion; Inviting experts subject to the University rules	
4.	Develop research skills and appreciate the contemporary debates regarding the law of treaties	Lectures; classroom presentations and discussion; Inviting experts subject to the University rules	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester III/ Semester V**

**Course Code: 2YLM-EC-105/3YLM-EC-105**

**Course Name: International Economic Law, Trade and Diplomacy**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Learning Objectives**

- (1) To impart students with an overview of the legal foundations of international economic and trade law as well as the current issues on the subject
- (2) To enable students to apply fundamental principles of International Economic and Trade Law in view of the treaty provisions, leading decisions of international courts and tribunals
- (3) To impart students with the modes of addressing issues of International Economic, Trade and Investment systems in their inter-disciplinary perspective – economic, political and ethical aspects
- (4) To enable students to acquire understanding on the legal foundations of international financial and monetary institutions

**Learning Outcomes**

- (1) Students are expected to be able to identify the major strands of international economic and trade law
- (2) Students would be able to understand the operation of the WTO, IMF, World Bank, UNCTAD, UNCITRAL, MIGA etc. and how to use these fora
- (3) Students would understand deeply the interplay of human rights, sustainable development, labour law with the international trade, investment and economic law

**CONTENT:**

**TOPIC – I**

**INTRODUCTION**

- (i) Meaning, Nature and Sources of International Economic Law
- (ii) The Policies and Realities of International Economic Law in the Global Context
- (iii) Introduction to Multinational Corporations and International Investment Law
- (iv) Trade and Its Linkages to Environment Protection

**Required Readings:**

1. Charter of the UN (Preamble, Purposes, General Assembly Powers, Chapter IX)



2. Koul, A.K. (1986), The United Nations and the International Economic Co-operation for a Better Future, In Saxena, J.N., Singh, G. & Koul A.K. (ed.) *United Nations For a Better World*, Lancers Books, Delhi
3. Koul, A.K. (1977), *The Legal Framework of UNCTAD in World Trade*, BRILL, (digitized in 2007), available online at <http://goo.gl/5I692E>
4. Cutler, A. Claire, (2008), “Towards a Radical Political Economy Critique of Transnational Economic Law”, In Marks, Susan (ed.), *International Law On the Left: Re-examining Marxist Legacies*, Cambridge University Press, UK

## **TOPIC – II**

### **FOUNDATIONS OF INTERNATIONAL ECONOMIC LAW**

- (i) Developing States and International Economic Relations
- (ii) Permanent Sovereignty over Natural Resources
- (iii) New International Economic Order
- (iv) Economic Rights and Duties of States; Issues relating to Transfer of Technology and Transnational Corporations

#### **Required Readings:**

1. GA Res. 1803 on Permanent Sovereignty over Natural Resources, 1962
2. GA Res. 3201 on Declaration on the Establishment of a New International Economic Order (NIEO), 1974
3. GA Res 3202 on Program of Action on the Establishment of a NIEO, 1974
4. Charter of Economic Rights and Duties (CERDS), 1974
5. GA Res. 41/128 on Right to Development, 1986
6. Rao, P.C. (1975), “Charter of Economic Rights and Duties of States”, 15 *Indian J Int’l L* (15) 35
7. Dubey, M. (1976), “Problems of Establishing a New International Economic Order”, 32 *India Quarterly* (3) 269

## **TOPIC – III**

### **INTERNATIONAL TRADE LAW-I**

- (i) Evolution of World Trade Organization – 1947 to 1995
- (ii) Institutional Framework of WTO
- (iii) Most-Favored Nation (MFN) Treatment and National Treatment
- (iv) Tariffs, Bound Rates, TBT, SPS, Labour Standards

### **Suggested Materials**

1. The students should download the above GATT and WTO Agreements from the website [www.wto.org](http://www.wto.org). and study the Agreements minutely as these agreements are highly complex bordering on so many issues both tariff and non-tariff. The Full Text of the URUGUAY ROUND, 1994 can be found in *International Legal Materials* available in the Law Library.
2. Bhala, Raj (2019), *International Trade Law: A Comprehensive Textbook (4 Volumes)*, (5<sup>th</sup> ed.), Carolina Academic Press, USA
3. Choukroune, L. (2014), "National Treatment Reconsidered: Upholding State Sovereignty in International Trade and Investment Law", 54 *Indian Journal of International Law* 283-316
4. Pratap, R. (2009), "India, WTO And Alcoholic Beverages", 49 *Indian Journal of International Law* 88-94
5. Das, K. (2008), "Coping with SPS Challenges in India: WTO and Beyond", 11 *Journal of International Economic Law* (4) 971-1019

### **TOPIC – IV INTERNATIONAL TRADE LAW-II**

- (i) Subsidies and Countervailing Measures (SCM)
- (ii) Dumping and Anti-dumping Duties
- (iii) Trade in Services (GATS), Trade Related Aspects of Intellectual Property Rights (TRIPS), Trade Related Investment Measures (TRIMS)
- (iv) Emerging Trends: Multilateralism or Regionalism

### **Suggested Materials**

1. Jackson, John H. (2000) *Jurisprudence of GATT and WTO*, Cambridge University Press, USA
2. Koul, A.K. (2005), *GATT and WTO*, Satyam Law International, New Delhi
3. Jackson, John H. (1969), *World Trade and the Law of GATT*, Bobbs Merrill Co.
4. Mitsuo Matsushita, Thomas J. Shoenbaum and Petros C. Mavroidis (1998), *WTO – Law, Practice and Policy*, Oxford University Press
5. Zin, S.M. & Kazi, A.U.S., (2011), "Environment Exceptions under Article XX of the General Agreement on Tariffs and Trade (GATT): The Significance of Customary International Law and its Role in the World Trade Organization (WTO) Disputes Settlement in the Twenty First Century", 51 *Indian Journal of International Law* 1-20
6. Bhala, Raj (2019), *International Trade Law: A Comprehensive Textbook (4 Volumes)*, (5<sup>th</sup> ed.), Carolina Academic Press, USA

### **TOPIC – V**

**DISPUTE SETTLEMENT MECHANISM  
AND INTERNATIONAL COMMERCIAL ARBITRATION**

- (i) Dispute Settlement Mechanism of WTO
- (ii) Consultation; Panel and Appellate Review; Compliance and Enforcement
- (iii) International Commercial Mediation & Arbitration: UNCITRAL, ICC & ICSID
- (iv) Recognition and Enforcement of Agreements and Awards

**Suggested Materials:**

1. Koul, A.K. (2005), *GATT and WTO*, Satyam, New Delhi
2. Babu, R.R. (2010), "Interpretation Of The WTO Agreements, Democratic Legitimacy And Developing Nations", 50 *Indian Journal Of International Law* (2010) 45-90
3. Koul, A.K. (2003), "WTO Dispute Settlement Mechanisms: A Fresh Look", 25 *Delhi Law Review* (2003) 67-102
4. Mitsuo Matsushita, Thomas J. Shoenbaum and Petros C. Mavroidis, (1998), *WTO–Law, Practice and Policy*, Oxford University Press
5. Prasad, R. (2013), "The Mauritian International Arbitration Act 2008: Is It A Platform for International Commercial Arbitration?", 37 *Delhi Law Review* 134-148
6. The Students should study in detail UN Convention on International Settlement Agreements Resulting from Mediation, 2019, UNCITRAL Arbitration Rules; ICC Arbitration Rules; and ICSID Arbitration Rules.

**TOPIC – VI**

**INTERNATIONAL INVESTMENT & LEGAL REGULATION OF  
TRANSNATIONALS CORPORATIONS**

- (i) Transnational Corporations; Its advantages and disadvantages; Code of Conduct
- (ii) Standard Investment Treaties
- (iii) Model Bilateral Investment Treaties
- (iv) Dispute Settlement

**Suggested Materials:**

1. International Convention on Settlement of Investment Disputes, 1965
2. Convention Establishing the Multilateral Investment Guarantee Agency (MIGA), 1985
3. Jha, L.K. (1970), "Multinationals as a Source of Technology- For Developing Countries" *India Quarterly* (33) 49

4. Shihata, I.F.I. (1986) "Towards a Greater Politicization of Investment Disputes: The Roles of ICSID & MIGA, 1 *ICSID Review: Foreign Investment Law Journal* 1-15
5. Koul, A.K., (1981) "The MNCS: Whether Bonanza or a Source of Illusions for the Developing Countries" 2 *Review of Contemporary Law* 11-30, Brussels
6. Sangal, P.S. (1981) *National and Multinational Companies: Some Legal Issues*, (Distributed by N.M. Tripathi, Bombay)
7. Jayagovind, A. (1975) "Report of the Group of Eminent Persons on Multinational Corporations: An Analysis" *Indian J Int'l L* 521
8. Martin Jerge (1994) "Foreign Multinational Corporations and U.S. Antidumping Law," 28 (4) *Journal of World Trade* (1994) 67-82.

## **TOPIC – VII**

### **INTRNATIONAL MONETARY LAW**

- (i) International Monetary Law and the International Monetary Fund (IMF)
- (ii) Code of Multilateral system of Payments under article VIII of the IMF Articles of Agreement
- (iii) International Liquidity and the SDR
- (iv) Role of Conditionality
- (v) The International Bank for Reconstruction and Development (IBRD) and its affiliates International Finance Corporation (IFC) and International Development Agency (IDA)

#### **Suggested Materials:**

1. Head, J. (2008), *Losing the Global Development War: A Contemporary Critique of the IMF, The World Bank, And the WTO*, Brill Nijhoff
2. Chatterjee, A. (2016), "Jaitley Calls for IMF Quota Reforms, Increase in World Bank Capital", India Today News, available at <http://goo.gl/CEfRHR>
3. Corrado Pirzio, (1983) "Making Sense of the IMF conditionality Debate", 17 *American Journal of International Law* 115-153
4. Richard Gerster (1982), "The IMF and the Basic Needs Conditionality", 16 *Journal of World Trade* 497-517.
5. Siegel, D.(2005), *Legal Aspects of the IMF/WTO Relationship: The IMF's Articles of Agreement and the WTO Agreements*, Current Developments in Monetary & Financial Law, Vol. 3, International Monetary Fund
6. Finger, J.M. & Other (1980), "The Compensatory Financing Facility and the Export Stability", 14 *Journal of World Trade* 14-22.

**Note:** As students of this subject, it is imperative to consult Journal of World Trade, published from London and is available in the Library of the Faculty of Law, and find leading articles on this topic

**Weekly Plan of Teaching**

**Weeks 1-2:** Topic 1

**Weeks 3- 5:** Topic 2

**Week 6-8:** Topic 3

**Weeks 9-10:** Topic 4

**Weeks 11-12:** Topic 5

**Week 13:** Topic 6

**Weeks 14-15:** Topic 7

**Facilitating the achievement of Course Learning Outcomes**

<b>Unit No</b>	<b>Course Learning Outcomes</b>	<b>Teaching and Learning Activity</b>	<b>Assessment Tasks</b>
1.	Understanding the various terminologies of economic and trade law; sources of international economic and trade law	Lectures, Class Presentations, Discussions.	As given below.
2	Understanding the foundations and importance of developing countries' approach to international economic law	Lectures, Class Presentations, Discussions.	As given below.
3	Applying the concepts of international trade law as enshrined in the WTO	Lectures, Class Presentations, Discussions.	As given below.

4	Enabling the students to understand the concept of 'subsidies', 'dumping' and the remedies available under international and national law	Lectures, Class Presentations, Discussions.	As given below.
5	Enable the students to use commercial arbitration and mediation to resolve commercial disputes; also to use the DSB Panel of WTO	Lectures, Class Presentations, Discussions.	As given below.
6	Students would be able to understand the importance of multinational companies and the basics of international law on investment vis-à-vis developing countries	Lectures, Class Presentations, Discussions.	As given below.
7	Enabling the students to know the monetary policies adopted by the world community and the interests of developing countries	Lectures, Class Presentations, Discussions.	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester III**  
**Course Code: 2YLM-EC-106/3YLM-EC-106**  
**Course Name: Environmental Law**

**Marks: 100 (80+20)**

**Duration: 90 Hours**

**Course Objectives:**

The objective of this course will be to

- (i) understand and critically evaluate the role of multilateral environmental agreements (MEAs) and national environmental laws in protecting environment and promoting sustainable development;
- (ii) analyze the central role played by environmental laws and policies in national planning and environmental governance;
- (iii) assess the effectiveness of the legal mechanisms and fundamental principles that help environmental decision making and delivery of environmental justice.

**Course Learning Outcomes:**

At the end of this course, the students will be able to

- (i) understand the contribution of international environmental laws and the national measures for protecting environment and achieving sustainable development;
- (ii) evaluate the environmental laws and policies in India, environmental constitutionalism, shaping of environmental laws and policies to meet the contemporary needs and their implementation;
- (iii) analyse the functioning of institutional structures for environmental governance, liability regimes and environmental justice delivery.

**Contents:**

**UNIT 1. INTERNATIONAL ENVIRONMENTAL LAW**

**A. INTERNATIONAL MEASURES TO PROTECT GLOBAL ENVIRONMENT**

*sic utere tuo ut alienum non laedas*

Trail Smelter Arbitration Case, 33 AJIL (1939), 182; 35 AJIL (1941) 684

UN Conference on Human Environment (UNCHE), 1972

— Stockholm Declaration, 1972

World Charter for Nature, 1982

Montreal Protocol to Prevent the Depletion of Ozone Layer, 1987 as amended;

Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (1998).

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989;

UN Conference on Environment and Development (UNCED), 1992.



- Rio Declaration, 1992
- Agenda 21
- Forest Principles, 1992

The Convention on Biological Diversity, 1992; Cartagena Protocol on Biosafety, 2000 –Nagoya Protocol on Access and Benefit Sharing, 2010; Nagoya Kuala Lumpur Supplementary Protocol on Liability and Redress relating to Living Modified Organisms, 2010

UN Framework Convention on Climate Change, 1992; Kyoto Protocol, 1997, Paris Agreement, 2015.

Convention on Access to information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998 (Aarhus Convention)

Basel Protocol on Liability and Compensation, 1999

Stockholm Convention on Persistent Organic Pollutants, 2001

## **B. INTERNATIONAL ENVIRONMENTAL INSTITUTIONS**

United Nations Environment Programme (UNEP) – UN Environment

United National Development Programme (UNDP)

Global Environment Facility (GEF)

World Conservation Union (IUCN)

### **Readings:**

1. Trail Smelter Arbitration Case, 33 AJIL (1939), 182; 35 AJIL (1941) 684
2. Stockholm Declaration, 1972
3. World Charter for Nature, 1982
4. Montreal Protocol to Prevent the Depletion of Ozone Layer, 1987 as amended;
5. Rio Declaration, 1992
6. Agenda 21
7. Forest Principles, 1992
8. The Convention on Biological Diversity, 1992
9. Cartagena Protocol on Biosafety, 2000
10. Nagoya Protocol on Access and Benefit Sharing, 2010
11. Nagoya Kuala Lumpur Supplementary Protocol on Liability and Redress relating to Living Modified Organisms, 2010
12. UN Framework Convention on Climate Change, 1992
13. Kyoto Protocol, 1997
14. Paris Agreement, 2015
15. Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 1998
16. Convention on Access to information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998 (Aarhus Convention)
17. Basel Protocol on Liability and Compensation, 1999
18. Stockholm Convention on Persistent Organic Pollutants, 2001

## **II. SUSTAINABLE DEVELOPMENT**

**A. CONCEPT AND SCOPE**

Report of the World Commission on Environment and Development (WCED), OUR COMMON FUTURE, (Brundtland Report), 1987.

Caring for Earth Document

World Summit on Sustainable Development (WSSD), 2002 (Johannesburg Summit)

- Plan of Implementation, Johannesburg Declaration

Sustainable Development Goals (SDGs)

**B ENVIRONMENTAL PRINCIPLES**

- Precautionary Principle

- Polluter Pays Principle

- Inter-generational Equity

- Intra-generational Equity

- Common but Differentiated Responsibilities

**C IMPLEMENTATION OF SUSTAINABLE DEVELOPMENT**

International Measures

- UN Commission on Sustainable Development, 1992

- WTO Committee on Trade and Environment National Measures

- Implementation of Sustainable Development Goals in India

**Readings:**

1. Report of the World Commission on Environment and Development (WCED), OUR COMMON FUTURE, (Brundtland Report), 1987.
2. Caring for Earth Document
3. Plan of Implementation, World Summit on Sustainable Development (WSSD), 2002
4. Johannesburg Declaration
5. Sustainable Development Goals (SDGs)

**III. ENVIRONMENTAL CONSTITUTIONALISM**

**A. RIGHT TO ENVIRONMENT**

Human Right to Environment and Right to Development

**B. Constitutional operationalisation of Fundamental Right to Pollution Free**

Environment – Articles 14, 19(1)(g), 21, 48-A and 51-A (g) of the Constitution

Environmental Law Making – Parliamentary power under Article 253 to amend law made under Article 252.

Constitutional Status of Fundamental Environmental Principles: Precautionary Principle, Polluter Pays Principle, Inter-generational Equity, Intra-generational Equity, Public Trust Doctrine.

**Readings:**

1. Articles 14, 19(1)(g), 21, 48-A and 51-A (g) of the Constitution
2. Article 253 and 252 of the Constitution

#### **IV. ENVIRONMENTAL LEGAL FRAMEWORK**

##### **A. LEGAL AND INSTITUTIONAL FRAMEWORK FOR ENVIRONMENTAL PROTECTION**

The Water (Prevention and Control of Pollution) Act, 1974; The Air (Prevention and Control of Pollution) Act, 1981; The Environment (Protection) Act, 1986; The Public Liability Insurance Act, 1991; The Wildlife (Protection) Act, 1972 as amended; The Indian Forest Act, 1927; The Forest (Conservation) Act, 1980; The Biological Diversity Act, 2002 (18 of 2003), National Green Tribunal Act, 2010

##### **B. TOOLS FOR ENVIRONMENT PROTECTION:**

Environmental Impact Assessment, Environmental Audit, Public Hearing

##### **C. ENFORCEMENT AND COMPLIANCE OF ENVIRONMENTAL LAWS**

Command and Control regime: Strengths and Weaknesses

#### **Readings:**

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Air (Prevention and Control of Pollution) Act, 1981;
3. The Environment (Protection) Act, 1986;
4. The Public Liability Insurance Act, 1991;
5. The Wildlife (Protection) Act, 1972 as amended
6. The Indian Forest Act, 1927;
7. The Forest (Conservation) Act, 1980;
8. The Biological Diversity Act, 2002 (18 of 2003),
9. National Green Tribunal Act, 2010

#### **V. ENVIRONMENTAL GOVERNANCE**

##### **A. Policy Instruments**

Environmental Policy Instruments

- The National Environment Policy, 2006
- The National Action Plan on Climate Change, 2008
- The National Forest Policy, 1988
- The National Water Policy, 2002
- The Wildlife Conservation Strategy, 2002

Devising progressive policies for creating incentives for compliance, Eco-labelling for environment friendly products and Corporate Environmental Responsibility within CSR.

##### **B. ENVIRONMENTAL DECISION MAKING**

Access to Information, Public participation

##### **C. ENVIRONMENTAL PLANNING FOR SUSTAINABLE URBAN AND RURAL ENVIRONMENT**

- Master Plans, Zoning, Health and Sanitation
- 73<sup>rd</sup> and 74<sup>th</sup> Amendments to the Constitution
- Displacement, Resettlement and Rehabilitation

**Readings:**

1. The National Environment Policy, 2006
2. The National Action Plan on Climate Change, 2008
3. The National Forest Policy, 1988
4. The National Water Policy, 2002
5. The Wildlife Conservation Strategy, 2002
6. 73<sup>rd</sup> and 74<sup>th</sup> Amendments to the Constitution

**VI. ENVIRONMENTAL LIABILITY**

Criminal Liability

Tortious Liability – Vicarious Liability, Absolute Liability, Deep Pocket Theory,  
Multinational Corporate Liability

State Liability

Public Liability Insurance Act, 1991

Basel Protocol on Liability and Compensation, 1999

The Hazardous Wastes (Management and Handling) Rules, 1989 as amended in 2000 and 2003.

**Readings:**

1. Public Liability Insurance Act, 1991
2. Basel Protocol on Liability and Compensation, 1999
3. The Hazardous Wastes (Management and Handling) Rules, 1989 as amended in 2000 and 2003.

**VII. GREEN JUSTICE**

A . Access to Environmental Justice

Environmental remedies – Administrative, Statutory and Constitutional Remedies  
Judicial activism – challenges, legitimacy and limits

B. National Green Tribunal

Environmental Courts – Law Commission 186<sup>th</sup> Report on Proposal to Constitute  
Environment Courts (2003)

National Green Tribunal Act, 2010 – Jurisdiction, operation and environmental justice  
delivery.

**Readings:**

1. Law Commission 186<sup>th</sup> Report on Proposal to Constitute Environment Courts (2003)
2. National Green Tribunal Act, 2010
3. Selected cases decided by NGT

## SUGGESTED READINGS

1. Philippe Sands and Jacqueline Peel, 2012. *Principles of International Environmental Law*, 3rd ed., Cambridge University Press.
2. Ulrich Beyerlin and Thilo Marauhn, 2011. *International Environmental Law*, 1st ed., Hart Publishing, Oxford.
3. Birnie, Patricia, Alan Boyle, and Catherine Redgwell, 2009. *International Law and the Environment*, 3rd ed., Oxford University Press.
4. Jane Holder and Maria Lee, 2007. *Environmental Protection, Law and Policy Text and Materials*, 2nd ed., Cambridge University Press.
5. Ved P. Nanda and Rock Pring, *International Environmental Law and Policy for the 21st Century*, 2nd revised edition, Martinus Nijhoff Publishers (2012).
6. Usha Tandon et al (eds) “**Biodiversity: Law, Policy and Governance**” Routledge – Taylor & Francis, Oxon and New York (2018).
7. Usha Tandon (ed) “**Energy Law and Policy**”, Oxford University Press, New Delhi (2018).
8. Shyam Diwan and Armin Rosencranz, *Environmental Law and Policy in India – Cases, Materials and Statutes* (2<sup>nd</sup> ed., 2001) Oxford University Press.
9. Gurdip Singh, *Environmental Law in India* (2005) Macmillan.
10. P. Leelakrishnam, *Environmental Law in India* (2<sup>nd</sup> ed., 2005) LexisNexis Butterworth.
11. Stuart Bell & Donald Me Gillivray, *Environmental Law – The Law and Policy Relating to the Protection of the Environment* (6<sup>th</sup> ed., 2006) Oxford University Press.
12. S. Colye and K. Morrow, *The Philosophical Foundations of Environmental Law: Property, Rights and Nature* (2004) Hart Publishing.
13. Bodansky, Daniel, Jutta Brunnee, and Ellen Hey, 2007. *The Oxford Handbook of International Environmental Law*, Oxford University Press.
14. Brunnée, Jutta, Meinhard Doelle, and Lavanya Rajamani , 2012. (eds) *Promoting Compliance in an evolving Climate Regime*, Cambridge University Press.

## Articles

1. Anthony Ogus and Carolyn Abbot, “Sanctions for Pollution: Do we have the Right Regime?” 14 *Journal of Environmental Law* 283 (2002).
2. Arvind Hasrofia, “Environmental Protection and Sustainable Development: Exploring the Dynamics of Ethics and Law”, 49 *JILI* 30 (2007)
3. B.C. Nirmal, “Overview of the Biosafety Protocol”, 46 *JILI* 373 (2003)
4. Carol Harlow, “Public Law and Popular Justice”, 65 *Modern Law Review* 1 (2002)

5. Christopher D. Stone, "Common but Differentiated Responsibilities in International Law", Vol. 98, No. 2 *The American Journal of International Law* 276-301 (2004)
6. Daniel C. Esty, "Bridging the Trade-Environment Divide", *Journal of Economic Perspectives*, Vol, 15, No. 3, pp. 113-130
7. Dinah Shelton, *The Links between International Human Rights Guarantees and Environmental Protection*, University of Chicago, Center for International Studies, (2004)
8. Elisa Morgera, "An Update on the Aarhus Convention and its Continued Global Relevance", 14 *Review of European Community & International Environmental Law* 138 (2005)
9. Elisa Morgera, "From Stockholm to Johannesburg: From Corporate Responsibility to Corporate Accountability for the Global Protection of the Environment?" 13 *Review of European Community & International Environmental Law* 214 (2004)
10. Elizabeth Fisher, "Is the Precautionary Principle Sustainable?", 13 *Journal of Environmental Law* 315 (2001)
11. Francesco Sindco and Joyeeta Gupta, "Moving the Climate Change Regime Further through a Hydrogen Protocol", 13 *Review of European Community and International Environmental Law* 175 (2004).
12. Gianluca Rubagotti, "The Clean Development Mechanism: Establishing A Regulatory Framework to favour Climate Friendly Investments", 46 *Indian Journal of International Law* 212 (2006)
13. Gurdip Singh, "Human Rights to Sustainable Development: An Indian Perspective", 3 (2) *Soochow Law Journal* 53-89 (2006)
14. Gurdip Singh, "The Role of Equity in Sustainable Development: A Conceptual Enquiry", X-XI *NCLJ* 17 (2005-2006)
15. James Cameron, *The Precautionary Principle*, in Gary P. Sampson, W. Bradnee Chambers (ed.), *Trade, Environment and the Millennium*, United Nations University Press (2002)
16. Javaid Talib, "Constitutionalising the Problem of Environment", 47 *JILI* 522 (2005).
17. Joy Hyvarinen, "The 2005 World Summit: UN Reform, Security, Environment and Development", 15 *Review of European Community & International Environmental Law* 1 (2006)
18. Jutta Brunnee, "Of Sense and Sensibility: Reflections on International Liability Regimes as Tools for Environmental Protection", 53 *International Comparative Law Quarterly* 351 (2004)
19. Klaus Bosselmann and Pushpa Kumar Lakshmanan. 2018. "The Atmosphere as a Global Commons and cleansing it with New Energy Options" in Usha Tandon (ed) "Energy Law and Policy", Oxford University Press, New Delhi (2018).
20. Lakshmanan, Pushpa Kumar. 2018. Implementing the Convention on Biological Diversity and its Protocols in India" in Burra Srinivas and Rajesh Kumar (eds) *Locating India in the Contemporary International Legal Order*, Springer India, New Delhi (2017).

21. Lakshmanan, Pushpa Kumar. 2018. "Implementing Nagoya protocol on Access and Benefit Sharing in India," in Usha Tandon et al (eds) "Biodiversity: Law, Policy and Governance" Routledge – Taylor & Francis, Oxon and New York (2018).
22. Lakshmanan, Pushpa Kumar, Alice Skipper, Brian Hayes, 2016. "Environmental Law" in Shaun Star (ed.) Australia and India: A Comparative Overview of the Law and Legal Practice, Universal Law Publishing and Lexis Nexis, New Delhi.
23. Lakshmanan, Pushpa Kumar, Shachi Singh, S. Asta Lakshmi, "Paris Agreement on Climate Change and India," *Journal of Climate Change*, vol. 3, no. 1, pp. 1-10, 2017.
24. Laurence Boisson de Chazournes, "The Global Environment Facility (GEF): A Unique and Crucial Institution", 14 *Review of European Community & International Environmental Law* 193 (2005)
25. Lavanya Rajamani, "From Stockholm to Johannesburg: The Anatomy of Dissonance in the International Environmental Dialogue", 12 *Review of European Community & International Environmental Law* 23 (2003)
26. Lord Justice Carnwath, "Judicial Protection of the Environment: At Home and Abroad", 16 *Journal of Environmental Law* 315 (2001)
27. M Lee and C. Abbot, "The Usual Suspects? Public Participation Under the Aarhus Convention", 66 *Modern Law Review* 80 (2003)
28. M. Pallemerts, "International Law and Sustainable Development: Any Progress in Johannesburg?", 12 *Review of European Community and International Environment Law I* (2003)
29. Mark Geistfeld, "Implementing the Precautionary Principle", 31 *Environmental Law Reporter* 11326 (2001).
30. Mike Fentuck, Precautionary Maybe, but What's the Principle? The Precautionary Principle, The Regulation of Risk, and the Public Domain *Journal of Law and Society* 371 (2005).
31. N.S. Khamboj, Hazardous Industries: Policy and the Law, 46 *Indian Journal of International Law* 449 (2004).
32. Nils Meyer-Ohlendorf, Would a United Nations Environment Organization Help to Achieve the Millennium Development Goals? 15 *Review of European Community & International Environmental Law* 23 (2006).

### Teaching Plan:

The students are required to read the readings relevant to the Units and come prepared for the class discussion. In addition to the lectures, the teaching will be based on discussions and presentations made by the student which will be planned, guided and moderated by the course teacher. Participation of the students will be essential.

Topics for research papers have to be finalized by the end of 4<sup>th</sup> week and the class presentations will start from 5<sup>th</sup> week onwards as decided by the course teacher.

**Week 1** In the first class, an overview of the full course on Environmental law will be explained to the students to understand the complete scheme of the course.

The details about research paper writing and the topics will be discussed.

The First Unit on International Environmental Law will be taken up for class discussion in Week 1. The discussion will cover the maxim like *sic utere tuo ut alienum non laedas* and the Trail Smelter Arbitration Case. The contribution of international environmental Conferences in development of international environmental law will be discussed.

**Week 2** Unit 1 continues. Multilateral Environmental Agreements to deal with climate change and biodiversity conservation will be the focus of the discussion.

The role of international environmental institutions in protecting global environment will be covered.

**Week 3** Unit 2 will be taken up for discussion to understand the concept of sustainable development in detail. The environmental principles that contribute to achieve sustainable development will be on the focus.

**Week 4** Sustainable Development Goals and their implementation in India will be the topics of focus.

**Week 5** Unit 3 on Constitutional mandate to protect environment.

**Week 6** Unit 3 will continue with the discussion on the Constitutional Status of Fundamental Environmental Principles.



- Week 7** Unit 4 will be taken up to discuss the environmental legal framework and its implementation in India. Critical approach will be used to understand the strengths and weakness of the environmental laws in India.
- Week 8** Unit 4 will continue with the discussion on different tools for environmental protection with the emphasis on enforcement and compliance measures.
- Week 9** Unit 5 will analyse the factors contribute to effective environmental governance. The national policy instruments pertaining to environment protection will be discussed.
- Week 10** Access to Information, Public participation for environmental decision making will be discussed. Environmental planning for sustainable urban and rural environment with the help of 73rd and 74th Amendments to the Constitution will be discussed.
- Week 11** Unit 6 on Environmental Liability will be taken up for discussion. The discussion will cover tortious liability principles and the Public Liability Insurance Act, 1991
- Week 12** Discussion on Unit 6 will continue the discussion on liability issues relating to hazardous waste.
- Week 13** Discussion on Unit 7 will focus on green justice. The mechanisms and enabling provisions for obtaining environmental justice will be discussed.
- Week 14** Unit 7 will continue the discussion on the National Green Tribunal and its judgments.
- Week 15** Synthesis of the understanding of all Units covered above and conclusion of the course.

**Facilitating the achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	International Environmental Law	Lecture Method, Socratic method, Brainstorming through small Group Discussions and Student's Presentation.	As given below.
2.	Sustainable Development Goals	Lecture Method, Socratic method, Brainstorming through small Group Discussions and Student's Presentation.	As given below.
3.	Environmental Constitutionalism	Lecture Method, Socratic method, Brainstorming through small Group Discussions and Student's Presentation.	As given below.
4.	Environmental legal framework	Lecture Method, Socratic method, Brainstorming through small Group Discussions and Student's Presentation.	As given below.
5.	Environmental Governance	Lecture Method, Socratic method, Brainstorming through small Group Discussions and Student's Presentation.	As given below.
6.	Environmental Liability	Lecture Method, Socratic method, Brainstorming through small Group Discussions and Student's Presentation.	As given below.
7.	Environmental Justice	Lecture Method, Socratic method, Brainstorming through small Group Discussions and Student's Presentation.	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester III/Semester V**

**Course Code: 2YLM-EC-107/3YLM-EC-107**

**Course Name: Law of the Sea**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objectives:**

The course is designed to give a working knowledge of prevalent legal concepts under the United Nations Convention on the Law of the Sea (UNCLOS) 1982. Students will research the theoretical underpinnings of such concepts. Students will be able to analyse fact patterns and formulate preliminary assessments regarding the law of the sea. Students will also better seize the dynamics of dispute settlement. As a result, students will be able to strategically assess the practical implications of the law of the sea.

**Course Learning Outcomes:**

At the end of the course, the student will be able to:

- i. explain the scope and application of the UNCLOS
- ii. articulate the differences between the high seas sub-regime and other LOS sub-regimes including the rights and duties of coastal States and other States in each of the maritime zones in the law of the sea;
- iii. generate a good understanding of the rights and duties of States and, possibly, other players in the various maritime zones
- iv. describe the main actors and their roles, notably the IMO
- v. write a report discussing the current challenges and possibly its solution

**Contents:**

There is a gradual yet settled realization of the fact that the resources of the earth are not only limited but by themselves incapable of sustaining high living standards of mankind for perpetuity. At the same time, the normative framework for sea governance allows for controlled exploitation of tremendous oceanic resources viz., minerals, hydrocarbons, fisheries' resources etc. Given these twin principles underpinning the global sea governance system, it is imperative to understand the development of law of the sea and its impact on the maritime activities of nations around the world. The course content lays emphasis on understanding the legal

framework as established primarily through UNCLOS, 1982, along with several key historical and contemporary developments and challenges facing the law of the sea regime.

## **UNIT –I Historical Perspective**

- 1.1 Early development of the law of the sea, Mare Liberum v. Mare Clausum
- 1.2 Codification of the law of the sea: Hague Codification Conference, 1930
- 1.3 Truman Declaration / UNCLOS I 1958 / UNCLOS II 1960
- 1.4 General Assembly Resolution 2749/1970.
- 1.5 UNCLOS III 1982 – Salient features

## **UNIT –II Maritime Zones I- Territorial Sea, Contiguous Zone and EEZ**

- 2.1 *Territorial Sea*
  - 2.1.1. (Breadth) of the Territorial Sea
  - 2.1.2 Baselines, internal waters and archipelagic waters
  - 2.1.3 Rights and Duties of Coastal and other states
  - 2.1.4 Delimitation of the territorial Sea
  - 2.1.5 Indian Position
- 2.2 *Contiguous Zone*
  - 2.2.1. Breadth of the Contiguous Zone
  - 2.2.1 Rights and duties of Coastal and other states
  - 2.2.3 Indian Position
- 2.3. *Exclusive Economic Zone*
  - 2.3.1 Historical background
  - 2.3.2 Limits of the EEZ
  - 2.3.3 Rights and duties of Coastal and other States
  - 2.3.4 Living Resources, Pollution Control, Artificial Installation and Structures and Scientific Research
  - 2.3.5 Indian Position

## **UNIT –III Maritime Zones II- Continental Shelf and High Seas**

- 3.1 *Continental Shelf*
  - 3.1.1 Geological and Legal Concept

- 3.1.2 Meaning and Definition of Continental Shelf under Geneva Convention of 1958
- 3.1.3 Concept of Continental Shelf under U.N. Convention on the Law of the Sea, 1982.
- 3.1.4 Revenue Sharing
- 3.1.5 Delimitation of Continental Shelf
- 3.1.6 Indian Position
- 3.2 *High Seas*
- 3.2.1 Freedom of High Seas
- 3.2.2 Law Relating to High Seas:
- 3.2.3 Geneva Convention on High Seas
- 3.2.4 U.N. Convention on The Law of the Sea, 1982.
- 3.2.5 Criminal Jurisdiction – Flag State
- 3.2.6 Hot Pursuit
- 3.2.7 Indian Position

#### **UNIT-IV International Sea Bed Mining**

- 4.1 Pardo Proposal and General Assembly Resolution 2749
- 4.2 International Seabed Authority – Organs – Enterprise
- 4.3 Parallel System of Seabed Mining
- 4.4 Agreement of 1994 for the implementation of Part XI of the UNCLOS, 1982.
- 4.5 Pioneer Investors– Rights and Obligations

#### **UNIT- V Protection and Preservation of Marine Environment**

- 5.1 Historical Background
- 5.2 Major International Conventions on Marine Pollution:
- 5.3 Marine Scientific Research Development and transfer of Marine Technology
- 5.4 Part XII, XIII & XIV of the UNCLOS, 1982.Etc.

#### **UNIT-VI Settlement of disputes**

- 6.1 Mechanism for the compulsory settlement of disputes;
- 6.2 Choice of procedure:
- 6.3 International Tribunal for the Law of the Sea, (jurisdiction, power, adjudicatory and other functions)
- 6.4 International Court of Justice,
- 6.5 Annex VII arbitral tribunal or Annex VIII special arbitral tribunal; exceptions.

**Suggested Readings:**

1. Convention on the Territorial Sea and the Contiguous Zone (1958).
2. Convention on the Continental Shelf (1958).
3. Convention on the High Seas (1958).
4. Convention on Fishing and Conservation of the Living Resources of the High Seas (1958).
5. United Nations Convention on the Law of the Sea (1982).
6. Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain [1995] (United Nations, International Court of Justice, February 15, 1995).
7. Dispute Concerning Delimitation of the Maritime Boundary between Bangladesh and
8. Myanmar in the Bay of Bengal [2012] (Germany|DE International Tribunal For The Law OfThe Sea, March 14, 2012).
9. The Bay of Bengal Maritime Boundary Arbitration between Bangladesh and India,(Permanent Court of Arbitration, July 7, 2014).
10. The South China Sea Arbitration between The Republic of the Philippines and the People'sRepublic of China, (Permanent Court of Arbitration, July 12, 2016).
11. Churchill, Robin Rolf, and Alan Vaughan Lowe. The Law of the Sea. Manchester University Press, 1999.
12. Division for Ocean Affairs and the Law of the Sea. Handbook on the Delimitation of Maritime Boundaries. United Nations Publications, 2000.
13. Evans, Malcolm. International Law. Oxford University Press, 2018.
14. Klabbers, Jan. International Law. Cambridge University Press, 2013.
15. Shaw, Malcolm N. International Law. Cambridge University Press, 2018.
16. Tanaka, Yoshifumi. The International Law of the Sea. Cambridge University Press, 2012.
17. Vukas, Budislav. The Law Of The Sea: Selected Writings. MartinusNijhoff Publishers, 2004.
18. The History of the Law of the Sea – O' Connell, The International Law of the Sea Vol. I 1984 (Revised) Oxford University Press.
19. The delimitation of the outer continental shelf between neighbouring states. The American Journal of International Law (2003) Vol. 97: 91.
20. Statement by Expert Panel: Deep Seabed Mining and the 1982 Convention on the Law of the Sea. The American Journal of International Law, (1988) Vol. 82.

21. The procedure Framework of the Agreement Implementing the 1982 United Nations Convention on the Law of the Sea, The American Journal of International Law (1995) Vol. 89.
22. Law of the Sea Forum: The 1994 Agreement on Implementation of the Seabed Provisions of the Convention on the Law of the Sea, Bernard H. Oxman, Lowis B. Sohn, Jonathan P. Charney, the American Journal of International Law (1994) Vol. 88.
23. Establishing the International Tribunal for the Law of the Sea, The American Journal of International Law (1995) Vol. 89.
24. The impact of the United Nations Convention on the Law of the Sea on the Progressive Development of International Law – Rudiger Wolfrum IJIL (1999) Vol. 39
25. Beckman, Robert (2013). The UN Convention on the Law of the Sea and the Maritime Disputes in the South China Sea, The American Journal of International Law. 107 (1) pp. 142–163
26. Talmon, Stefan A. G., (2018). The South China Sea Arbitration: Observations on the Award of 12 July 2016. Bonn Research Papers on Public International Law No. 14/2018. Available at SSRN: <http://dx.doi.org/10.2139/ssrn.3180037>

*(Further readings may be added as per the decision of the committee of teachers).*

#### Teaching Plan

Week No.	Topic of Discussion
Week 1	Unit-I Early development of the law of the sea, Mare Liberum v. Mare Clausum Codification of the law of the sea: Hague Codification Conference, 1930
Week 2	Unit-I Truman Declaration / UNCLOS I 1958 / UNCLOS II 1960 General Assembly Resolution 2749/1970.
Week 3	Unit-I UNCLOS III 1982 – Salient features Unit –II Maritime Zones I- Territorial Sea, Contiguous Zone and EEZ  Territorial Sea, (Breadth) of the Territorial Sea, Baselines, internal waters and archipelagic waters
Week 4	Unit-II



	<p>Rights and Duties of Coastal and other states, Delimitation of the territorial Sea, Indian Position</p> <p><i>Contiguous Zone</i> - Breadth of the Contiguous Zone, Rights and duties of Coastal and other states, Indian Position</p>
Week 5	<p>Unit-II</p> <p><i>Exclusive Economic Zone</i>-Historical background , Limits of the EEZ, Rights and duties of Coastal and other States, Living Resources, Pollution Control, Artificial, Installation and Structures and Scientific Research , Indian Position</p>
Week 6	<p>Unit-II</p> <p><i>Continental Shelf</i></p> <p>Geological and Legal Concept, Meaning and Definition of Continental Shelf under Geneva Convention of 1958, Concept of Continental Shelf under U.N. Convention on the Law of the Sea, 1982., Revenue Sharing</p>
Week 7	<p>Unit- III</p> <p>Delimitation of Continental Shelf , Indian Position</p> <p><i>High Seas</i>- Freedom of High Seas, Law Relating to High Seas: , Geneva Convention on High Seas</p>
Week 8	<p>Unit-III</p> <p>U.N. Convention on The Law of the Sea, 1982., Criminal Jurisdiction – Flag State, Hot Pursuit , Indian Position</p>
Week 9	<p>Unit-IV</p> <p><i>International Sea Bed Mining</i> –</p> <p>Pardo Proposal and General Assembly Resolution 2749</p> <p>International Seabed Authority – Organs – Enterprise</p> <p>Parallel System of Seabed Mining</p>
Week 10	<p>Unit-IV</p> <p>Agreement of 1994 for the implementation of Part XI of the UNCLOS, 1982. Pioneer Investors– Rights and Obligations</p>
Week 11	<p>Unit-V</p> <p><i>Protection and Preservation of Marine Environment</i></p> <p>Historical Background, Major International Conventions on Marine Pollution:, Marine Scientific Research Development and transfer of Marine, Technology</p>

Week 12	Unit-V Part XII, XIII & XIV of the UNCLOS, 1982.Etc.
Week 13	Unit-VI Settlement of disputes  Mechanism for the compulsory settlement of disputes; Choice of procedure International Tribunal for the Law of the Sea, (jurisdiction, power, adjudicatory and other functions)
Week 14	Unit-VI  International Court of Justice,  Annex VII arbitral tribunal or Annex VIII special arbitral tribunal; exceptions.
Week 15	Assessment and Class presentations

**Facilitating the achievement of Course Learning Outcomes**

<b>Unit No.</b>	<b>Course Learning Outcomes</b>	<b>Teaching and Learning Activity</b>	<b>Assessment Tasks</b>
1.	Able to describe the scope and application of the UNCLOS	Lectures, presentations, case studies, discussions.	As given below.
2.	Trained to articulate the differences between different maritime zones including the rights and duties of coastal States and other States in each of the maritime zones in the law of the sea.	Lectures, presentations, case studies, drafting exercises, discussions.	As given below.
3.	Professionally trained to generate a good understanding of the rights and duties of States and, possibly, other players in the	Lectures, presentations, case studies, drafting exercises, discussions.	As given below.

	various maritime zones		
4.	Recall and apply the role of the main actors, notably the IMO	Lectures, presentations, case studies, drafting exercises, discussions.	As given below.
5.	Competent to write a report discussing the current challenges and possibly its solution	Lectures, presentations, case studies, drafting exercises, discussions.	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester III**

**Course Code: 2YLM-EC-110/3YLM-EC-110**

**Course Name: Tax Policies and Tax Reforms**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Learning Objectives**

The objective of this course is to understand and analyse the concept, growth and development of Tax System in India and international tax policies. It is also necessary to understand the way of evolution and change in policies related to direct and indirect taxation in India. Further, a critical analysis of policies adopted by OECD and its impact on few developing countries (the key partners of OECD) including India needs to be undertaken. The third, fourth and fifth head of this course is designed to study and analyse critically the development of direct and indirect taxation in India respectively. Simultaneously, the annual budget of India is also to be discussed and analysed to understand the shifts in policies and reforms related to direct and indirect taxation. It will also help in understanding the grey areas and future concerns in taxation.

**Learning Outcomes**

- (1) Students would be able to understand the concept and basis of taxation.
- (2) Students at the end of the semester would be able to know how global economic policies affect our tax policies and economy.
- (3) Students would know the advantages of comparative study and develop research oriented understanding of tax policies.
- (4) Students would be sensitized towards the importance of taxation.

**Content:**

**UNIT I: EVOLUTION OF TAX SYSTEM IN INDIA**

Evolution and development of taxation system in India, Fiscal significance of taxes (in brief); the topic would focus on achievements and challenges met by tax reforms in India with focus in direct taxation. (2 days)

**UNIT II: TAX POLICY- MEANING, KINDS, OBJECTIVES AND PRINCIPLES**

Meaning & concept of 'tax' 'taxation' & "tax policy", Kinds/Categories of tax system [Progressive, Regressive, and Proportional], Objectives and Principles of Taxation in the light of latest OECD recommendations for India (2 days)

**UNIT III: TAX POLICY FOR DEVELOPING COUNTRIES & DIRECT TAXATION**

A comparative analysis of tax policies of different developing countries especially China, Brazil and South Africa (as they are also Key Partners of OECD along with India) will be helpful in developing an insight of the subject. The challenges faced by the developing countries in formulating an efficient taxation policy and the feasible solutions to overcome those challenges forms part of the study.

The topic gives coverage to the essentials that are kept in mind while framing policies for the developing nations and how they are different from the ones dealing with developed nations. A bird's eye view of proposed direct tax code and a comparative study with other relevant countries shall also form part of study under this head. (6 days)

#### **UNIT IV: INDIRECT TAXATION: DEVELOPMENTS AND REFORMS IN INDIA**

This chapter opens with a brief introduction of Goods and Services Tax. The chapter would deal with the brief history of Indirect Tax System in India and the situations which paved the way for the enactment of GST Act, 2017 and the kinds of GST introduced in the country. The topic would also make a brief study of the working of GST worldwide with special reference to New Zealand, Australia and Canada. (6 days)

#### **UNIT V: IMPACT OF GST: BALANCING FEDERAL FISCAL RELATIONS**

This topic is about how the implementation of GST would affect the division of financial powers between the central and state government having regard to the constitutional provisions, about the future of India's tax structure and balance of powers between the Union and State would be the area of study. There would be the coverage of tax comparison between GST and existing tax scenario, Amendments to the Constitution of India for Implementation of GST. (4 days)

#### **UNIT VI: HIGHLIGHTS OF THE BUDGET OF 2019-20**

This topic primarily focuses on the latest proposals and targets that are being detailed in the latest budget. A brief study of the latest tax policies and reforms proposed in the budget would primarily form the part of discussion. (2 days)

#### **UNIT VII: TAXATION IN INDIA: THE ROAD AHEAD**

Grey Areas and future concerns in Taxation in India (Like Taxation in E-commerce), International Taxation (with passing reference to Transfer Pricing) & DTAA in India, Problem of Black money and Tax Evasion with relevant provisions of the Income Tax Act, 1961 & the Prevention of Money-Laundering Act, 2002, Relevant provisions of the *Benami* Transactions (Prohibition) Act, 1988; Income Declaration Scheme, 2016 (6 days)

#### **Suggested Readings:**

##### **Reports:**

- Indian Taxation Enquiry Committee (1924)
- Taxation Enquiry Commission (TEC) (1953-54)
- Kaldor Report/ Recommendations (1956)
- 12<sup>th</sup> Report of the Law Commission of India (1958)
- Direct Tax Enquiry Committee (1971)
- Direct Tax Laws Committee (1978)
- Economic Administrative Reform Commission (1983)
- Tax Reform Committee (1991)
- Task Force on Direct Taxes (2002)

- Tax Administration Reform Commission (TARC)
- Economic Survey of India by OECD

## **Books**

**Auerbach Alan, Smetters Kent** , *Economics of Tax Policy*, Oxford University Press, New York

**Avi-Yonah, Reuven S.(Ed.)**, *International Tax Law*, Volume I & II, Edward Elgar Publishing Limited, Massachusetts, USA

**Eisentein, Louis**, *The Ideologies of Taxation*, Harvard University Press, Cambridge, Massachusetts and London

**Gordon, Roger H.(Ed.)**, *Taxation in Developing Countries SIX CASE STUDIES AND POLICY IMPLICATIONS*, Columbia University Press, New York

**Miller, Angharad & Oats Lynne**, *Principles of International Taxation*, Tottel Publishing, West Sussex

**Purohit, Mahesh C. & Purohit, Vishnu Kanta**, *Handbook of Tax System in India An Analysis of Tax Policy and Governance*, Oxford University Press

**Shankar, Sanjiv & Kanchan, Nandita (Ed.)**, *Essays on Tax Policy and Practice*, Synergy Books India, New Delhi

**Simader, Karin**, *Withholding Taxes and the Fundamental Freedoms*, EUCOTAX Series on European Taxation, Wolters Kluwer, Kluwer Law International, The Netherlands

**Sury, M. M.**, *Indian Economy in the 21st Century: Prospects and Challenges*, New Century Publications, New Delhi

**Sury, M. M.**, *India: Central Government Budgets — 1947- 48 to 2003 - 04 [With 2004-05 (Interim) and Final Budget supplement]*, New Century Publications, New Delhi

**Trehan, Jyoti**, *Crime and Money Laundering, The Indian Perspective*, Kluwer Law International, The Hague, New York London 2004.

**Venkatesh, M. R.** *Sense, Sensex and Sentiments: The failure of India's Financial Sentinels* 11(KW Publishers Pvt. Ltd., New Delhi, 2011).

## **Teaching Plan:**

**Week 1:** Evolution and development of taxation system in India, Fiscal significance of taxes (in brief); the topic would focus on achievements and challenges met by tax reforms in India with focus in direct taxation (Unit- I)

**Week 2:** Meaning & concept of 'tax' 'taxation' & "tax policy", Kinds/Categories of tax system [Progressive, Regressive, and Proportional], Objectives and Principles of Taxation in the light of latest OECD recommendations for India (Unit-II)

Class discussions and student's presentations shall simultaneously take place.

**Week 3:** A comparative analysis of tax policies of different developing countries especially China (as China is also a Key Partner of OECD along with India) will be discussed. The challenges faced by the developing countries in formulating an efficient taxation policy and the feasible solutions to overcome those challenges forms part of the study. (Unit-III)

Class discussions and student's presentations shall simultaneously take place.

**Week 4:** A comparative analysis of tax policies of Brazil and South Africa (as they are also Key Partners of OECD along with India) will be discussed. (Unit-III)

Class discussions and student's presentations shall simultaneously take place.

**Week 5:** Coverage to the essentials that are kept in mind while framing tax policies for the developing nations and how they are different from the ones dealing with developed nations shall form part of discussion in this week. A bird's eye view of proposed direct tax code and a comparative study with other relevant countries shall also form part of study. (End of Unit-III)

Class discussions and student's presentations shall simultaneously take place.

**Week 6:** Beginning of Unit-IV, brief introduction of Goods and Services Tax, brief history of Indirect Tax System in India and the situations which paved the way for the enactment of GST Act, 2017; the kinds of GST introduced in the country; (Unit-IV)

Class discussions and student's presentations shall simultaneously take place.

**Week 7:** A brief study of the working of GST worldwide with special reference to New Zealand and Australia (Unit-IV)

Class discussions and student's presentations shall simultaneously take place.

**Week 8:** A brief study of the working of GST worldwide with special reference to Canada (Unit-IV)

Revision, Class discussions and student's presentations shall simultaneously take place.

**Week 9:** How the implementation of GST would affect the division of financial powers between the central and state government having regard to the constitutional provisions, about the future of India's tax structure and balance of powers between the Union and State would be the area of study. (Unit-V)

Class discussions and student's presentations shall simultaneously take place.

**Week 10:** There would be the coverage of tax comparison between GST and existing tax scenario (prior to introduction of GST); Amendments to the Constitution of India for Implementation of GST (Unit-V)

Class discussions and student's presentations shall simultaneously take place.

**Week 11:** Highlights of the Budget; this topic primarily focuses on the latest proposals and targets that are being detailed in the latest budget. A brief study of the latest tax policies and reforms proposed in the budget would primarily form the part of discussion. (Unit-VI)

Class discussions and student's presentations shall simultaneously take place.

**Week 12:** Grey Areas and future concerns in Taxation in India (Like Taxation in E-commerce), International Taxation (with passing reference to Transfer Pricing) & DTAA in India (Unit-VII)

Class discussions and student's presentations shall simultaneously take place.

**Week 13:** Problem of Black money and Tax Evasion with relevant provisions of the Income Tax Act, 1961 & the Prevention of Money-Laundering Act, 2002 (Unit-VII)

Class discussions and student's presentations shall simultaneously take place.

**Week 14:** Relevant provisions of the *Benami* Transactions (Prohibition) Act, 1988; Income Declaration Scheme, 2016 (Unit-VII)

Class discussions and student's presentations shall simultaneously take place.

**Week 15:** Revision of the course, queries from the students, problem solving and presentations by students shall take place.

**Facilitating the achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	EVOLUTION OF TAX SYSTEM IN INDIA	Lecture and Group Discussion	As given below.
2.	TAX POLICY- MEANING, KINDS, OBJECTIVES AND PRINCIPLES	Lecture, Group Discussion and Student's Presentation	As given below.
3.	TAX POLICY FOR DEVELOPING COUNTRIES & DIRECT TAXATION	Lecture, Case study with Group Discussion and Student's Presentation	As given below.
4.	INDIRECT TAXATION: DEVELOPMENTS AND REFORMS IN INDIA	Lecture, Case study with Group Discussion, Student's Presentation	As given below.



5.	IMPACT OF GST: BALANCING FEDERAL FISCAL RELATIONS	Lecture, Case study with Group Discussion and Student's Presentation	As given below.
6.	HIGHLIGHTS OF THE BUDGET OF 2018-19	Lecture, Case study with Group Discussion and Student's Presentation	As given below.
7.	TAXATION IN INDIA: THE ROAD AHEAD	Lecture, Case study with Group Discussion and Student's Presentation	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester III**

**Course Code: 2YLM-EC-112/3YLM-EC-112**

**Course Name: Criminology and Criminal Justice Administration**

**Marks-100 (80+20)**

**Duration – 90 Hours**

**Course Objectives:**

- (1) To make learner understand the jurisprudential basis of crime, criminal justice system and administration in India.
- (2) To impart students with the knowledge of different perspectives and theories on crime and punishment.
- (3) To enable students to acquire an understanding on correctional system and alternatives to imprisonment within the realm of criminal justice administration.
- (4) To make learners understand the role played by different functionaries in the criminal justice administration to meet the challenges of the modern India. The need for reforms and new challenges in the wake of growing importance and realisation of victims rights and necessity to involve all the stakeholders for ensuring justice to all.

**Learning Outcomes**

- (1) Students are expected to understand the jurisprudential basis of crime, criminal law and criminal justice system.
- (2) Students would be able to understand the operation and role of different functionaries of the criminal justice system in the administration of criminal justice to make it more fair, humane and responsive. They would be able to appreciate the alternatives to imprisonment and alternate dispute resolution methods within the realm of criminal justice administration.
- (3) Students are expected to explain any given crime problem with the help of different theoretical perspectives and schools of criminology. They would be able to critically analyse the penological choices.

**CONTENT:**

**TOPIC I : CRIME, CRIMINOLOGY AND CRIMINAL JUSTICE**

- (i) Understanding Crime: Definitions and typology of crime, crime trends, consensus and conflict approach to crime
- (ii) Criminology and criminal justice administration
- (iii) Two models of criminal justice system: Crime Control and Due Process

**Readings:**

1. Doald R. Taft and Ralf W. England, Criminology, 1964
2. Mike Maguire, Rod Morgan, Robert Reiner (ed.) The Oxford Book Of Criminology (2nd ed; 1997)
3. Ronald C. Krammer (2015), "Defining The Concept Of Crime: A Humanistic Perspective" The Journal Of sociology and Social Welfare, Vol.12 Iss.3, 2015 available at <http://scholarworks.wmich.edu/vol12/iss3/4>

4. Bruce DiCristina, "Criminology and the "essence" of crime: The Views of Durkheim, Garoffalo and Bonger" 2 International Criminal Justice Review (2016) pp.1-19
5. Gerben Bruinsma and Rolf Loeber, "Challenges for criminological and criminal justice research." In Gerben Bruinsma, Henk Elferiet al.(eds.), Punishment Places and Perpetrators: developments in criminology and criminal justice research. 3-20 (Willam 2004)

## **TOPIC II :Schools of Criminology**

- (i) The Classical School of Criminology : The Preclassical, classical and Neoclassical school. Cesare Beccaria and Jeremy Bentham
- (ii) The Positivist School of Criminology: Cesare Lombroso, Enrico Ferri and Raffaele Garofalo, Sheldon and Hooton.
- (iii) Social Structure theories: (a) social disorganization theory ; (b) Strain Theory (Emily Durkheim and Robert Merton); (c) cultural deviance theory
- (iv) Social Process and Learning Theories of Crime: (a) Differential Association Theory of Sutherland; (b) Social control Theory (c) Social reaction theory: Crime and labelling
- (v) Psychological Theories of Criminality: Psychoanalysis and Criminality: Sigmund Freud
- (vi) Conflict Theory: (a) Willem Bonger, Ralf Dahrendorf, George Vold, (b) Marxist Criminology
- (vii) Feminist Criminology
- (viii) Integrated Theoretical Models and New Perspectives of Crime

### **Readings:**

1. George B. Vold, **Theoretical Criminology**, (Oxford University Press, 1976)
2. Hermann Mannheim: **Pioneers in Criminology** (Stevens, 1960)
3. Sutherland and Cressey, Principles of Criminology (1968)
4. Katherine S. Williams, Textbook On Criminology, (Oxford, 2008)
5. Larry Siegel, **Criminology**, wadsworth 2000
6. Barnes & Teeters, New Horizons in Criminology, (Prentice Hall, 1959 )
7. Ahmad Siddique, Criminology problems and Perspectives (2009)
8. Ian Craib, "Freud: Psychic Structures, Internal Agencies and the Defences", **Psychoanalysis: A Critical Introduction**, 32-36 (2001)
9. RAFTER, NICOLE H.; and HEIDENSOHN, FRANCES, eds. International Feminist Perspectives in Criminology: Engendering a Discipline. Buckingham, U.K.: Open University Press, 1995.
10. MILLER, SUSAN L. ed. Crime Control and Women. Thousand Oaks, Calif.: Sage, 1998.

## **Topic III: Punishment, Sentencing and Correctional Administration.**

- (i) Concept of Punishment, Theories of Punishment: Deterrence, Retribution, Prevention, Reformation and Just Deserts.
- (ii) Sentencing: The goals of sentencing, special emphasis on capital punishment

- (iii) Imprisonment as a measure of reform- alternatives to imprisonment- fine, probation, release, suspension and remission. Commutation and Pardon, Right to pre-sentence hearing.
- (iv) Corrections : Probation and Parole- Meaning, scope and legal provisions.
- (v) After Care and Rehabilitation Services
- (vi) Difference between institutional and non-institutional form of treatment.

**Readings:**

- 1.K.S. Chabra, “ Theories of Punishment” in K.D. Gaur, CRIMINAL LAW AND CRIMINOLOGY,pp(2002)686-695
2. Mehrajuddin Mir, “ Sentencing perspectives and Reflections” in K.D. Gaur, CRIMINAL LAW AND CRIMINOLOGY (2002) pp.851-863
4. S.C.Raina, Probation, Philosophy, Law and Practice 1996,Regency, New Delhi.
5. The Probation of Offenders Act,1958.
6. Law Commission of India, 35<sup>th</sup>, 187<sup>th</sup> and 262<sup>nd</sup> Report on Death Penalty
7. Death Penalty India Report, 2016 by NLU Delhi ([www.deathpenaltyindia.com](http://www.deathpenaltyindia.com))
- 8.Andrew Ashworth, “Sentencing” in Mike Maguire, Rod Morgan, Robert Reiner (ed.), *The Oxford Handbook of Criminology* (2nd ed. 1990)
- 9 P.J. Fitzgerald, Criminal Law and Punishment, 1962,Oxford.
- 10 Hans F.M. Crombag, Of Crimes and Punishment in Punishment, Places and Perpetrators: developments in criminology and criminal justice research. Edited by Gerben Bruinsma, Henk Elfers and Jan de Keijser.
11. H.J. Eysenk, Crime and Personality, (London, 1964)
- 12 A.C. Ewing, The Morality of Punishment, (London 1929)
- 13 David T.Johnson, “The Death Penalty In India” in N.Prabha Unnithan (ed.)Crime and Justice In India 365-388 (Sage,2013)

**Cases on Sentencing and Death Penalty:**

1. *Bishnu Deo Shaw v. State of West Bengal*, AIR 1979 SC 964 135
2. *Bachan Singh v. State of Punjab*, AIR 1980 SC 898 145
3. *Macchi Singh v. State of Punjab*, AIR 1983 SC 957 170
4. *Allauddin Mian v. State of Bihar*, AIR 1989 SC 1456 175
5. *Mohd. Chaman v. State* (2001) 2 SCC 28
6. *Lehnav. State of Hanrayana*(2002) 3 SCC 76 181
7. *Dhananjay Chatterjee v. State of West Bengal*, JT 2004 (4) SC 242
8. *Sharaddhanandav. State of Karnataka*, AIR 2008 SC 3040
9. Santosh Kumar Satishbhushan Bariyar vs. Maharashtra (2009) 6 SCC 4989.
10. *Essa @ Anjum Abdul Razak Memon v. The State of Maharashtra* (2013) 3 SCALE 1
- 11 Union of India v Dharam Pal 2019 SCC online Sc628[24.04.2019]
- 12 CBI v. Sanjiv Bhalla (2016) 1 SCC (Cr.) 631.
- 13 Hymad Pasha v. State of Andhra Pradesh (2016) 3 SCC (Cr.) 334.

**Cases on Probation and Parole:**

1. *JogiNayakv. State*, AIR 1965 SC 106
2. *Abdul Qayumv. State of Bihar*, AIR 1972 SC 214 190
3. *State v. Bhola*(2003) 3 SCC 1
4. *Dalbir Singh v. State of Haryana* (2000) 5 SCC 82 193
5. *M.C.D. v. State of Delhi* (2005) 4 SCC 605 196
6. *Chhanniv. State of U.P.* (2006) 5 SCC 396 203
7. *Sunil Fulchand Shah v Union of India* 2003(3)SCC409
- 8 *State of Haryana v Mohinder Singh* 2000(3)SCC394
9. *Avtar Singh v State of Haryana* 2002(3)SCC18
10. *Joginder Singh v State of Punjab* 2001(8)SCC 306

#### **TOPIC IV: VICTIMOLOGY**

- (i) Crime and its Victims
- (ii) Study of victim rights
- (iii) Witness protection mechanism
- (iv) Concept of Restorative Justice and Indian Legal Position.
- (v) Victim compensation in India : provisions under CrPC, SC ST atrocities (prevention) Act, etc.

Cases:1. *State of Punjab v. Ajaib Singh*, AIR 1995 SC 975 222

2 .*Dr. Jacob George v. State of Kerala* (1994) 3 SCC 430 226

3. *Chairman, Railway Board v. Chandrima Das*, AIR 2000 SC 988 232

4. *Rachhpal Singh v. State of Punjab*, AIR 2002 SC 2710 238

5. *State of AP v Challa Krishna Reddy* AIR 2000SC 2083

6. *Kaushalya and another v state of Punjab* (1999)6 SCC 754

7. *Common Cause,A registered society v Union of India* (1999)6SCC667

8 *Ankush Shivaji Gaikwad v State of Maharashtra*(2013)6 SCC 770

9 *Laxmi v. Union of India* (2016) 2 SCC (Cr.) 152.

10 *In Tekan@ Tekram v. State of Madhya Pradesh (Chhattisgarh)* (2016) 2 SCC (Cr.)

307.

11 *Mallikarjun Kodagali v State of Karnataka* AIR 2018 SC 5206

#### **Readings:**

1. Gerry Johnstone, *Restorative Justice: Ideas, Values, Debates*, (Lawman,2002)
2. S.P. Singh Makkar and Paul C. Friday (eds.), *Global Perspectives in Victimology* 147-163 (1993)
3. Leah E.Daigle, *Victimology: A Text/Reader* (Sage, 2012)
4. Martin Killias, “Victim-Related Alternatives to the Criminal Justice System: Compensation,Restitution and Mediation”, *Crime and criminal policy in Europe* , Freiburg 1990.
5. M.Maquire and J.Ponting Eds., *Victims of Crime: A New Deal?*, Milton Keyhes,Open University Press.
6. K.I. Vibhuti, “ Justice to victims of crime: Emerging trends and legislative models in India” in Dr. K.I. Vibhuti ed. *Criminal Justice* ,370-395 (Eastern Book Co.Lucknow,2004)

7. G.S. Bajpai and Shriya Gauba, Victim Justice: A Paradigm Shift in Criminal Justice System In India' Thomson Reuters, 2016.

### **TOPIC V: THE CRIMINAL JUSTICE ADMINISTRATION**

- (i) Meaning, purpose and relevance.
- (ii) Overview of CJS and co-ordination in criminal justice system.
- (iii) Role of Courts in Administration of Criminal Justice with special emphasis on Juvenile Justice Board established under Section 4 of Juvenile Justice Act and Children's Courts. (Only Judicial institutions in connection with child in conflict with law will be discussed and not the whole of Juvenile Justice Act, 2015)
- (iv) The Police: Police organization in India, Role of police in modern society, Police reforms and modernization.
- (v) Prosecutors: Prosecution organization in the state, need for independent prosecution agency.
- (vi) The Prisons: legal framework of prison system in India, reforms initiated and required in the prison system. UN Standard Minimum Rules for Treatment of Prisoners.

#### **Readings:**

1. Report of All India Committee on Jail Reforms (1980-83) Vol.ICh.IV
2. Report of Advisory Committee on after Care Programmes 1955, P1
3. Upendra Baxi, Crisis of Indian Legal System, Chapter VI and VII
4. Government of India, Report of the Indian Jails Committee 1919-20, P29-30
5. Prison Reform Bills of NHRC, Delhi and Rajasthan Government.
6. K Padmanabhaiah committee on Police Reforms, 2001

#### **Cases**

7. *Prakash Singh v. Union of India* (2006) 8 SCC 1 242
8. *Prison Statistics India Report 2015, National Crime Records Bureau.*
9. *Rama Murthy v. Karnataka*, AIR 1997 SC 1739 253
10. *State of Maharashtra v Prabhakar Pandurang Sangzgiri and another* AIR 1966 SC 424
11. *Francis Coralie Mullin v The Administrator, Union territory of Delhi and Others* AIR 1981 SC 746
12. *State of Maharashtra and others v Asha Arun Gawali and another* AIR 2004 SC 2223
13. *State of Gujarat and another v Hon'ble High Court of Gujarat* AIR 1998 SC 3164
14. *R.D Upadhyay v State of Andhra Pradesh* AIR 2006 SC 1946

#### **Teaching Plan:**

Week 1: Introduction to crime, criminology, criminal justice system and administration. Discussion on models of criminal justice administration, typology of crime and their characteristics.

2 Introduction to theories of crime causation and their importance. Classical school, its proponents and contribution to criminal justice system.

Week 3: Positive school and the contribution made by the positivists

Week 4: Social Structure Theories and social Process and Learning theories

Week 5: Psychological theories

Week 6: Conflict Theories

Week 7: Feminist Criminology

Week 8: Integrated theoretical models and New perspectives of crime

Week 9: Concept of Punishment and goals of Sentencing

Week 10: Correctional Administration

Week 11: Victimology

Week 12: Criminal Justice Administration: Role played by different functionaries in criminal justice administration. Challenges and Way forward.

Week 13 Recap and Class Presentations

Week 14 Discussion and class Presentations

Week 15 Discussion and Class Presentations

Facilitating the achievement of Course Learning Outcomes

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	Understanding different perspectives to crime and criminology, the models of criminal justice system, and the meaning of criminal justice administration. Be able to distinguish between traditional and socio-economic crimes	Lecture, discussion, simulation exercise, case study.	As given below.
2.	Discuss various theories of crime causation and apply them to the	Video, multimedia, lecture, discussion,	As given below.

	different crimes reported in the media. Understand feminist perspective of crime and the new emerging theories of crime causation	case law, role play	
3	Critically analyse the different theories of punishment and their relevance in the present scenario. Demonstrate its application to specific cases discussed in the class. Also Understand the importance of correctional measures and importance of aftercare and rehabilitative measures	Case law, Discussion; Lecture, video, simulation	As given below.
4.	Appreciate the measures and need for victim justice in India. Be able to explore the alternate dispute resolution in criminal justice system.	Case law, role play Discussion, Lecture Method. Special lectures by experts in the field	As given below.
5.	Undersatnd the role played by different functionaries of the criminal justice system in delivery of justice and criminal justice administration	Simulation exercise, discussion, lecture and case law. Special lectures by Public prosecutors, judges etc	As given below.
6.	Evaluate the strengths and weaknesses of the criminal justice administration and suggest the way forward. Be sensitised to the rights of different stakeholders.	Case law, Discussion, Lecture, simulation exercise, multimedia.	As given below.



**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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**Semester III**  
**Course Code: 2YLM-EC-115/3YLM-EC-115**  
**Course Name: Laws of Inheritance and Succession**

**Marks-100 (80+20)    Duration – 90 Hours**

**Course Objectives:**

India has a multiplicity of succession laws some of which are codified while others are uncodified. The diversified application of these is linked with religion, domicile, community, tribe, form of marriage and even the religion of the spouse of the deceased. The present course is intended to take a critical study of the statutory laws of intestate and testamentary succession in vogue in India.

**Learning Outcomes**

1. The students will be apprised with the laws relating to family matters applicable to different communities in India
2. The students will be able to identify and understand the scheme of succession under the Hindu, Muslim and Christian Laws. Including matters relating to joint family system, competency, Karta and his powers, partition and the Hindu Religions Endowments, in addition to the Sunni and Shia Law of Inheritance and the Christian Law of inheritance.
3. This will create an opportunity to consider current legal issues involving inheritance rights and the devolution of estates
4. The student will be able to comprehend the applicability of these laws in light of plethora of judgements which have been discussed in great detail along with Topics of intestacy, formalities of wills execution, testamentary capacity, undue influence, rules of construction, failed gifts, vesting, class gifts, conjugal relationship claims, First Nations wills, and lawyers' duties regarding succession law.

**Content:**

**Unit 1:            General Introduction**

- Laws of intestate succession applicable to different communities in India
- Legislative history of these laws and criterion for their applicability; religion, domicile, form of marriage; effect of conversion on applicability of laws of inheritance;
- The Caste Disability Removal Act, 1850 and general principles of inheritance.

**Readings:**

1. JND Anderson (ed.,) *Family Laws in Asia and Africa* (1972).
2. Jeremy Bentham, *Theory of Legislation* (1975)
3. Poonam Pradhan Saxena, *Family Law Lectures, Family Law II*, 2<sup>nd</sup> ed., (2006).
4. Paras Diwan and Peeyushi Diwan, *Laws of Intestate and Testamentary Succession* 3<sup>rd</sup> ed., 2006.
5. L L Sardesai (ed.,) *Glimpses of Family Law of Goa, Daman and Diu*, 1982.
6. G D Sriveni (ed.,) *Family Laws of Goa, Daman and Diu*, 1979.
7. David Annouswamy, About the Right of Legitim among the Hindus in Pondicherry (1978) 20 JILI 535.
8. David Annouswamy, Pondicherry : Babel of Personal Laws (1972) JILI 420.

## **UNIT II      Multiplicity of Succession Laws and Uniform Civil code**

- Sources- Hindu Law, Muslim Law, Christian Law
- Multiplicity: extent and Application; Consequences
- Concept of uniform civil Code: Art 25 and 44 of the Constitution of India: Desirability and Feasibility of a Uniform Civil Code.

### **Readings:**

1. Constituent Assembly Debates 1948-49, Vol VII.
2. Vasudha Dhagamwar, *Towards a Uniform Civil Code* 1989.
3. Virendra Kumar, "Uniform Civil Code Revisited : A Juridical analysis of John Vallamattom 45 JILI (2003) 315.
4. Virendra Kumar, "Pragmatic Approach Towards a Uniform Civil Code, 4 Social Science Research Journal 134-42 (1995).
5. N R Madhav Menon (ed.,) *National Convention on Uniform Civil Code for all Indians* 1986.
6. Madhu Kishwar, "Breaking the statement: Uniform Civil Code v Personal Laws" *Manushi* No. 77 (1986).
7. Madhu Kishwar, *Stimulating Reforms Not Forcing Uniform Civil Code v Optional Civil Code*, *Manushi* No. 89 (1995).
8. B. R. Sharma – *A Uniform Civil Code for India* '21 *Civil and Military Law Journal* 1985.
9. *John Vallamattom v Union of Indian* AIR 2003 SC 2902.

## **UNIT III      - The Hindu Succession Act, 1956**

- General introduction and applicability of the Act :
- Devolution of the property of a male and female intestate; devolution of an interest in the Mitakshara coparcenary and the concept of notional partition;

- Abolition of limited estate for a Hindu female, general rules of inheritance, disqualifications; Introduction of females as coparceners,
- State amendments and the Hindu Succession (Amendment) Act, 2005.

### **Readings**

1. Ranganath Mishra (Rev.,) Mayne's Treatise on Hindu Law and Usage (15<sup>th</sup> ed., 2006).
2. Satyajeet A Desai (Rev.,) Mulla's Principles of Hindu Law, Vol 1 and II )(20<sup>th</sup> ed., 2007).
3. Duncan M Derret, A critique of Modern Hindu Law (1970).
4. S A Kader, The Hindu Succession Act, 1956 (2004).
5. Report of the Hindu Law Committee 1948.
6. Lok Sabha Debates, 1955, Vol V.
7. Anil V Antur Kar, "Interpretation of Sec. 22 of the Hindu Succession Act, 1956" (1981) JS 68 AIR 122.
8. B Sivaramayya, the Hindu Succession Act, 1956, and the Socio economic justice 1971 1 KuLJ 72.
9. Kiran B Jain, "A Review of the Hindu Succession (Andhra Pradesh Amendment) Act, 1986, Islamic and Comparative Law Quaterly Vo. VIII : 2003 p. 225.
10. Nilima Bhadbade, State Amendments to the Hindu Succession Act, and conflict of Law: Need for law reform (2001) 1 SCC (Jour) 40.
11. V S Anjaria, "Succession to the former Limited Estate of a remarried widow under the Hindu Succession Act, 1956, (A Case for re-thinking (1973) I SCC (Jour) 25.
12. R K Pandey, "Status of Remarried Hindu Widow (1973) I SCC (Jour) 25.
13. Om Prakash v. Radha Charan 2009 (7) SCALE 51.
14. Gurupad v Hirabai AIR 1978 SC 1239.
15. C Kanna Gounder vAnjana Gounder (2003) I LW 408.
16. Vellikannu v R Singaperumal (2005) 6 SCC 622.
17. State of Maharastra v Narayan Rao Sham Rao Deshmukh AIR 1985 SC 476.
18. Yudhister v Ashok Kumar AIR 1987 SC 559.
19. Ramkali v Mahila Shyamwati AIR 2000 MP 288.
20. Ramchandra v Arunachalammal (1971) 3 SCC 847.
21. Padmavati Mishra v Sumitra Devi 2002 (1) HLR 114 (Pat).
22. Ramabai Padmker v Rukminibai Vishu Vekhande AIR 2003 SC 3109.
23. Kasturi Devi v Deputy Director, Consolidation AIR 1976 SC 2595.
24. V Tulsamma v Sesha Reddi AIR 1977 SC 1944
25. Bai Vijaya v Thakuribai Chelabai AIR 1979 SC 993,

26. *Pratap Singh v Union of India* AIR 1958 SC 1695 (Constitutional validity of sec. 14).
27. *V Muthuswami v Angmmal* AIR 2002 SC 1279.
28. *Gulab Rao Balwant Rao Shinde v Chhabubai Balwant Rao Shinde* AIR 2003 SC 160
29. *Velamari Venkata Sivaprasad v Kothuri Venkateshwarlu* AIR 2000 SC 434 (remarriage of widow that is void).
30. *Seetha Lakshmiammal v Muthuvenkatarama Lyengar* AIR 1998 SC 1692.
31. *Bhagat Singh v Teja Singh* (2002) 1 HLR 17 (SC).
32. *Radhika v Ahgnu* (1996) 2 HLR 344 (SC).
33. *Lachman Singh v Kirpa Singh* AIR 1987 SC 1616.
34. *Dhanistha Kalita v Ramakanta Kalita* AIR 2003 Gau 92.
35. *State of Punjab v Balwant Singh* AIR 1991 SC 2301.
36. *Somu Bai Yashwant Jadeav v Balagovinda Yadav* AIR 1983 bom 156 (Constitutional validity of sec. 15).
37. *Jhugli Tekam v Assistant Commissioner* AIR 204 MP 52.
38. *Kasturi Devi v Deputy Director, Consolidation* AIR 1976 SC 2595.
39. *Ram Chatterjee v Debathi Mukherjee* (2002) 2 SCC 193.
40. *Jupudy Pardha Sarathy Vs. Pentapati Rama Krishna*(2016) SCC 56
41. *Prakash Vs. Phulvati*(2013) 2 SCC 36
42. *Badrinarayan Shankar Bhandari V. Omprakash*, decided on 14-08-2014 by Bombay High Court
43. *L. Gowramma V. sunanda* (2016) 3 SCC 356
44. *Sujatha Sharma vs. Manu Gupta*, decided on 22.12.2015 by Delhi High Court
45. *Sanjay Purshottam Patnakar vs. Prajakata Pramod Patil*, decided on 25<sup>th</sup> June 2015 by Bombay High Court
46. *Bahadur Vs. Bratiya* ,2015 SCC online HP 1555
47. *Uttam Vs. Subhay Singh* (2016)SCC 68

#### **UNIT IV – The Indian Succession Act, 1925**

- Applicability, historical developments, provisions relating to consanguinity, recognition of relationship by adoption; general principles of succession.

#### **Readings**

1. E L Devadasan, *Christain Law in India*, 1974.
2. S S Subramani & Kannan (Rev.), Paruck's *The Indian Succession Act, 1925* (9<sup>th</sup> ed., 2002).
3. Sanjiva Rao, *The Indian Succesion Act, 1925* (7<sup>th</sup> ed., 2000).

4. Law Commission of India: 110 Report on the Indian Succession Act, 1925.
5. “Family Law and Succession” in Annual Survey of Indian Law” pub: Indian Law Institute.
6. Poonam Pradhan, Scheme of inheritance under the Indian Succession Act, 1925, a comparison with Islamic and Hindu Laws, Islamic and Comparative Law Quarterly 1982 p. 101.
7. Sebastian Champappilly, “Christian Law of Succession and Mary Roy’s case (1994) 4 SCC (Jour) 9.
8. Land Board v Cyriac Thomas AIR 2002 SC 3161.
9. Mary Roy v State of Kerela 1986(2) SCC 209.
10. Abdur Rahim Kyakutty Haji v Joseph 1952 TC 176.
11. Louis Marie Antoine v Alexis Sandanaswamy AIR 1984 Mad 271.
12. Lucas v Jerome Pascal AIR 1977 Mad 270.
13. Indrani Wahi V. Registrar of Co-operative Societies (2016) 6SCC 440
14. Jagdish Chand Sharma Narain Singh Saini (2015) 8 SCC
15. Shakuntala Bai V. Mahavir Prasad (2015) 10 SCC 550

#### **UNIT V      Law governing intestate succession among the Parsis**

- Legislative history;
- Special rules applicable to Paris intestates under the Indian Succession Act, 1925.

#### **Readings**

1. Phiroze K Irani, Personal Law of Parsis in India, in Family Law in Asia and Africa J N D Anderson (ed.,) (1972) p. 274,
2. Mancherji v Mithibai I Bom 349.
3. Erasha v Jerbai 4 Bom 537.
4. Jehangir v Perozbai 11 Bom 1.

#### **UNIT VI- Devolution of agricultural property in India**

- A general overview of the devolution of agricultural property in India;
- State enactments, Constitutional validity of the Laws governing agricultural property. Effect of deletion of Sec. 4(2) of the Hindu Succession Act, 1956 in 2005, via the Hindu Succession (Amendment) Act, 2005.

#### **Readings**

1. Bina Agarwal, *A Field of one’s own: Women and Land Rights in India* (1994).

2. B Sivarammayya, Women's Access to Land and Other Productive Resources: Legislative Policy of Hunting with Hounds and Running with Hare in Shamsuddin Shams ed., 'Woman, Law and Social Change 1991 p. 89.
3. Ambika Mishra v State of UP 1980 (3) SCC 719.
4. Mahdu Kishwar v Union of India 1996 (5) SCC 125.
5. Nirmala V. Govt. of NCT of Delhi, 4 June 2010, Delhi High Court

## **UNIT VII-Succession Laws and Gender Justice**

- Introduction: Historical perspective, Constitutional Guarantee of gender parity and succession laws, sex discrimination and its socio-economic effects,
- Judicial response to the challenge of discriminatory provisions with respect to ownership of material assets and land rights, legislative efforts to inculcate gender justice in succession laws, their impact and adequacy.

### **Readings**

1. Report of Committee on Status of women in India, 1974.
2. Law Commission of India. 114<sup>th</sup> Report on the Property Rights to Women : Proposed Reforms Under Hindu law (May, 2000).
3. J D M Derrett, "Lurking Sex Discrimination in the Hindu Succession Act, 1956" 1978 KLT 75.
4. B Sivaramayya, Coparcenary Rights to Daughters: Constitutional and Interpretation Issues (1997) 3 SCC (Jour) 25.
5. R S Venkatachari, "The need for amendment of the Hindu Succession Act, 1956 in regard to Class-II heirs pointed out and the validity of postponement of female Bandhus in Mitakshara of succession on the basis of Art. 15 of the Constitution examined." 1972 (II) MLJ 34.
6. Poonam Pradhan Saxena, "Women's Right to Dwelling House under the Hindu Succession Act, 1956 : Narasimha Murthy v Sushila Bai, AIR 1996 SC 1826- A Comment, Vol II National Capital Law Journal 1997 p. 121.
7. Prakash Chand Jain : "Women's Property Rights under Traditional Hindu Law and the Hindu Succession Act, 1956: Some Observations 45 JILI (2003) p. 509.
8. Narasimhamoorthy v Sushila Bai AIR 1996 SC 1826.
9. Nanjamma v State of Karnataka 1999 AIHC 3003 (Kant).
10. Ambika Mishra v State of UP 1980 (3) SCC 719.
11. Madhu Kishwar v Union of India 1996 (5) SCC 125.

## **UNIT VIII- Testamentary Succession**

- Law of Testamentary Succession in India, Applicability, Testamentary capacity, Definition of a Will, Codicil, Executor, Administration, Probate and Letters of

Administration, Distinction between a Will, Deed and Donation Mortis Causa, execution of Unprivileged and Privileged Wills, Attestation, Revocation, Alternation and Revival of Wills, Bequest of limited and absolute estates, Mutual Wills, Construction of Will and technical words, Lapse of legacies, General, Specific and Demonstrative legacies, Representative title to the Property of a deceased and Succession Certificates, Bequest for Charitable and Religious purposes.

**Readings:**

1. Madhukar D Shende v Tarabai Aba Shegade AIR 2002 SC 637.
2. Raja Ram Singh v Arjun Singh AIR 2002 Del 338.
3. Hirda Devi v Deolakhan Devi AIR 2002 Jhar 55.
4. Muninanjappa v R Manual AIR 2001 SC 1754.
5. Balwant Kaur v Chanan Singh AIR 2000 SC 1908.
6. Arun Kumar v Shrinivas AIR 2003 SC 2528.
7. Ramabai Padmakar Paul v Rukinibai Vishnu Vekhande AIR 2003 SC 3109.
8. P M Mani v P S Mohankumar AIR 2002 Mad 402.
9. Ganeshammal v Arunachalam AIR 2002 Mad 417.
10. Krishna Kunjulakshmi v Narzan AIR 2003 Ker 98.
11. Meera Diwan v Shakuntala Diwan AIR 2002 Del 321.
12. Mauleshwari Mani v Jagdish Prasad AIR 2002 SC 727.
13. Somwati Tiwari v People in General AIR 2003 MP 278.
14. Hari Prashad Singh v Prakash Singh AIR 2002 Jhar 97.
15. John Vallamattom v Union of India AIR 2003 SC 2902.
16. Preman v Union of India 1998 (2) KLT 1004.

**Teaching Plan:**

**Week 1: General Introduction :** Laws of intestate succession applicable to different communities in India

**Week 2:** Legislative history of these laws and criterion for their applicability; religion, domicile, form of marriage; effect of conversion on applicability of laws of inheritance; The Caste Disability Removal Act, 1850 and general principles of inheritance.

**Week 3: Multiplicity of Succession Laws and Uniform Civil code:** Sources- Hindu Law, Muslim Law, Christian Law.

**Week 4:** Multiplicity: extent and Application; Consequences; Concept of uniform civil Code: Art 25 and 44 of the Constitution of India: Desirability and Feasibility of a Uniform Civil Code.



Week 5: **The Hindu Succession Act, 1956:** General introduction and applicability of the Act : Devolution of the property of a male and female intestate; devolution of an interest in the Mitakshara coparcenary and the concept of notional partition;

Week 6: Abolition of limited estate for a Hindu female, general rules of inheritance, disqualifications; Introduction of females as coparceners,

Week 7: State amendments and the Hindu Succession (Amendment) Act, 2005. **The Indian Succession Act, 1925:** Applicability, historical developments, provisions relating to consanguinity, recognition of relationship by adoption; general principles of succession.

Week 8: **The Indian Succession Act, 1925:** Applicability, historical developments, provisions relating to consanguinity, recognition of relationship by adoption; general principles of succession (contd.) **Law governing intestate succession among the Parsis:** Legislative history;

Week 9: Special rules applicable to Parsi intestates under the Indian Succession Act, 1925. **Devolution of agricultural property in India:** A general overview of the devolution of agricultural property in India;

Week 10: **Succession Laws and Gender Justice:** Introduction: Historical perspective, Constitutional Guarantee of gender parity and succession laws, sex discrimination and its socio-economic effects,

Week 11: Judicial response to the challenge of discriminatory provisions with respect to ownership of material assets and land rights, legislative efforts to inculcate gender justice in succession laws, their impact and adequacy.

Week 12: **Testamentary Succession:** Law of Testamentary Succession in India

Week 13: Applicability, Testamentary capacity, Definition of a Will, Codicil, Executor, Administration, Probate and Letters of Administration, Distinction between a Will, Deed and Donation Mortis Causa, execution of Unprivileged and Privileged Wills, Attestation, Revocation, Alteration and Revival of Wills, Bequest of limited and absolute estates

Week 14: Mutual Wills, Construction of Will and technical words, Lapse of legacies, General, Specific and Demonstrative legacies.

Week 15: Representative title to the Property of a deceased and Succession Certificates, Bequest for Charitable and Religious purposes.

### **Facilitating the achievement of Course Learning Outcomes**

Unit No.	Course Learning Outcomes	Teaching and Learning Activity	Assessment Tasks
1.	The students will be apprised with the laws relating to family matters applicable to different communities in India	Classroom Lectures and Class Presentations.	As given below.

2.	The students will be able to identify and understand the scheme of succession under the Hindu, Muslim and Christian Laws. Including matters relating to joint family system, competency, Karta and his powers, partition and the Hindu Religions Endowments, in addition to the Sunni and Shia Law of Inheritance and the Christian Law of inheritance	Classroom Lectures and Class Presentations.	As given below.
3.	Creating an opportunity to consider current legal issues involving inheritance rights and the devolution of estates	Classroom Lectures and Class Presentations.	As given below.
4.	Comprehend the applicability of these laws in light of plethora of judgements which have been discussed in great detail along with Topics of intestacy, formalities of wills execution, testamentary capacity, undue influence, rules of construction, failed gifts, vesting, class gifts, conjugal relationship claims, First Nations wills, and lawyers' duties regarding succession law	Classroom Lectures and Class Presentations.	As given below.

**Maximum Marks:100 Marks**

End Semester Written Exam	80 Marks
Internal Component (Term paper and Presentations)	20 Marks

**IMPORTANT NOTE:**

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.
2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.

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