

# **LL.M. SEMESTER-II**

## **Core**

**LMC110 Judicial Process**

## **Elective- Criminal Law**

**LME111 Penology: Treatment of Offenders**

**Or**

**LME112 Corporate Law**

**LME113 Privileged Class Deviance**

**Or**

**LME114 Legal Regulation of Economic Enterprises**

## **Elective- Constitution and Legal Order**

**LME115 Public Utilities law**

**Or**

**LME116 Public Authorities: Liability**

**LME117 Union-State Financial Relations**

**Or**

**LME118 Administrative Process & Judicial Control**

## **Elective- Human Rights Law**

**LME119 Human Rights & International Order**

**Or**

**LME120 Mass Media law**

**LME121 Protection & Enforcement of Human Rights in India**

**Or**

**LME122 Collective Violence**

## **Skill**

**LMS123 Skill Development**

## **LL.M. SEMESTER-II**

### **JUDICIAL PROCESS**

**Core Course LMC110**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

#### **Objectives of the course**

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

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

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

#### **UNIT-I**

##### **1. Nature of judicial process**

- 1.1 Judicial process as an instrument of social ordering
- 1.2 Judicial process and creativity in law – common law model-Legal Reasoning and growth of law- change and stability.
- 1.3 The tools and techniques of judicial creativity and precedent.
- 1.4 Legal development and creativity through legal reasoning under statutory and codified systems.

## **UNIT-II**

### **2. Special Dimensions of Judicial Process in Constitutional Adjudications.**

- 2.1 Nations of judicial review
- 2.2 'Role in constitutional adjudication- various theories of judicial role.
- 2.3 Tools and techniques in policy- making and creativity in constitutional adjudication.
- 2.4 Varieties of judicial and juristic activism.
- 2.5 Problems of accountability and judicial law –making.

## **UNIT-III**

### **3 Judicial Process in India**

- 3.1 Indian debate on the role of judges and on the notion of judicial review.
- 3.2 The “independence” of judiciary and the “ political “ nature of judicial process
- 3.3 Judicial activism and creativity of the Supreme Court–the tools and techniques of creativity.
- 3.4 Judicial process in pursuit of constitutional goals and values- new dimensions of judicial activism and structural challenges
- 3.5 Institutional liability of courts and judicial activism – scope and limits.

## **UNIT-IV**

### **4. The Concepts of Justice**

- 4.1 The concept of justice or Dharma in Indian thought
- 4.2 Dharma as the foundation of legal ordering in Indian thought.
- 4.3 The concept and various theories of justice in the western thought.
- 4.4 Various theoretical bases of justice: the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

## **UNIT-V**

### **5 Relation between Law and Justice**

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

- 5.2 Dependency theories- For its realisation justice depends on law, but justice is not the same as law.
- 5.3 The independence of justice theories- means to end relationship of law and justice the relationship in the context of the Indian constitutional ordering.
- 5.4 Analysis of selected cases of the Supreme Court the judicial process can be seen as influenced by theories of justice.

### **Select Bibliography**

Julius Stone, The Province and Function of Law, Part II, Chs. 1-8-16(2000), Universal, New Delhi.

Cardozo, The Nature of Judicial Process (1995) Universal, New Delhi.

Henry J.Abrabam, The Judicial Process (1998), Oxford.

J.Stone, Precedent and the Law: Dynamics of Common Law Growth (1985) Butterworths

W.Friedmann, Legal Theory (1960) , Stevens,London

Bodenheimer, Jurisprudence – the Philosophy and Method of the Law (1997), Universal Delhi

J.Stone , Legal System and Lawyers' Reasonings (1999) , Universal, Delhi

U.Baxi, The Indian Supreme Court and Politics (19980), Eastern, Lucknow.

Rajeen Dhvan, The Supreme Court of India- A Socio –Legal Critique of its Juristic Techniques (1977), Tripathi, Bombay.

John Rawls, A Theory of justice (2000), Universal Delhi

Edward H.levi, An Introduction to Legal Reasoning (1970), University of Chicago.

**LL.M. SEMESTER-II**  
**GROUP –B CRIMINAL LAW**

**PENOLOGY: TREATMENT OF OFFENDERS**

**Elective Course LME111**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

**Objectives of the course**

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

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

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

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

**UNIT-I**

**1. Introductory**

Definition of Penology

**2. Theories of Punishment**

Retribution

Utilitarian prevention: Deterrence

Utilitarian: Intimidation

Behavioural prevention :Incapacitation

Behavioural prevention: Rehabilitation –Expiation

Classical Hindu and Islamic approaches to punishment

## **UNIT-II**

### **3. The Problematic of Capital Punishment**

Constitutionality of Capital Punishment

Judicial Attitudes Towards Capital Punishment in India- An inquiry through the statute law and case law.

Law Reform Proposals

## **UNIT-III**

### **4. Approaches to Sentencing**

Alternatives to Imprisonment

4.1.1. Probation

4.1.2. Corrective labour

4.1.3. Fines

4.1.4. Collective fines

4.1.5. Reparation by the offender/by the court

## **UNIT-IV**

### **5. Sentencing**

5.1 Principal types of sentences in the Penal Code and special laws

5.2 Sentencing in white collar crime

5.3 Pre-sentence hearing

5.4 Sentencing for habitual offender

5.5 Summary punishment

5.6 Plea-bargaining

## **UNIT-V**

### **6. Imprisonment**

1.1 The state of India's jails today

- 1.2 The disciplinary regime of Indian prisons
- 1.3 Classification of prisoners
- 1.4 Rights of prisoner and duties of custodial staff.
- 1.5 Deviance by custodial staff
- 1.6 Open prisons
- 1.7 Judicial surveillance-basis –development reforms

### **Select bibliography**

S.Chhabbra, The Quantum of Punishment in Criminal Law (1970)

H.L.A.Hart, Punishment and Responsibility (1968)

Herbert L. Packer, The Limits of Criminal Sanction (1968)

Alf Ross, On Guilt, Responsibility and Punishment (1975)

A. Siddique, Criminology (1984) Eastern, Lucknow.

Law Commission of India, Forty, Second Report Ch. 3 (1971)

K.S.Shukla, “ Sociology of Deviant Behaviour” in 3 ICSSR Survey, of Sociology and Social Anthropology 1969 –179 (1986)

Tapas Kumar Banerjee, Background to Indian Criminal Law (1990), R.Campray & Co., Calcutta.

## **LL.M. SEMESTER-II**

### **CORPORATE LAW**

**Elective Course LME112**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

### **Objectives of the subject**

The main objective of this course is to make students familiar with the developments that are being taking place in the different areas with the help of corporate law.

### **UNIT-I**

1. Introduction:

1.1 Nature, purposes and types of business enterprises.

1.2 Economic themes in the development of modern company law.

1.3 Classification of companies.

1.4 Concept and theories of corporate personality .

1.5 Doctrine of Lifting the Corporate Veil

1.6 Administration of Company Law- Authorities, their composition, powers and jurisdiction.

## **UNIT-II**

2. Formation of company.

2.1 Promotion and pre-incorporation contracts.

2.1.1 Concept of Promotion

2.1.2 Rights and Duties of Promoters

2.1.3 Pre-incorporation contracts.

2.2 The Mechanics of Company Formation.

2.2.1 Formation formalities.

2.2.2 Memorandum of Association:

i) Meaning, nature and content (Requirements under company and other legislations)

ii) Doctrine of ultra virus - Scope, Effect, Remedies and Reform of the doctrine.

iii) Amendment of MOA.

2.3 Articles of Association:

2.3.1 Meaning and nature.

2.3.2 Doctrine of indoor management - Scope, Effect and Exceptions.

2.3.3 Amendment of AOA.

## **UNIT-III**

3. Concept of Capital and Financing of Companies

3.1 Economic and legal concept of capital

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

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

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

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

3.6 Inter- corporate Loans and Investments

4. Oppression & Mismanagement and Investigation

4.1 Rule in Foss v. Harbottle

4.2 Prevention of Oppression

4.3 Prevention of Mismanagement

4.4 Role & Powers of the Company Law Board

4.5 Role & Powers of Central Government

## **UNIT-IV**

5. Corporate Liquidation

5.1 Winding up of Companies

5.2 Mode of winding up of the companies

5.3 Compulsory Winding up under the Order of the Tribunal

5.4 Voluntary winding up

6. Corporate Governance and Social Responsibility



- 6.1 Importance of Corporate Governance
- 6.2 Different system of Corporate Governance
- 6.3 Impact of Legal Traditions and the Rule of Law on Corporate Governance
- 6.4 Legal Reforms of Corporate Governance in India
- 6.5 Reports of the various Committees on Corporate Governance

#### **UNIT-V**

- 7. Equity Finance
  - 7.1. Share capital
  - 7.2 Prospectus - information disclosure
  - 7.3 Issue and allotment
  - 7.4 Shares without monetary consideration
- 8. Debt Finance
  - 8.1 Debentures
  - 8.2 Nature, issue and class
  - 8.3 Deposits and acceptance
  - 8.4 Creation of charges
  - 8.5 Fixed and floating charges

#### **SELECT BIBLIOGRAPHY**

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

## **LL.M. SEMESTER-II**

### **PRIVILEGED CLASS DEVIANCE**

**Elective Course LME113**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

#### **Objectives of the course**

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

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

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

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

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

#### **UNIT-I**

##### **1. Introduction**

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

- 1.3 Notions of privileged class deviance and providing a wider categorization of understanding Indian development
- 1.4 Typical forms of such deviance
- 1.5 Official deviance (deviance by legislators, judges, bureaucrats)
- 1.6 Professional deviance; journalists, teachers, doctors, lawyers engineers, architects
- 1.7 Trade union deviance (including teachers, lawyers/urban property owners)
- 1.8 Landlord deviance (class/cast based deviance)
- 1.9 Police deviance
- 1.10 Deviance on electoral process (rigging, booth, capturing, impersonation, corrupt, practices)
- 1.11 Gender-based aggression by socially, economically and politically powerful

**NOTE:** Depending on specialist interest by the teacher and the taught any three areas of deviance of privileged class may be explored. What follows is only illustrative of one model of doing the course.

## **UNIT-II**

### **2 Official Deviance**

- 2.1 Conception of official deviance-permissible limit of discretionary powers
- 2.2 The Chambal Valley dacoit Vinoba Mission and Jai Prakash Narain Mission – in 1959 and 1971
- 2.3 The Chagla Commission Report on LIC –Mundhara Affair
- 2.4 The DAS Commission Report on Pratap Singh Kairon
- 2.5 The Gover Commission Report on Dev Raj Urs
- 2.6 The Maruti Commission Report
- 2.7 The Ibakkar-Natarajan Commission Report on Fairfax.

## **UNIT-III**

### **3 Police Deviance**

- 3.1 Structures of legal restraint on police powers in India
- 3.2 Unconstitutionality of “third-degree” methods and use of fatal force by police
- 3.3 “Encounter” killings

- 3.4 Police atrocities
- 3.5 The plea of superior orders
- 3.6 Rape and related forms of gender-based aggression by police and Para-military force
- 3.7 Reforms suggestions especially by the National Police Commissions

#### **UNIT-IV**

### **4 Professional Deviance**

- 4.1 Unethical practices at the Indian bar
- 4.2 The Lentin Commission Report
- 4.3 The press Council on unprofessional and unethical journalism
- 4.4 Medical malpractice

#### **UNIT-V**

### **5 Response of Indian Legal Order to the Deviance of Privileged Classes**

- 5.1 Vigilance Commission
- 5.2 Public Accounts Committee
- 5.3 Ombudsman
- 5.4 Commissions of Enquiry
- 5.5 Prevention of Corruption Act, 1947
- 5.6 The Antulay Case

### **Select bibliography**

Upendra Baxi, *The Crisis of the Indian Legal System* (1982) Vikas Publishing House, New Delhi.

Upendra Baxi (ed.), *Law and Poverty: Eassays* (1988)

Upendra Baxi , *Liberty and Corruption: The Antulay Case and Beyond* (1989)

Surendranath Dewevedi and G.S. Bbargava, *Political Corruption in India* (1967)

A.R. Desai (ed.) *Violation of democratic Rights in India* (1986)

A.G. Noorani, *Minister's Misconduct* (1974)

B.B. Pande, ' The Nature and Dimensions of Privileged Class Deviance" in *The Other Side of Development* 136 (1987; ,K.S. Shukla ed.)

Indira Rothern und, "Patterns of Trade Union Leadership in Dhanbad Coal fields" 23 *J.I.L.I* 522 (1981)

## **LL.M. SEMESTER-II**

### **LEGAL REGULATION OF ECONOMIC ENTERPRISES**

**Elective Course LME114**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

#### **Objectives of the subject**

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

#### **UNIT-I**

1. The Rationale of Government Regulation

1.1. Constitutional perspectives

1.2. The new economic policy - Industrial policy resolutions, declarations and statements

1.3. The place of public, small scale, co-operative, corporate, private and joint sectors -in the

Changing context

1.4. Regulation of economic activities

1.4.1. Disclosure of information

1.4.2. Fairness in competition

1.4.3. Emphasis on consumerism

#### **UNIT-II**

2. Development and Regulation of Industries

3. Take-over of Management and Control of Industrial Units

4. Sick Undertakings: Nationalization or Winding Up?

5. Licensing Policy and Legal Process - Growing Trends of Liberalization

6. Deregulation of essential commodities: developmental sign or a social mishap

#### **UNIT-III**

7. Financial Services: Changing Techniques of Regulation
8. Critical Issues Regarding the Capital Issues
  - 8.1. Equity and debt finance
  - 8.2. Global depositories
  - 8.3. De-materialized securities
9. Problems of Control and Accountability: Regulation of Hazardous Activity
  - 9.1. Mass disaster and environmental degradation: legal liability and legal remedies
  - 9.2. Public Liability Insurance: adequacy
  - 9.3. Issues in zoning and location of industrial units

#### **UNIT-IV**

10. Special Aspects of Legal Regulation of Select Public Enterprises like public enterprises for transport, mining and energy.
  - 10.1. Telecom Regulatory Authority
  - 10.2. Insurance Regulatory Authority
  - 10.3. Broadcasting Regulatory Authority

#### **UNIT-V**

11. Legal Regulation of Multi-Nationals
  - 11.1. Collaboration agreements for technology transfer
  - 11.2. Development and regulation of foreign investments
    - 11.2.1. Investment in India: FDIs and NRIs
    - 11.2.2. Investment abroad

#### **SELECT BIBLIOGRAPHY**

- S. Aswani Kumar, the Law of Indian Trade Mark (2001), Commercial Law House, Delhi
- Industrial Policy Resolutions of 1948, 1956, 1991
- Industrial Licensing Policy 1970, 1975
- Industrial Policy Statements 1973, 1977, 1980
- Reports of Committees on Public Undertakings of Parliament
- Industries (Development and Regulation) Act, 1951
- U. Baxi (Ed.) Inconvenient Forum and Convenient Catastrophe the Bhopal Case, (1986)
- U. Baxi & T. Paul  
(Eds)
- Mass Disasters and Multinational Liability (1986)
- U. Baxi & A. Dhandba, Valiant Victims and Lethal Litigation: The Bhopal Case (1989)
- Indian Law Institute, Law of international Trade Transactions, (1973)

## **LL.M. SEMESTER-II**

### **GROUP-G CONSTITUTION AND EGAL ORDER**

#### **PUBLIC UTILITIES LAW**

**Elective Course LME115**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

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

Public utilities are government monopolies, which are services rather than commercial enterprises. The law of public utilities is contained in the statues of incorporation and judicial decisions given by courts while resolving disputes between the utilities and their consumers or employees or traders or others entering into business relations with them. In this paper a student will study (a) government policy in regard to such utilities in general and to each utility in particular, (b) the growth and evolution of the public utilities; (c) patters of the laws of incorporation and (d) powers, functions and liabilities of the public utilities vis-à-vis their employees, consumers and others.

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

#### **Syllabus**

##### **UNIT-I**

#### **1. Public Utilities**

1.1 Railways, Electricity, Gas Road Transport, telephone, post and telegraph service, police, Fire Brigade, banking service, etc.

1.2 Growth and evolution of public utilities and their legislation

#### **Public Utilities- Why Government Monopoly?**

1.3 Government and Parliamentary Control

1.4 Constitution division of power to legislate

##### **UNIT-II**

#### **2. Utilities Legislation – Patterns of –**

2.1 Administrative Authorities – Structure of the Administrative Authorities

2.2 Subordinate legislation

### **Public Utilities and Fair Rearing**

2.3. Quasi-Judicial Decision- Administrative Discretion

### **Public Utilities and Consumer Protection**

2.5 Exclusion from M.R.T.P. Act

2.6 Rights of consumers protected by the Consumer Protection Act.

2.6 Rights Arising from law of Control and law of Torts.

## **UNIT-III**

### **3. Public Utilities And their Employees.**

3.1 Application of Articles 16 and 311?

3.2. Application of Industrial law –right to strike

## **UNIT-IV**

### **4. Public Utilities and Fundamental Rights**

4.1 The right to equality: the airhostess case.

4.2. Are Public utilities “State” for the purpose of article 12 of the Constitution?

4.3. Extension of the Concept of State

## **UNIT-V**

### **5. Liabilities and special privileges of public utilities**

5.1. In contract

5.2. In tort

5.3. In criminal law

5.4.

### **Select bibliography**

P.M. Bakshi, Television and the Law, (1986)

Vasant Kelkar, “ Business of Postal Service “33 I.J. PA. PP.133-144 (1987)

G.Ramesh, “Characteristic of Large Service Organisation in a Developing Country Like India “32 I.J.PA. 77 (1986)

Nalini Paranjpe, “ Planning for Welfare in the Indian Railways” 31 I.J.PA (171-180 (1985)



Arvind K. Sharma “ Semi –Autonomous Enterprise: Conceptual Portrait – Further Evidence on the Theory of Autonomy” 33I.J.P.A. P. 99-113.

S.P. Sathe, Administrative of Administrative Law (1986)

Jagdish UI, Handbook of electricity Law, (1981)

Bhaumik, The Indian Railway s Act, (1981)

Law Commission of India, 38<sup>th</sup> Report: Indian Post Office Act, (1968)

Students should consult relevant volumes of Annual Survey of Indian law published by the Indian Law Institute (Constitutional Law 1& 11, Administrative Law, Consumers Protection Law and Labour law)

## **LL.M. SEMESTER-II**

### **PUBLIC AUTHORIETS: LIABILITY**

**Elective Course LME116**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

#### **Objectives of the course**

Judicial decisions in the common law world have formulated several duties and liabilities on the administrative hierarchy towards the citizens. Is the state in exercise of sovereign functions liable to compensate the affected persons? To what extent is the state in exercise of sovereign functions immune from liability? The state enters into contracts in more ways than one. Should there be standards of conduct laid down on the state when it does so? How can accountability be determined in all these areas? Open government is one of the significant attributes of good government in democracy. In what way these norms can be meticulously followed by the state in meting out administrative justice. There are problems a country like India does confront in her march towards goods governance.

This course with the above mentioned perspective in view comprises about 42 units of one-hour duration to be spread out to one semester.

#### **Syllabus**

#### **UNIT-I**

1. **Tortious Liability**

- 1.1. Sovereign immunity
- 1.2. Commercial and non-commercial function

**UNIT-II**

2. **Contractual liability**

- 2.1. Processual justice: Privilege – right dichotomy
- 2.2. Blacklisting of contractors
- 2.3. Terms in government contract as instruments of social justice

**UNIT-III**

3. **Emerging Liability**

- 3.1 Personal accountability
- 3.2 Compensatory jurisprudence and right to life
- 3.3 Accountability under consumer law

**UNIT-IV**

4. **Privilege Against Disclosure**

- 4.1. Right to information
- 4.2. Official secrecy
- 4.3. Executive privilege
- 4.4. Security of state and control on information
- 4.5. Judicial review

**UNIT-V**

5. **Promissory Estoppel**

- 5.1 Legitimate expectation
- 5.2 Constitutional dimensions

**Select bibliography**

Jain & Jain, Principle of Administrative Law, (1986), Tripathi

De Smith, Judicial Review of Administrative Action (1995)

B. Schwartz, An Introduction to American Administrative Law.

**LL.M. SEMESTER-II**  
**UNION –STATE FINANACIAL RELATIONS**

**Elective Course LME117**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

**OBJECTIVES OF THE COURSE**

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

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

**Syllabus**

**UNIT-I**

**1. Federalism - Essentials**

- 1.1. Models of Federal Government –U.S.A., Australia, Canada
- 1.2. Difference, Between Federation and confederation
- 1.3. Evolution of federal government in India

**Distribution of Legislative Power/Administrative Power**

- 1.4 Indian Constitution
- 1.5 Center- State relations
- 1.6 Factors responsible for subordination of States
- 1.7 Administrative Relation

## **UNIT-II**

### **2. Distribution of Fiscal Power**

- 2.1 Scheme of Allocation of taxing power
- 2.2 Extent of Union power of taxation
- 2.3 Residuary power- inclusion of fiscal power

#### **Restrictions of Fiscal Power**

- 2.4 Fundamental Rights
- 2.5 Inter-Government tax immunities
- 2.6 Difference between tax and fee

## **UNIT-III**

### **3. Distribution of Tax Revenues**

- 3.1 Tax- Sharing under the Constitution
- 3.2 Finance Commission – Specific purpose grants (Article 282)

#### **Borrowing Power of the State**

- 3.3 Borrowing by the Government of India
- 3.4 Borrowing by the States

## **UNIT-IV**

### **4 Inter- State Trade and Commerce**

- 4.1 Freedom of Inter – State trade and commerce
- 4.2 Restrictions on legislative power of the Union and States with regard to trade and commerce

#### **Planning and Financial Relations**

- 4.3 Planning Commission
- 4.4 National Development Council
- 4.5 Plan grants

## **UNIT-V**

### **5 Co-operative Federalism**

- 5.1 Full faith and credit
- 5.2 Inter-State Council
- 5.3 Zonal Councils
- 5.4 Inter-State dispute

## **Federal Government in India**

5.5 Model of Jammu and Kashmir

5.6 Sarkaria Commission Report

5.7 What Reforms is Necessary?

### **Select bibliography**

H.M.Seervai, Constitution of Law of India (1991),Tripathi, Bomabay

Sudha Bhatnagar, Union –State Financial Relation and Finance Commissions, (1979)

Ashok Chandra, Federalism in India, (1965)

V.D. Sebastain, Indian Federalism: The Legislative Conflicts Chs. 6-7 and 8 (1980)

Chandrapal, Central- State Relations and Cooperative Federalism, Chs. 5 and 8 (1983)

G.C.V. Subba Rao, Legislative Power in Indian Constitution Law, Chs 37,38,39 (1982)

Richard M.Pious, The American Presidency, 293-331,Cha.9 (1979)

Daniel J.Elazar, American Federalism, Chs. 3 and 4 (1984)

K.P. Krishna Shetty, The Law of Union- State Relations and the Indian Federalism Ch.9 (1981)

Report of the Eighth Finance Commission.

Administrative Reforms Commission on Centre- State Relationship Ch.3 (1969 )

Constituent Reforms Commission, Report of the Study Team on Central –State Relationship ( 1967) Vol. 1 Section land 11, pp, IS-168

L.M.Singhvi (ed.), Union-State Relations in India 124-154 (1969)

Government of Tamilnadu, Report of the Centre –State Relations inquiry Committee Ch.5 (1971)

D.T.Lakadwala, Union-State Financial Relations (1967)

M.P. Jain, Indian Constitution Law (1994), Wadhwa

K.Subba Rao, The Indian Federation (1969)

K.C.Wheare, Federal Government (1963)

Students should consult relevant volumes of theAnnual Survey of Indian Law published by the Indian Law Institute (Constitutional Law II)

## **LL.M.SEMESTER II**

### **ADMINISTRATIVE PROCESS & JUDICIAL CONTROL**

**Elective Course LME118**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

#### **Objectives of the course**

Administrative law is mainly a judge-made law and as secured its present features through a myriad of judicial decisions. The historical evolution of the judicial agencies reviewing administrative procedures, jurisdictional aspects of administrative decision making subjected to review, the grounds on which decisions are challenged, the scope of review of delegated legislation and the limitations on the judicial review of administrative action are to be studied in detail in this course. The procedural fairness is the key to good administrative justice. The ever increasing number of characteristics of law, which though framed by administration, impose burden on the rights of citizens. Keeping this specie of administration beyond judicial review is neither in the interests of the general public nor for laying down standards of administrative behavior.

This course, with the above mentioned perspective in view, comprises of about 42 units to be spread out to a period of one semester.

#### **Syllabus**

##### **UNIT-I**

#### **1. Concepts and Agencies**

- 1.1 Common law countries
- 1.2 French system

#### **Judicial Review in India**

- 1.3 Historical development
- 1.4 Powers of the Supreme Court
- 1.5 Powers of the High Court
- 1.6 Role of subordinate judiciary

##### **UNIT-II**

**1. Grounds of Review**

- 2.1 Doctrine of ultra vires
- 2.2 Unreviewable discretionary powers: from Liversidge to Padfield
- 2.3 Discretion and Justifiability
- 2.4 Violation of fundamental rights
- 2.5 Extraneous consideration and/or irrelevant grounds
- 2.6 Delegation
- 2.7 Acting under dictation
- 2.8 Malafides and bias
- 2.9 Lack of rationality and proportionality
- 2.10 Oppressing decision
- 2.11 Absence of proportionality

**UNIT-III**

**2. Procedural fairness**

- 2.1. Legitimate Expectation
- 2.2. Natural justice and duty to act fairly
- 2.3. Bias and personal interest
- 2.4. Fair hearing

**UNIT-IV**

**4. Jurisdiction**

- 4.1 Finality clauses
- 4.2 Conclusive evidence clauses
- 4.3 Law fact distinction
- 4.4 Exclusionary clause

**Remedies**

- 4.5 Writs
- 4.6 Injunction and declaration

**UNIT-IV**

**5 Limits of judicial review**

- 5.1 Locus standi and public interest litigation
- 5.2 Laches
- 5.3 Res judicata
- 5.4 Alternative remedies

### **Judicial Review Delegated Legislation**

Select bibliography

S.P.sathe, Administrative Law (1998), Butterworths, India.

De Smith, Judicial Review of Administrative Action (1995), Sweet and Maxwell

I.P. Massey, Administrative Law (1995), Eastern, Lucknow.

Bagawati Prosad Banerjee, Write Remedies, (1999), Wadhwa , Nagpur.

M.P. Jain, The Evolving Indian Administrative Law (1983), Tripathi, Bombay

Jain & Jain, Principles of Administrative Law (1986), Tripathi

M.P.Jain, Cases and Materials on Administrative Law (1996), Vol.I Wadha, Nagpur.

## **LL.M.SEMESTER II**

### **GROUP J: HUMAN RIGHTS LAW**

#### **HUMAN RIGHTS & INTERNATIONAL ORDER**

**Elective Course LME119**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

#### **Objectives of the course**

Human Rights have universal application. They gathered importance when the United Nations adopted the Universal Declaration of Human Rights in 1948. The role of international organizations in promoting awareness of human rights is very significant. The international conventions, though not binding, have persuasive force since the violations will be decried by the international community. International Non-Governmental Organisations watch and monitor human rights violations in every country. However, in the absence of national legislation, the enforcement of the rights will be difficult.

With the above perspectives in view this course will comprise of 42 units of one hour duration to be spread out during one semester.

#### **Syllabus**

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

##### **1. Development of the Concept of Human Rights Under International Law**

Role of International Organization and Human Rights.



Universal Declaration of Human Rights (1948)  
Covenant on Political and Civil Rights (1966)  
Covenant on Economic, Social and Cultural Rights (1966)  
I L O and other Conventions and Protocols dealing with human rights.

#### Unit -II

### **2. Role of Regional Organizations**

- 2.1. European Convention on Human Rights
- 2.2. European Commission on Human Rights/Court of Human Rights.
- 2.3. American Convention on Human Rights
- 2.4. African Convention on Human Rights
- 2.5. Other regional Conventions.

#### Unit -III

### **3. Protection agencies and mechanisms**

- 3.1. International Commission of Human Rights
- 3.2. Amnesty International
- 3.3. Non-Government Organizations (NGOs )
- 3.4. U.N. Division of Human Rights.

#### Unit -IV

International Labour Organization

- 1- UNESCO
- 2- UNICEF
- 3- Voluntary organizations
- 4- National and State Human Rights Commissions

#### Unit -V

### **4. International enforcement of Human Rights**

- 4.1. Role of ICJ and regional institutions.

#### **Select bibliography**

Benedetto Conforti and Francesco Francioni , Enforcing International Human Rights in Domestic Courts, (1997)

Francisco Forrest Martin, International Human Rights Law and Practice, (1997)

Luck Clements, European Human Rights Taking a Case under the Convention (1994)

Evelyn A. Ankumah, The African Commission on Human Rights and People's Rights (1996)

R.K. Sinha, Human Rights of the World, (1997)

Philp Alston, The United Nations and Human Rights A Critical Appraisal (1992)  
R.S. Sharma and R.K. Sinha, Perspectives in Human Rights Development, (1997)  
The Human Rights Watch Global Report on Women's Human Rights (2000), Oxford.  
B.P. Singh Seghal, Human Rights in India (1996)  
Chandan Bala, International Court of Justice: Its Functioning and Settlement of International Disputes, (1997)

## **LL.M. SEMESTER-II**

### **MASS MEDIA LAW**

**Elective Course LME120**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

Objective of the course

Mass media such as press, radio and television, films play a vital role in socialization, culturalisation and modernisation of a society. The visual media are bound to have a much greater impact on human mind. But while these media have such a potential value as mass educators, they are also susceptible to destructive and harmful uses for promoting criminal anti-social and selfish escapist tendencies. While their positive potential as mass educators has to be harnessed for developmental purpose, their negative, harmful potential has to be curbed in public interest. Law plays a dual role vis-à-vis such media. On the one hand, it protects the creative freedom involved in them, on the other; it has to regulate them so as to avoid their possible abuse. This paper will deal with such interaction between law and mass media.

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

#### **UNIT-I**

1. Mass media- Types of – Press Films, Radio Television

Ownership patterns-Press-Private-Public

Ownership patterns-Films-Private

Ownership patterns-Radio & Television, Public

Difference between visual and non-Visual Media- impact on Peoples minds.

#### **UNIT-II**

2. Press-Freedom of Speech and Expression –Article 19 (1) (a)
  - 2.1 Includes Freedom of the press.
  - 2.2 Law of defamation, obscenity, blasphemy and sedition.
  - 2.3 The relating to employees wages and service condition,
  - 2.4 Price and Page Schedule Regulation
  - 2.5 Newsprint Control Order
  - 2.6 Advertisement –is it included within freedom of speech and expression?
  - 2.7 Press and the Monopolies and Restrictive Trade Practices Act.

### **UNIT-III**

3. Films-How far including freedom in of speech and expression?
  - 3.1.Censorship of films-constitutionality.
  - 3.2.The Abbas Case.
  - 3.3.Difference between films and press –why pre-censorship valid fro film but not for the press?
  - 3.4.Censorship under the Cinematograph Act.

### **UNIT-IV**

4. Radio and Television – Government monopoly.
  - 4.1 Why Government department?
  - 4.2 Should there be an autonomous corporation?
  - 4.3 Effect of television on people.
  - 4.4. Report of the Chanda Committee.
  - 4.5. Government policy.
  - 4.6 Commercial advertisement
  - 4.7 Internal Scrutiny of serials, etc.
  - 4.8 Judicial Review of Doordarshan decisions: Freedom to telecast.

### **UNIT-V**

5. Constitutional Restrictions.
  - 5.1 Radio and Television subject to law of defamation and obscenity
  - 5.2 Power to legislate- Article 246 read with the Seventh Schedule.
  - 5.3 Power to impose tax- licensing and licence fee.

Select bibliography

M.P. Jain, Constitutional Law of India (1994) Wadhwa.

H.M.. Seervai, Constitutional law of India Vol.I (1001) Tripathi, Bombay.

John B. Howard, “ The Social Accountability of Public Enterprises “ in Law and Community Controls in New Development Strategies (International Center for law in Development 1980)

Bruce Michael Boyd, “ Film Censorship in India: A Reasonable Restriction on Freedom of Speech and Expression” 14.J.I.L.I 501 (1972)

Rajeev Dhavan “ On the law of the press in India “ 26 J.I.L.I. 288 (1984)

Rajeev Dhavan, “ Legitimizing Government Rhetoric: Reflection on Some Aspects of the second Press Commission” 26 J.I.L.I. 391 (1984)

Soli Sorabjee, Law of Press Censorship in India (1976)

Justice E.S. Venkaramiah, Freedom of Press: Some Recent Trends (1984)

D.D.Basu, The Law of Press of India (1980)

Student should consult relevant volumes of the Annual Survey of India law published by the Indian Law Institute. (Constitution Law 1 & 11, Administrative Law and Public Interest litigation).

## **LL.M. SEMESTER-II**

### **PROTECTION & ENFORCEMENT OF HUMAN RIGHTS IN INDIA**

**Elective Course LME121**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

#### **Objectives of the course**

A reading of fundamental rights and duties in the Constitution of India reveals that they constitute the human rights charter in India. The judiciary, the major protective and enforcement machinery, is very active in protecting human rights. Judicial activism in this field has added new dimensions to human rights jurisprudence. There are a number of cases where courts apply the provisions of the international convention to fill the gaps in legislation. The apex court has also ventured to apply international conventions even where there was no legislation in the area. Thus the judiciary has been directly implementing international conventions at the national level. This course aims at familiarizing students with the judicial activism in protecting human rights and enables them to evaluate the adequacy of the methods of enforcement.

#### **Syllabus**

#### **UNIT – I**

#### **History and Development of Human Rights in Indian Constitution.**

Constitutional Philosophy – Preamble

Fundamental Rights

Directive Principles of State Policy

Fundamental Duties.

## **UNIT - II**

### **Judicial Activism and Development of Human Rights Jurisprudence**

Judicial Activism, Development of Human Rights Jurisprudence, Public Interest Litigation

## **UNIT - III**

### **Enforcement of Human Rights.**

Formal enforcement mechanisms

Role of Supreme Court

Role of High Courts

## **UNIT - IV**

2.5. Role of Civil and Criminal Courts

2.6. Statutory Tribunals

2.7. Special Courts

## **UNIT - V**

### **Role of India in implementing international norms and standards**

Human Rights Commissions (National and State level)

### **Select bibliography**

D.D. Basu, Human Right in Indian Constitutional Law (1994)

Vijay Chitnis, (et.al.). Human Rights and the Law : National and Global Perspective, (1997).

B.P. Singh Seghal Law, Judiciary and Justice in India (1993)

James Vadakkumchery, Human Right and the Politics in India (1996)

## **LL.M. SEMESTER-II**

### **COLLECTIVE VIOLENCE & CRIMINAL JUSTICE SYSTEM**

**Elective Course LME122**

**Credit 04**

**Continuous Evaluation 40 marks**

**Term End Examination 60 marks**

Objective of the course

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

It is not very helpful in such contexts, to mouth the generalities such as “criminalization” or “lumpenization” of Indian politics, Closer scientific investigation of these phenomena is crucial, which should help us understand both the etiology and the prognosis of CPV. Instead of political analysis the course should focus on broader social under –standing of the political economy of law in India. Each specific form of violence will be examined with a view to identifying the cause and rehabilitation of victims of violence, social and political costs. The growth of police and paramilitary forces will also, in this context, be an object of study. Primary materials here will be governmental and citizen investigative reports. The emphasis of the course will be on fashioning overall democratic understanding and response to meet this problem.

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

Syllabus

#### **UNIT-I**

##### **1. Introductory**

Notions of “force”, “coercion”, “violence”

Distinctions: “symbolic” violence, “institutionalized” violence, “ structural violence”

Legal order as a coercive normative order

Force- monopoly of modern law

“Constitutional” and “criminal” speech: Speech as incitement to violence

“Collective political violence” and legal order

Notion of legal and extra-legal “repression”

## **UNIT-II**

### **2. Approaches to Violence in India**

Religiously sanctioned structural violence: Caste and gender based

Ahimsa in Hindu, Jain Buddhist, Christian, and Islamic traditions in India

Gandhiji’s approach to non-violence

Discourse on political violence and terrorism during colonial struggle

Attitudes towards legal order as possessed of legitimate monopoly over violence during the colonial period

## **UNIT-III**

### **3. Agrarian Violence and Repression**

The nature and scope of agrarian violence in the 18-19 centuries India

Colonial legal order as a causative factor of collective political (agrarian) violence

The Telangana struggle and the legal order

The Report of the Indian Human Rights Commission on Arwal Massacre

## **UNIT-IV**

### **4. Violence against the Scheduled Castes**

4.1 Notion of Atrocities

4.1.1. Incidence of Atrocities

4.1.2. Corrective labour

4.1.3. Fines

4.1.4. Collective fines

4.1.5. .Reparation by the offender/by the court

## **UNIT-V**

### **5. Communal Violence**

- 5.1 Incidence and course of “communal” violence
- 5.2 Findings of various commissions of enquiry
- 5.3 The role of police and para-military systems in dealing with communal violence
- 5.4 Operation of criminal justice system tiring, and in relation to, communal violence

NOTE: Choice of further areas will have to be made by the teacher and the taught

Select bibliography

U.Bax, “Dissent, Development and Violence” in R. Meagher (ed.) Law and Social Change: Indo- American Reflections 92 (1988)

U.Baxi (ed.), Law and Poverty: Critical Essays, (1988)

A.R.Desai, (ed.) Peasant Struggles in India (1979)

A.R.Desai, Agrarian Struggles in India: After Independence (1986) A.R. Desai, Violation of democratic Rights in India (1986)

D.A.Dhangare, Peasant Movement in India: 1920-1950 (1983)

Ranjit Guha, Element any Aspects of Peasant Insurgency in Colonial India (1983) Ranjit Guha, (ed.) Subaltern Studies Vol. 1-6 (1983-1988)



**LL. M. Semester-II**

**SKILL DEVELOPMENT MODULE-II**

**Skill Course LMS123**

**Credit 02  
100 Marks**

**Comprehensive *Viva-Voce***

**Credit 04**

Comprehensive *viva-voce* of 4 virtual credits will be conducted at the end of each semester of the programme by a board of examiners. The grades awarded in the *viva-voce* shall be shown separately in the grade-sheet.