

LL.M. SEMESTER-II

Core

LMC201 Judicial Process

LMC202 Case Analysis

Elective-

(i) Specialization Group I-Constitution and Legal Order

LME201 Public Utilities law

LME202 Union-State Financial Relations

LME203 Administrative Process & Judicial Control

(ii) Specialization Group II-Criminal Law

LME204 Penology: Treatment of Offenders

LME205 Privileged Class Deviance

LME206 Theories of Rights

(iii) Specialization Group III-Human Rights Law

LME207 Human Rights & International Order

LME208 Protection & Enforcement of Human Rights in India

LME209 Social Security Laws

Skill

LMS201 Skill Development

LL.M. SEMESTER-II

JUDICIAL PROCESS

Core Course LMC201

Credit 06

Continuous Evaluation 40 marks

Term End Examination 60 marks

Objectives of the course

A lawyer, whether academic or professional, is expected 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. Abramson, 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 (1998), Eastern, Lucknow.

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

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

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

LL.M. SEMESTER-II

CASE ANALYSIS

Core Course LMC202

Credit 06

Continuous Evaluation 40 marks

Term End Examination 60 marks

The students shall choose the case for analysis from the Subject of Specialization Group which they have opted.

LL.M. SEMESTER-II

Specialization Group I- CONSTITUTION AND EGAL ORDER

PUBLIC UTILITIES LAW

Elective Course LME201

Credit 06

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

1. Utilities Legislation – Patterns of –

- 1.1 Administrative Authorities – Structure of the Administrative Authorities
- 1.2 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.
- 4.1. Are Public utilities “State” for the purpose of article 12 of the Constitution?
- 4.2. 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

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 Paranj, “ 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.PA. 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, 38th 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

UNION –STATE FINANACIAL RELATIONS

Elective Course LME202

Credit 06

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)
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- 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)
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- L.M.Singhvi (ed.), Union-State Relations in India 124-154 (1969)
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- 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 the Annual Survey of Indian Law published by the Indian Law Institute (Constitutional Law II)

LL.M.SEMESTER II

ADMINISTRATIVE PROCESS & JUDICIAL CONTROL

Elective Course LME203

Credit 06

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

2. 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

3. Procedural fairness

- 3.1. Legitimate Expectation
- 3.2. Natural justice and duty to act fairly
- 3.3. Bias and personal interest
- 3.4. 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-V

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

Specialization Group II- CRIMINAL LAW

PENOLOGY: TREATMENT OF OFFENDERS

Elective Course LME204

Credit 06

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

1.3 The state of India's jails today

1.4 The disciplinary regime of Indian prisons

1.5 Classification of prisoners

1.6 Rights of prisoner and duties of custodial staff.

1.7 Deviance by custodial staff

1.8 Open prisons

1.9 Judicial surveillance-basis –development reforms

Select bibliography

S.Chhabra, 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

PRIVILEGED CLASS DEVIANCE

Elective Course LME205

Credit 06

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.

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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

THEORIES OF RIGHTS

Elective Course LME206

Credit 06

Continuous Evaluation 40 marks

Term End Examination 60 marks

Objectives of the course

In this century the concept of rights has become one of the central legal concepts. Both the specialist and the liberal legal discourse employs this concept not only to safeguard the individuals from the tyranny of the state and market exploitation, but also to develop a state in which groups, institutions and agencies are accountable to each other. All development of the literature around the concept of right now provides sufficient justification for designing a separate course, within jurisprudence, for legal education. The comprehension of the concept of rights is not merely a matter of theoretical interest, it equips a law person to identify injustices and fight them with a requisite legal armoury. This course has been designed to provide the students the theoretical background that is necessary for the pursuit of justice.

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

Syllabus

1. Classification and Categorization of Rights

- 1.1. Constitutional Rights
- 1.2. Rights protected by the IPC, Cr. P.C.
- 1.3. New rights generated in case law.
- 1.4. Types of rights: positive, negative, natural, legal, absolute, in rem, in personam
- 1.5. Correlation of rights with duties.

2. History of Legal Discourse on Rights

- 2.1. French Revolution and the Rights of man: Locke, Thomas Paine, Rousseau, Kant
- 2.2. The British Bill of Rights.

- 2.3. The emergence of the American Bill of Rights.
- 2.4. The Karachi Resolution and the First Indian Bill of Rights
- 2.5. Declaration of Human Rights: The Soviet and Arab opposition.
- 2.4. The Constitutional debates in India: 'due process', rights of minorities, rights to property.

3. Nature of Rights

- 3.1. What are Rights? Discuss:
 - 3.1.1. Rights as Trumps. (Ronald Dworkin)
 - 3.1.2. Rights as Utility: David Lyons.
 - 3.1.3. Rights as entitlement (Robert Nozick)
 - 3.1.4. Rights as values. (Allen Buchanan)
- 3.2. Are there any Natural Rights?
- 3.3. Are there any Absolute Rights?

4. Structure of Rights

- 4.1. Correlation of Rights with other legal concepts-the Hohfeldian concept.
- 4.2. Generation of Rights: The internal logic of the number of rights.

5. The Basis of Rights

- 5.1. Why do people have rights?
- 5.2. Grounds for claiming rights?
 - (a) Explanations emerging from theory of Self.
- 5.3. Explanations emerging form theories of society.
- 5.4. Explanations emerging from theories of morality.

Select bibliography

- Upendra Baxi, The Crisis of the Indian Legal System (1985), Vikas Publishing House, New Delhi.
- S. Benn and R.L. Peters, Social Principles and the Democratic State ch. 4,(1959). R. Brandt, Ethical Theory ch. 17, (1959).
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N. McCormics, 'Rights in Legislation, in P.M. S Hacker and Raj (eds.) Law, Morality and Society Essays in Honour of H.L.A. Hart, P.M.S. Hacker and J. Raj (1977)

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R. Perry, 'A Paradigm of Philosophy: Hohfeld on Legal Right', 14 American Phil. Quarterly, 41 (1977)

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- J. Finnis, Natural Law And Natural Rights (1980), Clarendon Press
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of Pure
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Affairs, 92
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- J. Finnis, 'The Rights and the Wrongs of Abortion: A Reply to Judith Thomson', 2 Phil.
and Public Affairs, 117 (1973).
- A. Gewirth, 'Human Rights and The Prevention of Cancer',

LL.M. SEMESTER II
Specialization Group III- HUMAN RIGHTS LAW
HUMAN RIGHTS & INTERNATIONAL ORDER

Elective Course LME207

Credit 06

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

4. Role of the following Organizations

- 4.1 International Labour Organization
- 4.2 UNESCO
- 4.3 UNICEF
- 4.4 Voluntary organizations
- 4.5 National and State Human Rights Commissions

Unit -V

5. International enforcement of Human Rights

- 5.1. Role of ICJ and regional institutions.

Select bibliography

Benedetoo 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).

LL.M. SEMESTER-II

PROTECTION & ENFORCEMENT OF HUMAN RIGHTS IN INDIA

Elective Course LME208

Credit 06

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

Role of Civil and Criminal Courts

Statutory Tribunals

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

SOCIAL SECURITY LAWS

Elective Course LME209

Credit 06

Continuous Evaluation 40 marks

Term End Examination 60 marks

Objectives of the course

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

Syllabus

UNIT-I

1. Labour Welfare and Security as a part of general Social Security from *laissez faire* to Welfare State
 - 1.1 Origin and Development
 - 1.2 Western Countries Charitable Institutions Professional Guilds Philanthropic Organizations
 - 1.3 Workmen's Compensation Law in England and USA
 - 1.4 Eastern Societies in India: Collective Bargaining System
 - 1.5 International norms on social security for labour: the ILO Measures

UNIT-II

2. Constitutional Perspectives
 - 2.1 Fundamental Rights: Realization of the rights through meaningful social security measures:
Right to life

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

UNIT-III

3. Towards an ideal Social Security Scheme:

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

3.2 Funding

3.3 Benefits and beneficiaries

3.4 Role of Trade Unions

3.5 Social Security clauses in collective agreements

4. The Economics of Wages

4.1 Concepts of Minimum, Fair and Living Wages

4.2 Methods of Wages Fixation;

4.3 Wage Differentials Allowances and other Fringe Benefits

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

UNIT-IV

5. Maternity Benefits Act, 1961

5.1 Definitions, Aims, Objective and Scope

5.2 Admissible Benefits and Eligibility

5.3 Criteria and Forfeiture

5.4 Powers and Duties of Inspectors

5.5 Offences and Penalties

6. Workmen's Compensation Act 1923

8.1 Aims, Objective and Scope

6.2 Definition, Substantive and Procedural Provisions regarding Compensation

6.3 Role of Workmen's Compensation Commissioner

UNIT-V

7. Employees State Insurance Act, 1948

7.1 Aims, Objectives and Scope

7.2 Definition of Corporation

7.3 Standing Committee and Medical Benefit Council

- 7.4 Contribution, Kinds of benefits and eligibility
- 7.5 Conditions, Adjudication of Disputes and claims
- 8. Employees Provident Funds and Miscellaneous Provisions Act, 1952
- 8.1 Aims, Objectives and Scope
- 8.2 Definitions Central Boards and its Role Provident Fund Scheme
- 8.3 Deposit Linked Insurance Scheme
- 9.4 Family Pension Scheme

SELECT BIBLIOGRAPHY

1. Dr. Vivek Bhattacharya: Social Security Measures in India (Metropolitan, Delhi, 1970)
2. Bakshi and Mitra: Workmen's Compensation Act and other Social Insurance Legislations.
3. K. D. Srivastava: Commentaries on Employees, State Insurance Act
4. T. A. Raj Gopal: Employees Provident Funds Act and Scheme (Laws of India Pvt Ltd., Madras, 1967)
5. Larson: Workmen's Compensation Law
6. F. I. Barawala : The Law and Practices of the Provident Fund in India.
7. Dr. C. B. Mamoria : Principles of Social Security (Kitab Mahal, Allahabad, 1965)
8. Report of the Royal commission of India, 1931.
9. Report of the National commission on Labour, 1969.
10. O. P. Malhotra, Law of Industrial Disputes (1999).

LL. M. Semester-II

SKILL DEVELOPMENT MODULE-II

Skill Course LMS201

**Credit 02
100 Marks**

Comprehensive *Viva-Voce*

Credit 06

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.