

सोलापूर विद्यापीठ

सोलापूर - पुणे महामार्ग, केगांव,

सोलापूर - ४१३ २५५.

(महाराष्ट्र)

Email : unisolapur@rediffmail.com



SOLAPUR UNIVERSITY

Solapur-Pune Highway Kegaon,

Solapur - 413 255.

(Maharashtra)

Phone / Fax : 091-0217 - 2744770

Ref. No. : SOL/UTY/ B.05/7287

Date : 14/10/2008

प्रति,
मा प्राचार्य/ प्राचार्या
सर्व संलग्न महाविद्यालये,
सोलापूर विद्यापीठ,
सोलापूर

विषय- खालील विधी विद्याशाखाचे सुधारित
अभ्यासक्रमाबाबत

महोदय/ महोदया.

खालील नमूद केलेल्या विधी विद्याशाखेचे सुधारित अभ्यासक्रम
करण्यात आलेले असून हे अभ्यासक्रम शैक्षणिक वर्ष २००८-०९ पासून अंमलबजावणी
करावयाचे आहेत

१. विधी विद्याशाखा -

1. LL.B - I & NLC-III w.e.f. 2003
2. LL.B.-II & NLC-IV, w e f. 2004
3. LL.B.-III & NLC-V
4. LLM-I & II 06-07
5. Pre. Law-I & II w.e.f. 2003

वरील अभ्यासक्रम हे विद्यापीठाच्या <http://su.digitaluniversity.ac>
वेब साईटवर उपलब्ध असून सदरचे सुधारित अभ्यासक्रम हे शैक्षणिक वर्ष 2008-09
पासून म्हणजे जून 2008 पासून पुढे चालू राहणार आहे

पूर्वीचे अभ्यासक्रम घेवून जे विद्यार्थी अनुसृतीर्ण झालेले असतील अशा विद्यार्थ्यां
करिता ऑक्टोबर 2008 आणि एप्रिल 2009 अशा दोन परिक्षेच्या जादा सती देण्यात
येणार आहे

कृपया सदरची सूचना ही सर्व संबधीत विद्यार्थी आणि शिक्षक यांच्या निदर्शनास
तातडीने आणावी ही विनंती
कळावे

आपला विश्वासू

(डॉ एम. एस. हांजूळ)
कुलसचिव

प्रत माहिती व योग्य त्या कार्यवाहीसाठी

1. मा.परीक्षा नियंत्रक
2. बहिःस्थ परीक्षा विभाग
3. मा.संचालक महाविद्यालये व विद्यार्थी विकास मठळ

4. M. K. C. L.

**SOLAPUR UNIVERSITY
SOLAPUR**

Syllabus for
**First and Second Semester of Three Year Law Course and Fifth and
Sixth Semester of the Five Year Law Course**

(Introduced from the academic Year June 2003-2004)

PAPER-I
CONTRACT-I

(GENERAL PRINCIPLES OF CONTRACT AND SPECIFIC RELIEF)

Objectives of the Course:-

Every man in his day-to-day life from dawn to dusk makes a variety of contracts. Man's contract making activities increase with the increasing trade, commerce and industry. In a way of living in a modern society would be impossible if the law did not recognize this contract making power of a person. This prompted Roscoe Pound to make his celebrated observation: "Wealth, in a commercial age, is made up largely of promises." In this sense India is also a "Promissory" Society.

The conferment and protection by the law of this contract making a power of persons gives them a considerable leeway to strike best bargain for the contract making persons. In a way they are permitted to regulate and define their relations in a best possible manner they choose. However, the contours of contractual relations in a feudal, colonial and capitalist society of pre-independence India cannot necessarily be the same in an independent and developing Indian society. Whatever may be the nature of a given society, the contractual relations, as are obtained in that society, are governed by certain principles which are more or less of a general and basic nature. In India these general principles are statuted in the form of the Indian Contract Act 1872.

This course is designed to acquaint a student with the conceptual and operational parameters of these various general principles of contractual relations.

Specific enforcement of contract is an important aspect of the Law of contracts. Analysis of the kinds of contracts that can be specifically enforced and the methods of enforcement forms a significant segment of this study.

SEMESTER-I
OF THREE YEARS COURSE &
SEMESTER –V OF FIVE YEARS COURSE

1. General Principles of Law of Contract

- 1.1 History and nature of contractual obligations
- 1.2 Agreement and Contract: definition, elements and kinds.
- 1.3 Proposal and acceptance - their various forms, essential elements. Communication and revocation - proposal and invitations for proposal-floating offers - tenders-dumping of goods.
- 1.4 Consideration- its need, meaning, kinds, essential element- *nudum pactum*- privity of contract and of consideration - its exceptions-adequacy of consideration - present, past and adequate consideration - evaluation of the doctrine of consideration.
- 1.5 Capacity of contract - meaning-incapacity arising out of status and mental defect- minor's

agreements - definitions of 'minor'-accessories supplied to a minor-agreements beneficial and detrimental to a minor-affirmation-restitution in cases of minor's agreements-fraud by a minor-agreements made on behalf of a minor-minor's agreements and estoppel -evaluation of the law relating to minor's agreements -other illustrations of incapacity to contract.

- 1.6 Free consent -Its need and definition-factors vitiating free consent
- 1.6.1 Coercion - definition-essential elements-duress and coercion-various illustrations of coercion-Doctrine of economic duress-effect of coercion.
- 1.6.2 Undue influence-definition-essential elements-between which parties can it exist? Who is to prove it? Illustrations of undue influence-Independent advice-*pardahnashin* women-unconscionable bargains-effect of undue influence.
- 1.6.3 Misrepresentation - definition-misrepresentation of Law and of fact-their effects and illustration.
- 1.6.4 Fraud-definition-essential elements *suggestio falsi* - *supperesio veri*-when does silence amount to fraud? Active concealment of truth-importance of intention.
- 1.6.5 Mistake-definition-kinds-fundamental error-mistake of Law and of fact-their effects - When does a mistake vitiate free consent and when does it not vitiate free consent?

1.7 Legality of objects:-

- 1.7.1 Void agreements - Lawful and unlawful considerations, and objects-void, voidable, illegal and unlawful agreements and their effects.
- 1.7.2 Unlawful considerations and objects:
- 1.7.2.1 Forbidden by law
- 1.7.2.2 Defeating the provision of any law
- 1.7.2.3 Fraudulent
- 1.7.2.4 Injurious to person or property
- 1.7.2.5 Immoral
- 1.7.2.6 Against public policy
- 1.7.3 Void Agreements
- 1.7.3.1 Agreements without consideration
- 1.7.3.2 Agreements in restraint of marriage
- 1.7.3.3 Agreements in restraint of trade - its exceptions - Sale of goodwill, section -11 restrictions, under the Partnership Act, trade combinations, exclusive dealing agreements, restraints on employees under agreements of service.
- 1.7.3.4 Agreements in restraint of legal proceedings-its exceptions.
- 1.7.3.5 Uncertain agreements.
- 1.7.3.6 Wagering agreement-its exceptions.

1.8 Discharge of contract and its various modes.

- 1.8.1 By performance - conditions of valid tender of performance - How? By Whom? Where? When? In what manner? Performance of reciprocal promises - time as essence of contract.
- 1.8.2 By breach - anticipatory breach and present breach.
- 1.8.3 Impossibility of performance - specific grounds of frustration - application to leases - theories of frustration - effect of frustration – frustration and restitution.

1.8.4 By period of limitation.

1.8.5 By agreement - rescission and alteration - their effect - remission and waiver of performance
- extension of time accord and satisfaction.

1.9 Quasi Contracts or certain relations resembling those created by contract

1.10 Remedies in contractual relations:

1.10.1 Damages-kinds-remoteness of damages-ascertainment of damages.

1.10.2 Injunction- When granted and when refused-Why?

1.10.3 Refund and restitution

1.10.4 Specific performance-when? Why?

SEMESTER-II

OF THREE YEARS COURSE &

SEMESTER-VI OF FIVE YEAR COURSE

1. Government as a Contracting Party

Constitutional provisions-government power to contract-procedural requirements-kinds of government contracts their usual clauses- performance of such contracts-settlements of disputes and remedies.

2. Standard Form Contract

Nature, advantages-unilateral character, principles of protection against the possibility of exploitation-judicial approach to such contracts-exemption clauses- clash between two standard form contracts-Law commissions of India's views

3. Multi-national Agreement

4. Strategies and constraints to enforce Contractual obligations

4.1 Judicial methods -redressal forum, remedies

4.2 Other methods like arbitration, Lok Adalat, Nyaya Panchayat and other such non-formal methods.

4.3 Systemic constraints in settling contractual disputes

4.3.1 Court fees, service of summons, injunctions, delay.

5. Specific Relief

5.1 Specific performance of contract

5.1.1 Contract that can be specifically enforced

5.1.2 Persons against whom specific enforcement can be ordered

5.2 Rescission and cancellation

5.3 Injunction

5.3.1 Temporary

5.3.2 Perpetual

5.4 Declaratory orders

5.5 Discretion and powers of court

SELECT BIBLIOGRAPHY**For Paper-I, Contract-I, Semester-I &II of Three Years Course & Semester-V&VI of Five Year Course**

1. Beatesen (ed.) Anson's Law of Contract (27th ed. 1998)
2. P.S. Atiya Introduction to the Law of Contract 1992 Reprint (Claredon Law Series)
3. Avtar Singh, Law of Contract (2000) Eastern, Lucknow.
4. G.C. Cheshire, and H.S. Fifoot and M.P. Furmston, Law of Contract (1992) ELBS with Butterworth's
5. M. Krishnan Nair, Law of Contracts (1998)
6. G.H. Treitel, Law of Contract, Sweet & Maxwell (1997 Reprint)
7. R.K. Abichandani (ed.), Pollock and Mulla on the Indian Contract and the specific Relief Act (1999), Tripathi
8. Banerjee S.C. Law of Specific Relief (1998), Universal
9. Anson, Law of Contract (1998) Universal
10. Dutt on Contract (2000) Universal
11. Anand & Aiyer, Law of Specific Relief (1999) Universal

PAPER-II**CONTRACT-II****(INDIAN CONTRACT ACT, INDIAN PARTNERSHIP ACT, SALE OF GOODS ACT AND OTHER SPECIFIC CONTRACTS)****Objectives of the Course:**

This course is to be taught after the students have been made familiar with the general principles of contract in which the emphases is on understanding and appreciating the basic essentials of a valid contract and on the existence of contractual relationship in various instances. Obviously, a course on special contracts should initiate the students to different kinds of contracts with emphasis on the intricacies therein. This course also should provide an insight into the justification for special statutory provisions for certain kinds of contracts.

SEMESTER-I OF THREE YEAR COURSE AND SEMESTER-V OF FIVE YEARS COURSE

1. Indemnity
 - 1.1 The concept
 - 1.2 Need for Indemnity to facilitate commercial transactions
 - 1.3 Methods of creating Indemnity obligations

- 1.4 Definition of Indemnity
- 1.5 Nature and extent of liability of the indemnifier
- 1.6 Commencement of liability of the indemnifier
- 1.7 Situations of various types of indemnity creations
- 1.8 Documents / Agreements of indemnity
- 1.9 Nature of indemnity clauses
- 1.10 Indemnity in cases of International transactions
- 1.11 Indemnity by governments during interstate transactions

2. **Guarantee**

- 2.1 The concept
- 2.2 Definition of Guarantee: as distinguished from, Indemnity.
- 2.3 Basic essentials for a valid guarantee contract
- 2.4 The place of consideration and the criteria for ascertaining the existence of consideration in guarantee contracts
- 2.5 Position of Minor and validity of guarantee when minor is the principal debtor, creditor or surety
- 2.6 Continuing guarantee
 - 2.6.1 Nature of surety's liability
 - 2.6.2 Duration and termination of such liability
- 2.7 Illustrative situations of existence of continuing guarantee
 - 2.7.1 Creation and Identification of continuing guarantees
- 2.8 Letter of credit and bank guarantees as instances of guarantee transactions
- 2.9 Rights of surety
 - 2.9.1 Position of surety in the eye of law
 - 2.9.2 Various judicial interpretations to protect the surety.
- 2.10 Co-surety and manner of sharing liabilities and rights
- 2.11 Extent of surety's liability
- 2.12 Discharge of surety's liability

3. **Bailment**

- 3.1 Identification of bailment contracts in day today life.
 - 3.1.1 Manner of Creation of such contracts
- 3.2 Commercial Utility of Bailment contracts
- 3.3 Definition of Bailment
- 3.4 Kinds of Bailees
- 3.5 Duties of Bailor and Bailee towards each other
- 3.6 Rights of Bailor and Bailee
- 3.7 Finder of Goods as a Bailee
 - 3.7.1 Liability towards the true owner
 - 3.7.2 Obligation to keep the goods safe
 - 3.7.3 Right to dispose off the goods

4 **Pledge**

- 4.1 Pledge: Comparison with bailment
- 4.2 Commercial utility of pledge transactions

- 4.3 Definition of Pledge under the Indian Contract Act.
- 4.4 Other Statutory Regulations (State & Centre) regarding pledge, reasons for the same
- 4.5 Rights of the Pawner and Pawnee.
 - 4.5.1 Pawnee's right of sale as compared to that of an ordinary Bailee.
- 4.6 Pledge by certain specified persons mentioned in the Indian Contract Act

5. Agency

- 5.1 Identification of different kinds of agency transactions in day-to-day life in the commercial world.
- 5.2 Kinds of Agents and Agencies.
- 5.3 Essentials of an agency transaction.
- 5.4 Various methods of creation of agency.
- 5.5 Delegation
- 5.6 Duties and rights of Agent.
- 5.7 Scope and extent of agent's authority.
- 5.8 Liability of the principal for acts of the agent including misconduct and tort of the agent.
- 5.9 Liability of the agent towards the principal
- 5.10 Personal liability towards the parties.
- 5.11 Methods of termination of agency contract
 - 5.11.1 Liability of the principal and agent before and after such termination.

SEMESTER-II OF THREE YEARS COURSE & SEMESTER VI OF FIVE YEAR COURSE.

1. Sale of Goods

- 1.1 Concept of sale as a contract
- 1.2 Illustrative instances of sale of goods and the nature of such contracts.
- 1.3 Essentials of contract of sale
- 1.4 Essential conditions in every contract of sale.
- 1.5 Implied terms in contract of sale.
- 1.6 The Rule of *caveat emptor* and the exceptions thereto under the Sale of Goods Act
- 1.7 Changing concept of *caveat emptor*.
- 1.8 Effect and meaning of implied warranties in a sale.
- 1.9 Transfer of title and passing of risk
- 1.10 Delivery of goods: Various rules regarding delivery of goods
- 1.11 Unpaid Seller and his rights.
- 1.12 Remedies for breach of contract

2 Partnership

- 2.1 Nature of partnership: definition
- 2.2 Distinct advantages and disadvantages *vis-a-vis* partnership and private limited company.
- 2.3 Mutual relationship between partners
- 2.4 Authority of partners.

- 2.5 Admission of partners.
- 2.6 Outgoing of partners
- 2.7 Registration of partnership
- 2.8 Dissolution of partnership

3 Negotiable Instruments

- 3.1 The Concept
- 3.2 Various kinds
- 3.3 Essential requirement to make an instrument negotiable
- 3.4 Competent parties for making negotiations.
- 3.5 Acceptance of the instruments.
- 3.6 Dishonour by non acceptance and remedies available to the holder
- 3.7 Holder and holder in due course: meaning, essential conditions rights and privileges of holder in course and endorsee from the holder in due course.
- 3.8 Negotiation of the instrument
- 3.9 Presentment of the instrument
- 3.10 Cheques : Rules regarding payment of cheque.
 - 3.10.1 Liability of the collecting banker and paying banker.
 - 3.10.2 Dishonour of cheque and its effect.
 - 3.10.3 Discharge from liability.
- 3.11 Kinds of Bills
- 3.12 Evidence
 - 3.12.1 Special rules of evidence regarding negotiable instruments.

SELECT BIBLIOGRAPHY

For Paper-II Contract-II, Semester-I &II of Three Year Course & Semester-V & VI of Five Year Course,

- 1 R.K. Abhichandani (ed.) Pollock and Mulla on contracts and Specific Relief Acts (1999) Tripathi, Bombay.
- 2 Avtar Singh, Contract Act (2000) Eastern, Lucknow.
- 3 Krishnan Nair, Law of contract (1999) Orient.
- 4 Avtar Singh, Principles of the Law of Sale of Goods and Hire Purchase (1998) Eastern, Lucknow.
- 5 J.P.Verma (ed.) Singh and Gupta, The law of partnership in India (1999) Orient Law House, New Delhi.
- 6 AG. Guest (ed) Benjamin's Sale of Goods (1992) Sweet& Maxwell
- 7 Bhashyam and Adiga. The Negotiable Instruments Act (1995), Bharath, Allahabad.
- 8 M.S.Parthasarathy (ed.) J.S.Khergamvala, The Negotiable Instruments Act
- 9 Beatson (ed), Ansons' Law of Contract, (1998), Oxford, London.
- 10 Saharay, H.K., Indian Partnership and Sale of Goods Act (2000), Universal
- 11 Ramnainga, The Sales of Goods Act (1998), Universal

PAPER-III

TORT AND CONSUMER PROTECTION LAWS

Objective of the course

With rapid industrialization tort action came to be used against manufactures and industrial units for products injurious to human beings. Presently, the emphasis is on extending the principles not only to acts, which are harmful, but also to failure to comply with standards that are continuously changing due to advancement in science and technology. Product liability is now assuming a new dimension in developed economics.

In the modern era of consumer concern of goods and services, the law of torts has an added significance with this forage into the emerging law of consumer protection. It operates in disputes relating to the quality of goods supplied and services rendered and in those areas relating to damage suffered by consumers. The law relating to consumer protection lying scattered in myriad provisions of various legislation and judicial decisions in India, so connected with the human rights for a healthy life and environment, is now a core subject to be taught as an indispensable part of a socially relevant curriculum.

SEMESTER-I OF THREE YEARS COURSE & SEMESTER-V OF FIVE YEARS COURSE

1) Evolution of Law of Torts -

- 1.1 England - forms of action -specific remedies from case to case.
- 1.2 India- principles of justice, equity and good conscience – un-codified charter-advantages and disadvantages.

2) Definition, Nature, Scope and Objects

- 2.1 A wrongful act- violation of duty imposed by law, duty which is owed to people generally (*in rem*) - *damnum sine injuria* and *injuria sine damnum*.
 - 2.1.1 Tort distinguished from crime and breach of contract
 - 2.1.2 The concept of un-liquidated damages.
 - 2.1.3 Changing scope of law of torts: expanding character of duties owed to people generally due to complexities of modern society.
 - 2.1.4 Objects - prescribing standards of human conduct, redressal of wrongs by payment of compensation, proscribing unlawful conduct by injunction.

3) Principles of Liability in Torts

- 3.1 Fault
 - 3.1.1 Wrongful intent
 - 3.1.2 Negligence
- 3.2 Liability without fault
- 3.3 Violation of ethical codes
- 3.4 Statutory Liability
- 3.5 Place of motive in Torts

4 Justification in Tort

- 4.1 *Volenti non fit injuria*
- 4.2 Necessity, private and public
- 4.3 Plaintiff's default

- 4.4 Act of God
- 4.5 Inevitable accident
- 4.6 Private defence
- 4.7 Statutory Authority
- 4.8 Judicial and quasi-judicial acts.
- 4.9 Parental and quasi-parental authority.
- 5 Extinguishment of liability in certain situations.**
 - 5.1 *Actio personalis moritur cum persona* - exceptions.
 - 5.2 Waiver and acquiescence
 - 5.3 Release
 - 5.4 Accord and satisfaction.
 - 5.5 Limitation.
- 6 Standing**
 - 6.1 Who may sue - aggrieved individual - class action -social action groups.
 - 6.2 Statutes granting standing to certain persons or groups.
 - 6.3 Who may not be sued?
- 7 Doctrine of Sovereign Immunity and its relevance in India.**
- 8 Vicarious Liability**
 - 8.1 Basis, scope and justification
 - 8.1.1 Express authorization
 - 8.1.2 Ratification
 - 8.1.3 Abetment
 - 8.2 Special Relationships.
 - 8.2.1 Master and Servant -arising out of and in the course of employment -who is master? - the control test - who is servant? - borrowed servant - independent contractor and servant, distinguished.
 - 8.2.2 Principal and agent
 - 8.2.3 Corporation and principal officer
- 9 Torts against persons and personal relations.**
 - 9.1 Assault, Battery, Mayhem
 - 9.2 False imprisonment
 - 9.3 Defamation - libel, slander including law relating to privileges.
 - 9.4 Marital relations, domestic relations, parental relations, master and servant relations.
 - 9.5 Malicious prosecution
 - 9.6 Shortened expectation of life
 - 9.7 Nervous shock
- 10 Wrongs affecting property.**
 - 10.1 Trespass to land, trespass ab initio, dispossession
 - 10.2 Movable property - trespass to goods, detinue, conversion.
 - 10.3 Torts against business interests - injurious falsehood, misstatements, passing off
- 11 Negligence**
 - 11.1 Basic Concepts.
 - 11.1.1 Theories of negligence
 - 11.1.2 Standards of care, duty to take care, carelessness, inadvertence
 - 11.1.3 Doctrine of Contributory Negligence
 - 11.1.4 *Res ipsa loquitur* and its importance in contemporary law
 - 11.2 Liability due to negligence: different professionals

- 11.3 Liability of Common carriers for negligence
 11.4 Product liability due to negligence: liability of manufacturers and business houses for their products

**SEMESTER-II
 OF THREE YEARS COURSE &
 SEMESTER-VI OF FIVE YEARS COURSE**

- 1 Nuisance**
 1.1 Definition, essentials and types
 1.2 Acts which constitute nuisance - obstructions of highways, pollution of air, water, noise and interference with light and air
- 2 Absolute/Strict Liability.**
 2.1 The Rule in *Ryland's V. Fletcher*.
 2.2 Liability for harm caused by inherently dangerous industries.
- 3 Legal remedies.**
 3.1 Legal remedies
 3.1.1 Award of damages- simple, special, punitive.
 3.1.2 Remoteness of damages - foreseeability and directness
 3.1.3 Injunction
 3.1.4 Specific Restitution of property
 3.2 Extra legal remedies- self-help, re-entry on land, re-capture of goods, *distress damage feasant* and abatement of nuisance.
- 4 Consumer movements: Historical perspectives.**
 4.1 Common law protection: contract and torts.
 4.2 Consumerism in India: Food adulteration, drugs and cosmetics-essential commodities.
 4.2.1 Criminal Sanction: Sale of noxious and adulterated substances, false weights and measures. Use of unsafe carriers.
- 5 Consumer, the Concept.**
 5.1 General perspectives.
 5.2 Statutory and government services: to be included or not?
 5.3 Definition and scope: the consumer Protection Act 1986(CPA)
 5.3.1 Who is not a Consumer?
- 6 Unfair Trade Practices**
 6.1 Misleading and false advertising.
 6.2 Unsafe and Hazardous products.
 6.3 Disparaging competitors
 6.4 Business ethics and Business self-regulation
 6.5 Falsification of trade mark.
- 7 Consumer of Goods**
 7.1 Meaning of defects in goods
 7.2 Standards of purity, quality, quantity, and potency
 7.2.1 Statutes : food and drugs, engineering and electrical goods
 7.2.2 Common law: decision of courts
 7.3 Price Control

- 7.3.1 Administrative fixation
- 7.3.2 Competitive market
- 7.4 Supply and distribution of goods
- 8 Supply of essential commodities**
 - 8.1 Quality control
 - 8.2 Sale of goods and Hire Purchase law
 - 8.3 Prescribing standards of quality-BIS and Agmark, Essential commodities law.
- 9 Consumer Safety**
 - 9.1 Starting, distribution and handling of unsafe and hazardous products \
 - 9.2 Insecticides and pesticides and other poisonous substances
- 10 Service**
 - 10.1 Deficiency-meaning
 - 10.2 Professional services
 - 10.2.1 Medical Services
 - 10.2.2 How to determine negligence
 - 10.2.3 Violation of statute
 - 10.2.4 Denial of medical service: violation of human rights
 - 10.2.5 Lawyering services: duty-towards- court and duty-to-client dilemma, break of confidentiality-negligence and misconduct
 - 10.3 Public Utilities
 - 10.3.1 Supply of electricity
 - 10.3.2 Telecommunication and Postal services
 - 10.3.3 Housing
 - 10.3.4 Banking
- 11 Commercial Services**
 - 11.1 Hiring
 - 11.2 Financing
 - 11.3 Agency Services
- 12 Enforcement of Consumer Rights**
 - 12.1 Consumer forum under CPA: Jurisdiction, powers and functions
 - 12.1.1 Execution of orders
 - 12.1.2 Judicial review
 - 12.2 P.I.L.
 - 12.3 Class Action
 - 12.4 Remedies
 - 12.5 Administrative remedies

SELECT BIBLIOGRAPHY:

**For Paper-III, Tort & Consumer Protection Laws,
Semester-I & II of
Three Years Course and Semester-V&VI of Five Years Course**

- 1) Salmond and Heuston -On the Law of Torts (2000) Universal, Delhi
- 2) D.D. Basu, The Law of Torts (1982), Kamal, Calcutta
- 3) B.M. Gandhi, Law of Tort (1987), Eastern, Lucknow

- 4) Ratanlal & Dhirajlal, The Law of Torts (1997), Universal, Delhi
- 5) Winfield and Jolowiz on Tort (1999), Sweet and Maxwell, London
- 6) Saraf, D.N. Law of Consumer protection in India (1995), Tripathi, Bombay
- 7) Avtar Singh, The Law of Consumer Protection: Principles and Practice (2000), Eastern Book Co., Lucknow
- 8) J.N. Barowalila, Commentary on Consumer Protection Act 1986 (2000), Universal Delhi
- 9) P.K. Majundar, The law of Consumer Protection in India (1998), Orient Publishing Co., New Delhi.
- 10) R.M. Vats, Consumer and the Law (1994), Universal, Delhi.

PAPER-IV

LAW OF CRIMES

Objectives of the course:

The Indian society has changed very rapidly since Independence. A proper understanding of crimes, methods of controlling them and the socio-economic and political reasons for their existence is now extremely important in the larger context of India's development, if students are to use their knowledge and skills to build a just and humane society. The curriculum outlined here attempts to bring in these new Perspectives.

SEMESTER-I OF THREE YEARS COURSE & SEMESTER-V OF FIVE YEARS COURSE

1. General

- 1.1 Conception of crime
 - 1.1.1 Pre-colonial notions of crime as reflected in Hindu, Muslim and tribal law
 - 1.1.2 Macaulay's draft based essentially on British notions
- 1.2 State's power to determine acts or omissions as crimes
- 1.3 State's responsibility to detect, control and punish crime.
- 1.4 Distinction between crime and other wrongs.
- 1.5 IPC: A reflection of different social and moral values.
- 1.6 Applicability of I.P.C.
 - 1.6.1 Territorial
 - 1.6.2 Personal
- 1.7 Salient features of the I.P.C.

2 Elements of Criminal liability.

- 2.1 Author of crime-natural and legal person.
- 2.2 *Mens rea* - evil intention.
- 2.3 Importance of *mens rea*
- 2.4 Recent trends to fix liability without *mens rea* in certain socio-economic offences.
- 2.5 Act in furtherance of guilty intent.
- 2.6 Omission

- 2.7 Injury to another
- 3 Group Liability**
 - 3.1 Stringent provision in case of combination of persons attempting to disturb peace.
 - 3.2 Common intention
 - 3.3 Abetment
 - 3.3.1 Instigation, aiding and conspiracy
 - 3.3.2 Mere act of abetment punishable.
 - 3.4 Unlawful Assembly
 - 3.4.1 Basis of Liability
 - 3.5 Criminal Conspiracy
 - 3.6 Rioting as a specific offence.
- 4 Stages of crime**
 - 4.1 Guilty intention - mere intention not punishable
 - 4.2 Preparation
 - 4.2.1 Preparation not punishable
 - 4.2.2 Exception in respect of certain offences of grave nature or of peculiar kind such as possession of counterfeit coins, false weights and measures.
 - 4.3 Attempt
 - 4.3.1 Attempt when punishable - specific provisions of IPC
 - 4.3.2 Tests for determining what constitutes attempt - proximity, equivocality and social danger.
 - 4.3.3 Impossible attempt.
- 5 Factors negating guilty intention.**
 - 5.1 Mental incapacity
 - 5.1.1 Minority
 - 5.1.2 Insanity -impairment of cognitive faculties, emotional imbalance
 - 5.1.3 Medical and legal insanity.
 - 5.2 Intoxication - involuntary.
 - 5.3 Private defence -justification and limits.
 - 5.3.1 When private defence extends to causing of death to protect body and property
 - 5.3.2 Necessity
 - 5.3.3 Mistake of fact.
- 6 Types of Punishment**
 - 6.1 Death
 - 6.1.1 Social relevance of capital punishment.
 - 6.1.2 Alternatives to capital punishment.
 - 6.2 Imprisonment for life, with hard labour, simple imprisonment
 - 6.3 Forfeiture of property
 - 6.4 Fine
 - 6.5 Discretion in awarding punishment
 - 6.5.1 Minimum punishment in respect of certain offence

**SEMESTER-II
OF THREE YEARS COURSE &
SEMESTER-VI OF FIVE YEARS COURSE**

- 1 Specific offences against human body.**
 - 1.1 Causing death of human beings.

- 1.1.1 Culpable homicide
- 1.1.2 Murder
- 1.2 Distinction between Culpable Homicide and Murder.
- 1.2.1 Specific mental element: requirement in respect of murder
- 1.3 Situation justifying treating murder as culpable homicide not amounting to murder.
 - 1.3.1 Grave and sudden provocation.
 - 1.3.2 Exceeding right to private defence
 - 1.3.3 Public servant exceeding legitimate use of force
 - 1.3.4 Death in sudden fight.
 - 1.3.5 Death caused by consent of the deceased - euthanasia and surgical operation.
 - 1.3.6 Death caused of person other than the person intended.
 - 1.3.7 Miscarriage with or without consent.
- 1.4 Rash and negligent act causing death
- 1.5 Hurt- grievous and simple.
- 1.6 Assault and Criminal force
- 1.7 Wrongful Restraint and Wrongful Confinement - kidnapping from lawful guardianship and from outside India.
- 1.8 Abduction

2. Offences against Women

- 2.1 Insulting the modesty of women.
- 2.2 Assault or criminal force with intent to outrage the modesty of women.
- 2.3 Causing miscarriage without women's consent:
 - 2.3.1 Causing death by causing miscarriage without women's consent
- 2.4 Kidnapping or abducting women to compel her to marry or force her to illicit intercourse
- 2.5 Buying a minor for purposes of prostitution
- 2.6 Rape
 - 2.6.1 Custodial rape
 - 2.6.2 Marital rape
- 2.7 Prevention of immoral traffic.
- 2.8 Cruelty by husband or his relatives.
 - 2.8.1 Prevention of *Sati*
- 2.9 Prohibition of indecent representation of women.

3 Offences against Property

- 3.1 Theft
- 3.2 Cheating
- 3.3 Extortion
- 3.4 Robbery and Dacoity
- 3.5 Mischief
- 3.6 Criminal misappropriation and criminal breach of trust.

4 New kinds of crimes such as terrorism, pollution and adulteration.

5 Law Reforms

SELECT BIBLIOGRAPHY:

For paper-IV Law of Crimes, Semester-I & II of Three Years Course & Semester- V&VI of Five Years Course

- 1 K.D.Gaur, Criminal Law: Cases and Materials(1999) Butterworth's, India
- 2 Ratanlal- Dhirajlal's Indian Penal Code (1994 reprint)
- 3 K.D. Gaur, A Text Book on the Indian Penal Code (1998) Universal, Delhi
- 4 P.S. Achuthan Pillai, Criminal Law (1995) Eastern, Lucknow
- 5 Hidayathulla, M. et. al. Ratanlal and Dhirajlal. The Indian Penal Code (1994 reprint), Wadhawa & Co. Nagpur
- 6 B.M. Gandhi, Indian Penal Code (1996) Eastern Nagpur.

PAPER-V CONSTITUTIONAL LAW

Objectives of the Course.

India is a democracy and her Constitution embodies the main principles of the democratic Government how it comes into being, what are its powers, functions, responsibilities and obligations-how power is limited and distributed. Whatever might have been the original power base of the Constitution, today it seems to have acquired legitimacy as a highest norm of public law. A good understanding of the Constitution and the law, which has developed through constitutional amendments, judicial decisions, constitutional practice and conventions is, therefore, absolutely necessary for a student of law. He must also know the genesis, nature and special features and be aware of the social, political and economic influence on the Constitution.

The purpose of teaching constitutional law is to highlight its never-ending growth. Constitutional interpretation is bound to be influenced by one's social economic or political predictions. A student must, therefore, learn how various interpretations of the constitution are possible and why a significant interpretation was adopted in a particular situation. Such a critical approach is necessary requirement in the study of constitutional law.

Judicial review is an important aspect of constitutional law. India is the only country where the judiciary has the power to review even constitutional amendments. The application of basic structure objective in the evaluation of executive actions is an interesting development of Indian constitutional law, *Pari passu* the concept of secularism and federalism engraved in the constitution are and are to be interpreted progressively

SEMESTER -I OF THREE YEARS COURSE & SEMESTER -V OF FIVE YEAR COURSE

- 1 General**
 - 1.1 Citizenship of the commencement of the constitution.
 - 1.2 Regulation of the right of citizenship by Parliamentary Law.
 - 1.3 Salient features of the constitution
 - 1.4 Making of Indian Constitution
- 2 Parliamentary Government**
 - 2.1 Westminster model-choice of parliamentary government at the Centre and States.
 - 2.2 President of India
 - 2.2.1 Election, qualifications, salary and impeachment
 - 2.2.2 Powers: legislative, executive and discretionary powers.
 - 2.3 Council of Ministers

- 2.4 Governor and state Government- constitutional relationship.
- 2.5 Legislative Process
 - 2.5.1 Practice of Law making
 - 2.5.2 Legislative privileges and fundamental rights.
- 2.6 Prime Minister- cabinet system- collective responsibility- individual responsibility.
- 2.7 Coalition Government: Anti-defection Law.
- 3 Federalism**
 - 3.1 Federalism-principles: Comparative study.
 - 3.2 Indian Federalism: Identification of federal features.
 - 3.2.1 Legislative relations.
 - 3.2.2 Administrative relations
 - 3.2.3 Financial relations
 - 3.3 Governor's role
 - 3.4 Centre's power's over the states- Emergency.
 - 3.5 J. & K. - Special status
 - 3.6 Challenges to Indian Federalism.
- 4 Constitutional Process of Adaptation and Alteration**
 - 4.1 Methods of constitutional amendment.
 - 4.2 Limitations upon constituent power
 - 4.3 Development of the basic structure: Doctrine of judicial activism and restraint.
- 5 Secularism**
 - 5.1 Concept of secularism: historical perspective
 - 5.2 Indian constitutional provision
 - 5.3 Freedom of religion - scope
 - 5.4 Religion and the state: the limits
 - 5.5 Minority rights
- 6 Equality and Social Justice**
 - 6.1 Equality before the law and equal protection of law
 - 6.2 Classification for differential treatment: constitutional validity
 - 6.3 Gender Justice
 - 6.4 Justice to the weaker sections of society: scheduled castes, scheduled tribes and other backward classes.
 - 6.5 Strategies for ameliorative justice.

**SEMESTER-II
OF THREE YEARS COURSE &
SEMESTER-VI OF FIVE YEARS COURSE**

- 1 Freedoms and social Control**
 - 1.1 Speech and expression
 - 1.1.1 Media, Press and information
 - 1.2 Freedom of speech and contempt of court
 - 1.3 Freedom of assembly
 - 1.4 Freedom of association
 - 1.5 Freedom of movement
 - 1.6 Freedom to reside and settle
 - 1.7 Freedom of profession/business

- 1 Personal Liberty**
 - 2.1 Rights of an accused - double jeopardy - self incrimination retroactive punishment
 - 2.2 Right to life and personal liberty: Meaning, scope and limitations
 - 2.3 Preventive detention - constitutional policy.
- 2 Fundamental Rights and Directive Principles**
 - 3.1 Directive Principles - directions for social change-a new social order.
 - 3.2 Fundamental Rights and Directive Principles -inter-relationship -judicial balancing
 - 3.3 Constitutional amendments to strengthen Directive Principles
 - 3.4 Reading Directive Principles into Fundamental Rights.
- 3 Fundamental duties**
 - 4.1 The need and status in constitutional set up
 - 4.2 Interrelationship with fundamental rights and directive principles
- 4 Emergency**
 - 5.1 Emergency - Meaning and scope
 - 5.2 Proclamation of emergency – conditions - effect of emergency on Center-State relations.
 - 5.3 Emergency and suspension of fundamental rights.
- 5 Judiciary under the Constitution**
 - 6.1 Judicial process
 - 6.1.1 Court system
 - 6.1.2 The Supreme Court
 - 6.1.3 High Courts
 - 6.1.4 Subordinate judiciary
 - 6.1.5 Judges: appointment, removal, transfer and condition of service: judicial independence.
 - 6.2 Judicial review: nature and scope
- 7. Services under the Constitution**
 - 7.1 Doctrine of Pleasure (Art. 310)
 - 7.2 Protection against arbitrary dismissal, removal, or reduction in rank (Art. 311)
 - 7.3 Exceptions to Art. 311

SELECT BIBLIOGRAPHY:

For Paper-V, Constitutional Law, Semester-I & II of Three Years Course and Semester - V & VI of Five Year Course

1. T. K. Tope : Constitution of India
2. G. Austin, History Democratic Constitution: The Indian Experience (2000) Oxford.
3. D.D. Basu, Shorter Constitution of India (1996), Prentice Hall of India, Delhi.
4. Constituent Assembly Debates Vol. 1 to 12 (1989)
5. H.M. Seervai, Constitution of India Vol. 1-3 (1992) Tripathi, Bombay.
6. M.P. Singh (ed) V.N. Shukla, Constitutional Law of India(2000) Oxford
7. G. Austin, Indian Constitution: Corner Stone of a Nation.(1972)
8. M. Galanter. Competing Equalities- Law and the Backward Classes in India (1984) Oxford.
9. B. Sivaramayya, Inequalities and the Law (1984) Eastern, Lucknow.
10. S.C. Kashyap, Human Rights and Parliament (1978) Metropolitan, New Delhi.

PAPER VI
FAMILY LAW-I

OBJECTIVES OF THE COURSE:

The course structure is designed mainly with three objectives in view. One is to provide adequate sociology perspectives so that the basic concepts relating to family are expounded in their social setting. The next objective is to give an overview of some of the current problems arising out of the foundational inequalities writ large in the various family concepts. The third objective is to view family law not merely as a separate system of personal laws based upon religious but as the one cutting across the religious lines and eventually enabling us to fulfill the constitutional directive of uniform civil code. Such a restructuring would make the study of familial relations more meaningful.

SEMESTER-I
OF THREE YEARS COURSE &
SEMESTER-V OF FIVE YEARS COURSE

- 1 Marriage and Kinship**
 - 1.1 Evolution of the institution of marriage and family.
 - 1.2 Role of religious rituals and practices in moulding the rules regulating to martial relations.
 - 1.3 Types of family based upon
 - 1.3.1 Lineage- patrilineal matrilineal
 - 1.3.2 Authority structure- patriarchal and matriarchal
 - 1.3.3 Location- patrilocal and matrilocal.
 - 1.3.4 Number of conjugal units - nuclear, extended, joint and composite.
 - 1.4 Emerging concepts: *maitri sambandh* and divided home.
- 2 Customary practices and State regulation**
 - 2.1 Polygamy
 - 2.2 Concubinage
 - 2.3 Child marriage
 - 2.4 *Sati*
 - 2.5 Dowry
- 3 Conversion and its effect on family**
 - 3.1 Marriage.
 - 3.2 Adoption
 - 3.3 Guardianship
 - 3.4 Succession

(In view of the conflict of inter-personal laws, conversion is causing problems. How conversion affects the family and whether it is compatible with the concept of secularism and to what extent such problems would stand resolved with the enactment of a uniform civil code are some of the basics that need to be examined)
- 4 Joint Family**
 - 4.1 *Mitakshara* joint family
 - 4.2 *Mitakshara* coparcenary- formation and incidents

- 4.3 Property under *Mitakshara* law - separate property and coparcenary property
- 4.4 *Dayabhaga* coparcenary - formation and incidents.
- 4.5 Property under *Dayabhaga* law.
- 4.6 *Karta* of the joint family -his position power, privileges and obligations
- 4.7 Alienation of property- separate and coparcenary.
- 4.8 Debts - Doctrines of Pious obligations and antecedent debt.
- 4.9 Partition and re-union.
- 4.10 Joint Hindu family as a social security institution and impact of Hindu Gains of Learning Act and various tax laws on it.
- 4.11 Matrilineal joint family.

**SEMESTER-II
OF THREE YEARS COURSE &
SEMESTER-VI OF FIVE YEARS COURSE**

1 Inheritance

1.1 Hindus

- 1.1.1 Historical perspective of traditional Hindu law as a back-ground to the study of Hindu Succession Act 1956.
- 1.1.2 Succession to property of a Hindu male dying intestate under the provisions of Hindu succession Act 1956.
- 1.1.3 Devolution of interest in *Mitakshara* coparcenary with reference to the provision of Hindu Succession Act, 1956.
- 1.1.4 Succession to property of Hindu female dying intestate under the Hindu Succession Act, 1956.
- 1.1.5 Disqualification relating to succession
- 1.1.6 General rules of succession.
- 1.1.7 *Marumakkattayam* and *Aliyasantana* laws governing people living in Travancore - Cochin and the districts of Malabar and South Kanara.

1.2 Muslims

- 1.2.1 General rules of succession and exclusion from succession.
- 1.2.2 Classification of heirs under *Hanafi* and *Ithna Ashria* Schools and their shares and distribution of property.

1.3 Christians, Parsis and Jews

- 1.3.1 Heirs and their shares and distribution of property under the Indian Succession Act of 1925.

2 Matrimonial Remedies

- 2.1 Non-judicial resolution of marital conflicts
 - a. Customary dissolution of marriage-unilateral divorce, divorce by mutual consent and other modes of dissolution.
 - b. Divorce under Muslim personal law- *talaq* and *talaq-e-tafweez*.
- 2.2 Judicial resolution of marital conflicts: the family court.
- 2.3 Nullity of marriage
- 2.4 Option of puberty
- 2.5 Restitution of conjugal rights
- 2.6 Judicial separation
- 2.7 Desertion: a ground for matrimonial relief.

- 2.8 Cruelty: a ground for matrimonial relief
- 2.9 Adultery: a ground for matrimonial relief.
- 2.10 Other grounds for matrimonial relief
 - 2.11 Divorce by Mutual Consent under: Special Marriage Act 1954; Hindu Marriage Act 1955; Muslim law (*Khula* and *Mubaraat*).
 - 2.12 Bar to matrimonial relief
 - 2.12.1 Doctrine of Strict Proof
 - 2.12.2 Taking advantage of one's own wrong or disability
 - 2.12.3 Accessory
 - 2.12.4 Connivance
 - 2.12.5 Collusion
 - 2.12.6 Condonation
 - 2.12.7 Improper or unnecessary delay
 - 2.12.8 Residuary clause - no other legal ground exists for refusing the matrimonial relief

SELECT BIBLIOGRAPHY:

For Paper-VI, Family Law -I, Semester-I & II of Three Years Course & Semester-V & VI of Five Years Course

- 1) Paras Diwan, Law of Intestate and Testamentary Succession (1998), Universal
- 2) Basu, N.D., Law of Succession(2000) Universal
- 3) Kusum, Marriage and Divorce Law Manual (2000),Universal
- 4) Machanda S.C. Law and Practice of Divorce in India(2000) Universal
- 5) P.V.Kane, History of Dharmasastras Vol.2 pt 1 at 624-632 (1974)
- 6) A. Kuppaswami(ed.) Mayne's Hindu Law and Usage Chapter 4 (1986)
- 7) B. Sivaramayya, Inequalities and the Law.(1985)
- 8) K.C. Daiya "Population Control through family planning in India" Indian Journal of Legal studies. 85 (1979)
- 9) J.D.M. Derrett, Hindu Law: Past and Present.
- 10) J.D.M. Derrett, Death of Marriage Law.
- 11) A.AA Fyzee, Outline of Mohammedan Law,(1986)
- 12) J.D.M. Derrett, A Critique of Modern Hindu Law,(1970)
- 13) Paras Diwan, Hindu Law (1985)
- 14) S.T. Desai (ed.) Mulla's principles of Hindu Law(1998)-Butterworth's-India
- 15) Paras Diwan, Family Law: Law of Marriage and Divorce in India,(1984)
- 16) AM. Bhattachargee, Muslim law and the Constitution (1994) Eastern Law House, kolkatta.
- 17) AM. Bhattachargee, Hindu Law and the Constitution (1994) Eastern Law House, Kolkatta.
- 18) Paras Diwan, Law of Adoption, Minority, Guardianship and Custody(2000) Universal)

PAPER-VII

ADMINISTRATIVE LAW

The modern state governs in the traditional sense, that is, it maintains law and order, adjudicates upon disputes and regulates economic and social life of individuals and groups in the state; At the same time it is also the provider of essential services. In the event of need occasioned by unforeseen hazards of life in a complex society, it engages itself in giving relief and helps the citizenry towards self reliance. The assumption of unprecedented responsibilities by the state has necessitated devolution on authority of numerous state functionaries. The number of functionaries in carrying out these tasks has ever been on the increase due to proliferation of human needs in an age of science and technology. The aggregate of such functionaries is an essential component of modern administration.

A formidable body of law has come into existence for the purpose of exercising control over administration. For long, administrative lawyers have primarily been concerned with such matters as excess or abuse of power, maladministration and abuse of discretion. However, in recent years there has been a shift in emphasis for finding what the administration may not do to what it must do. The Courts in India, no doubt, strike down administrative acts which are *ultra vires* or in violation of procedural norms; however, not much has so far been achieved in compelling the administration to perform statutory duties, though a beginning has been made in respect of matters relating to fundamental human liberties. Most of the statutory duties impose on administrative agencies or authorities remain largely in the realm of discretion.

A course on administrative law must, therefore, lay emphasis on understanding the structure and *modus operandi* of administration. It must take note of developmental perspectives and attainment of social welfare objectives through bureaucratic process. It should go into matters, which facilitate or hinder the attainment of these objectives.

Though in the matter of protection of rights of individuals against administration the role of courts can not be minimized, it is no less important to know the advantages of informal methods of settlement. Many new methods of grievance redressal have been devised which are not only efficacious but also inexpensive and less time consuming.

Remedies available for administrative deviance need a critical study and evaluation in the context of realities.

SEMESTER-I OF THREE YEARS COURSE & SEMESTER-V OF FIVE YEARS COURSE

- 1. Evolution, Nature and Scope of Administrative Law**
 - 1.1 From *laissez faire* to a social welfare state
 - 1.1.1 State as regulator of private interest
 - 1.1.2 State as provider of services
 - 1.1.3 Other functions of modern state: relief, welfare
 - 1.2 Evolution of administration as the fourth branch of government - necessity for delegation of powers on administration
 - 1.3 Evolution of agencies and procedures for settlement of disputes between individual and administration.

- 1.3.1 Regulatory agencies on the United States
- 1.3.2 *Conseil d'Etat*
- 1.3.3 Tribunalization in England and India
- 1.4 Definition and scope of administrative law
- 1.5 Relationship between constitutional law and administrative law
- 1.6 Separation of powers
- 1.7 Rule of Law
- 2. Civil Service in India**
 - 2.1 Nature and organization of civil service: from colonial relics to democratic aspiration.
 - 2.2 Powers and functions
 - 2.3 Accountability and responsiveness: problems and perspectives
 - 2.4 Administrative deviance - corruption, mal-administration.
- 3. Legislative Powers of Administration**
 - 3.1 Necessity for delegation of legislative power
 - 3.2 Constitutionality of delegated legislation - powers of Exclusion and Inclusion and power to modify statute
 - 3.3 Requirements for the validity of delegated legislation
 - 3.3.1 Consultation of affected interests and public participation in Rule Making.
 - 3.3.2 Publication of delegated legislation
 - 3.4 Administrative directions, circulars and policy statements
 - 3.5 Legislative control of delegated legislation
 - 3.5.1 Laying procedures and their efficacy
 - 3.5.2 Committees on delegated legislation-their constitution, function and effectiveness.
 - 3.5.3 Hearings before legislative committees
 - 3.6 Judicial control of delegated legislation
 - 3.7 Sub-delegation of legislative powers
- 4. Judicial Powers of Administration**
 - 4.1 Need for devolution of adjudicatory authority on Administration
 - 4.2 Administrative tribunals and other adjudicating authorities: their *ad hoc* character
 - 4.3 Tribunals - need, nature, constitution, jurisdiction and procedure
 - 4.4 Jurisdiction of administrative tribunals and other authorities
 - 4.5 Distinction between quasi-judicial and administrative functions
 - 4.6 The right to hearing - essentials of hearing process
 - 4.6.1 No man shall be judge in his own cause
 - 4.6.2 No man shall be condemned unheard
 - 4.7 Rules of evidence - no evidence, some evidence and substantial evidence rules
 - 4.8 Reasoned decisions
 - 4.9 The right to counsel
 - 4.10 Institutional decisions
 - 4.11 Administrative appeals

**SEMESTER-II
OF THREE YEARS COURSE &
SEMESTER-VI OF FIVE YEARS COURSE**

5 Judicial Control of Administrative Action

- 5.1 Exhaustion of administrative remedies
- 5.2 Standing: Standing for Public Interest Litigation (social action litigation) collusion, bias.
- 5.3 *Laches*
- 5.4 *Res judicata*
- 5.5 Grounds
 - 5.5.1 Jurisdictional error/*ultra vires*
 - 5.5.2 Abuse and non exercise of jurisdiction
 - 5.5.3 Error apparent on the face of the record
 - 5.5.4 Violation of principles of natural justice
 - 5.5.5 Violation of Public Policy
 - 5.5.6 Unreasonableness
 - 5.5.7 Legitimate expectation
- 5.6 Remedies in judicial Review:
 - 5.6.1 Statutory Appeals
 - 5.6.2 *Mandamus*
 - 5.6.3 *Certiorari*
 - 5.6.4 Prohibition
 - 5.6.5 *Quo-Warranto*
 - 5.6.6 *Habeas Corpus*
 - 5.6.7 Declaratory judgments and injunctions
 - 5.6.8 Specific performance and civil suits for compensation

6 Administrative Discretion

- 6.1 Need for administrative discretion
- 6.2 Administrative discretion and rule of law
- 6.3 Limitations on exercise of discretion
 - 6.3.1 *Mala fide* exercise of discretion
 - 6.3.2 Constitutional imperatives and use of discretionary authority
 - 6.3.3 Irrelevant considerations
 - 6.3.4 Non-exercise of discretionary power.

7 Liability for wrongs (Tortious and Contractual)

- 7.1 Tortious liability: sovereign and non-sovereign functions.
- 7.2 Statutory immunity.
- 7.3 Act of state.
- 7.4 Contractual liability of government.
- 7.5 Government privilege in legal proceedings- state secrets, Public interest
- 7.6 Transparency and right to information.
- 7.7 Estoppel and waiver

8. Corporations and Public Undertakings...

- 8.1 State monopoly - remedies against arbitrary action or for acting against public policy.
- 8.2 Liability of public and private corporations - departmental undertakings.
- 8.3 Legislative and governmental control.
- 8.4 Legal remedies.
- 8.5 Accountability - Committee on Public Undertakings, Estimates Committee etc.

9. Informal Methods of Settlement of Disputes and Grievance

Redressal Procedures

- 9.1 Conciliation and Mediation through social action groups.
- 9.2 Use of media, lobbying and public participation
- 9.3 Public inquires and commissions of inquiry.
- 9.4 Ombudsman: *Lok pal, Lok Ayukta*
- 9.5 Vigilance Commission
- 9.6 Congressional and parliamentary Committees

SELECT BIBLIOGRAPHY

For Paper-VII Administrative Law, Semester-I & II of Three Years Course & Semester-V & VI of Five Years Course

1. C.K. Allen, Law & Orders (1985)
2. D.D. Basu, Comparative Administrative Law (1998)
3. M.A Fazal, Judicial control of Administrative Action in India, Pakistan and Bangladesh (2000), Butterworth's-India
4. Franks, Report of the Committee on Administrative Tribunals, and inquiries, HMSO, 1959.
5. Peter Cane, an Introduction of administrative Law (1996) Oxford
6. Wade, Administrative Law (Seventh Edition, Indian Print 1997) Universal, Delhi
7. J.C. Garner, Administrative Law (1989), Butterworth's (ed. B.L. Jones)
8. M.P. Jain, Cases and Materials on Indian Administrative Law Vol. -I and II (1996), Universal, Delhi
9. Jain and Jain Principles of Administrative Law (1997), Universal, Delhi
10. S.P. Sathe, Administrative Law (1998), Butterworth's-India, Delhi
11. De Smith, Judicial Review of Administrative Action (1995), Sweet and Maxwell with supplement
12. B. Schwartz, an Introduction to American Administrative Law
13. Indian Law Institute, Cases and Materials on Administrative Law in India Vol.1 (1996), Delhi

**PAPER-VIII
LEGAL LANGUAGE**

Objectives of the Course

Command of Language is an essential quality of a lawyer for presentation of not only pleadings but also arguments before a court of law. Efficiency of advocacy depends upon communication skill to a substantial extent. No doubt, he should be conversant with the legal terminology, precision, clarity and cogence are governing principles of legal writing and dialogue. A student of law should get an opportunity to be familiar with the writings of eminent jurists of the past. This exposition will stand him in good stead in understanding the intricate problems of law and will equip him with the faculty of articulation and sound writing.

**SEMESTER-I
OF THREE YEARS COURSE &
SEMESTER-V OF FIVE YEARS COURSE**

- I) Law in General and its Meaning : Classification of Law :**
- 1) Private Law and Public Law
 - 2) Civil Law and Criminal Law
 - 3) Substantive Law and Procedural Law
 - 4) Natural Law and Positive Law
- II) 1) Importance of Language to Legal profession**
- 2) Acquiring command over language
- III) Legal and ordinary meaning of the following concepts**
Person; Property; Ownership; Possession; Injury; Wrong; Offender;
Man; Wife; Child; Death; Right and Duty; Trespass.
- IV) Following Maxims:**
- 1) *Actus non facit reum nisi mens sit rea.*
 - 2) *Actio Personalis Moritur cum Persona.*
 - 3) *Delegatus non-potest delegare.*
 - 4) *Ex turpi causa non oritur actio*
 - 5) *Ignorantia facti excusat ignorantia juris non excusat*
 - 6) *In jure non remota causa, sed promixa spectatur.*
 - 7) *Respondeat superior.*
 - 8) *Res Ipsa Loquitur.*
 - 9) *Ubi jus ibi remedium.*
 - 10) *Volenti non-fit injuria*
 - 11) *Salus populi est suprema lex.*
 - 12) *Autre fois acquit autre fois convict.*
- V) Following Phrases with their meaning:**
Sine die, suo motu, mutatis mutandis, ab inito, de novo, ultra vires, intra vires, sine qua non, quid pro quo, mens rea, actus reus, jus necessitatis, ad- interim, de-facto, de jure, locus standi, lex fori, functus officio, prima facie, in limine decree nisi, proforma, interlocutory, ex- post- facto

**SEMESTER-II
OF THREE YEARS COURSE &
SEMESTER-VI OF FIVE YEARS COURSE**

- I) **Civil Procedure Code:-**
Plaint: Written Statement, issues, Judgement, Decree, Suit, Plaintiff, Defendant Appellant Respondent Appeal, Reference, Review, Revision, Stay, Injunction, *Res Judicata*, *Res Sub-Judice*.
- II) **Criminal Procedure Code:-**
Cognizable and Non-Cognizable offences, Bailable and non-bailable offences, stages of criminal trial (Investigation, Inquiry and Trial), F.I.R., Complaint, Arrest, Bail, Charge, Charge-sheet, Judgement of acquittal and judgement of conviction, criminal courts, classification, Security Bond.
- III) **Law of Evidence:-**
Meaning of evidence and proof, Kinds of evidence, circumstantial and direct evidence witness, an accomplice.
- IV) **Property Law**
Property: Its meaning and its kinds, tangible and intangible, movable and immovable and intellectual property, sale, gift, mortgage, lease, license, trust, exchange and easements.

SELECT BIBLIOGRAPHY

For Paper-VIII Legal Language, Semester-I & II of Three Years Course & Semester V & VI of Five Year Course.

- 1) Abbot Parry, Seven Lamps of Advocacy
- 2) Mogha's Conveyancing.
- 3) Mogha's Forms and Precedents.
- 4) Mogha's Pleadings
- 5) Law and Language
- 6) Bhatnagar R.P. & R. Bhargava, Law and Language, New Delhi, Macmillan
- 7) Brown, Gordon W. Legal Terminology, New Jersey: Prentice Hall, 1990
- 8) Cochrane, Michael, Legal English, Paris Cujas, 1979.
- 9) Cross, Ian et al. Skills for Lawyers, Jordan Publishing Co. 1997 Bristol
- 10) Cutts, Martin. The plain English Guide, Oxford University Press 1995.
- 11) Garner, Bryan, A Dictionary of Modern Legal Usage, New York: OUP 1987
- 12) Gibbons, John, (ed.) Language and the Law, Longman, 1996 London
- 13) Gibbons, John (ed) "Language and the Law" Annual Review of Applied Linguistics (1999) 19. 156-173.
- 14) Kelkar, Ashok R. "Communication and Style in Legal Language" Indian Bar Review Vol. 10 (3) 1993
- 15) Lord Denning, "Command on Language", The Discipline of the Law, New Delhi: Aditya Books, 1993.
- 16) Lord Denning "Plain English" The closing chapter, New Delhi Aditya Books, 1993
- 17) Melinkoff, David, The Language of the Law, Boston: Little Brown & Co. 1963
- 18) Molyneux, Hael. Legal Problems, Macmillian, London.

- 19) Herbert Brown, A Selection Legal Maxims (Reprint 1998) Sweet and Maxwell
- 20) M.C. Setalvad My life Law other things,(2000) Universal, Delhi
- 21) Olivecrona, K. "Legal Language and Reality" in M .D.A. Freeman, Introduction to Jurisprudence.
- 22) Riley, Alison, English for Law, London: Macmillan, 1991.
- 23) Williams, Glanville, "Language and the Law" In Freeman, pp. 1350-53'
- 24) Thomson, A.J. & AV. Martinet, A Practical English Grammar, Oxford: OUP
- 25) Turton, N.D. 7 J.B. Heaton, Longman Dictionary of Common errors
- 26) Williams Glanville, Learning the Law, (2000), Universal, Delhi.
- 27) Black's Law Dictionary,(2000), Universal, New Delhi
- 28) Broom's Legal Maxims (2000) Universal, New Delhi
- 29) James and Stabbings, A Dictionary of Legal Quotations (1997) Universal, New Delhi.
- 30) Latin For Lawyers, (1997) Sweet & Maxwell, Universal, New Delhi.
- 31) Trayner's Latin Magazines, (1997) University, New Delhi.

Rules relating to LL.B. Degree Course (Three Year and Five Year Law Course)

1. The Three Year LL.B. Degree Course shall be of Six Semester Full Time Course leading to LL.B. (Special) Degree. The Five Year LL.B. Degree Course shall be of Ten Semester Full Time Course leading to LL.B. (Special) Degree.
2. No candidate will be admitted to the Semester Examination unless he has completed 75% attendance in the given Semester as per the University Rules.
3. There shall be examination at the end of each semester.
4. Each Theory Paper of each Semester will carry 50 marks and will be of two hours duration. However, Paper No. IX: Professional Ethics, Accountancy for Lawyers and Bar Bench Relations of 7th and 8th Semester of Five Year LL.B. Course and 3rd and 4th Semester of Three Year LL.B. Course will be of 40 marks each and will be of two hours duration.
5. Nature of Question Paper:
 - (i) LL.B. III/N.L.C. V: Each Question Paper will consist of four Questions. Question No. 1, 2, 3 will carry 12 marks each. Question No. 4 will be of short notes and will be of 14 marks.
 - (ii) LL.B. I/N.L.C.III & LL.B. II/N.L.C. IV: For each question paper there will be six questions, Question No. 1 & 6 will be compulsory. The Students will be required to

solve any two questions out of question No 2 to question No. 5. Question No. 6 will be short notes having internal options. Question No. 1 to 5 each will carry 12 marks. Question No. 6 will carry 14 marks. Students will have to solve two short notes out of 4. However in Paper No. IX Professional Ethics, Accountancy for Lawyers and Bar Bench Relations of 7th and 8th Semester of Five Year LL.B. Course and 3rd and 4th Semester of Three Year LL.B. Course each question will be of 10 marks and question No. 4 will be of short notes. Each question will have sufficient internal options.

Note: This Nature of Question Paper is being replaced in phase-wise manner by New Nature of Question Paper as given in Rule No. 17.

6. **Standard of Passing:**

- (i) A candidate shall be declared 'Pass' in the examination of a Semester if he has secured minimum 17 marks in each paper and aggregate 25 marks in all the papers of the Semester.
 - (ii) The requirement of Aggregate marks for 1st, 2nd, 3rd and 4th Semester of Five Year LL.B. Degree Course will be of 23 marks.
 - (iii) In case of Paper No. IX Professional Ethics, Accountancy for Lawyers and Bar Bench Relations of 7th and 8th Semester of Five Year LL.B. Course and 3rd and 4th Semester of Three Year LL.B. Course, a candidate shall be declared pass if he has secured minimum 13 marks and Exemption will be available at 20 marks.
7. The candidates who secure 50% or more marks but less than 60% will be placed in Second Class. The candidates getting aggregate 60% or more marks but less than 70% in two semesters taken together (I & II, III & IV, V & VI, VII & VIII, IX & X) will be placed in First Class; the candidates getting aggregate 70% or more marks in two semesters taken together (I & II, III & IV, V & VI, VII & VIII, IX & X) will be placed in Distinction.
 8. **Exemption:** The student may be exempted at his choice from appearing in any of the Papers, if he has secured 50% of the total marks in the Paper. However, for the students of 1st to 4th Semesters of Five Year Law Course Exemption will be for at least 45% marks.
 9. All the Semester Examinations will be conducted twice in a year i.e. October/November and March/April.
 10. The LL.B. Degree will not be conferred upon a candidate unless the candidate has passed in all the Papers prescribed for each Semester Examination.

11. The College may be allowed to admit students for the entire Academic Year i.e. for both the Semesters during the Academic Year at one time.
12. To pass any of the Semester Examination, a student must have passed in all the papers of that Semester.
13. The results of the candidate appearing at 4th, 6th, 8th and 10th Semester of Five Year LL.B. Course shall not be declared unless and until the candidate has been declared 'Pass' in all the papers up to 2nd, 4th, 6th and 8th Semester respectively.
14. The result of the candidate appearing at the 4th and 6th Semester of Three Year LL.B. Course shall not be declared unless and until the candidate has been declared 'Pass' in all the Papers up to 2nd and 4th Semester respectively.
15. Eligibility for admissions to Five Year LL.B. Course:
 - (i) **1st Semester:** For admission to the 1st Semester of Five Year LL.B. Degree Course, a student must have passed H.S.C. Examination (10+2 Pattern) or equivalent qualification with minimum 45% of marks at the qualifying examination. However, above percentage of marks will be 40% for the student belonging to SC/ST categories.
Three Years Diploma Course in Engineering, after S.S.C., conducted by Government of Maharashtra is recognised as equivalent to XII Standard (H.S.C.) and as the requisite qualification for admission to 1st Semester of Five Year Law Course.
 - (ii) **2nd, 4th, 6th, 8th and 10th Semester:** A student for being eligible for admission to 2nd, 4th, 6th, 8th and 10th Semester must have successfully kept the terms for the 1st, 3rd, 5th, 7th and 9th Semester respectively, irrespective of the result of these Semester Examinations.
 - (iii) **3rd Semester:** A student for being eligible for admission to the 3rd Semester must have either passed in the 1st and 2nd Semesters or must have got exemption in at least eight Papers of the 1st and 2nd Semesters.
 - (iv) **5th Semester:** A student for being eligible for admission to the 5th Semester must have either passed in the 3rd and 4th Semesters or must have got exemption in at least eight Papers of the 3rd and 4th Semesters.
 - (v) **7th Semester:** A student for being eligible for admission to the 7th Semester must have either passed in the 5th and 6th Semesters or must have got exemption in at least ten Papers of the 5th and 6th Semesters.

- (vi) **9th Semester:** A student for being eligible for admission to the 9th Semester must have either passed in the 7th and 8th Semesters or must have got exemption in at least fourteen Papers of the 7th and 8th Semesters.

16. Eligibility for admissions to Three Year LL.B. Course:

- (i) **1st Semester:** For admission to the 1st Semester of Three Year LL.B. Course, a student must have passed Bachelor's or Master's Degree Examination in any Faculty of a recognised University with minimum 45% marks at the qualifying examination. However, the above percentage of marks will be 40% for the students belonging to SC/ST categories.
- (ii) **2nd, 4th and 6th Semester:** A student for being eligible for admission to the 2nd, 4th and 6th Semester must have successfully kept the terms for the 1st, 3rd and 5th Semester respectively, irrespective of the result of these Semester examination.
- (iii) **3rd Semester:** A student for being eligible for admission to the 3rd Semester must have either passed in the 1st and 2nd Semester or must have got exemption in at least ten Papers of the 1st and 2nd Semesters.
- (iv) **5th Semester:** A student for being eligible for admission to the 5th Semester must have either passed in the 3rd and 4th Semesters or must have got exemption in at least fourteen Papers of the 3rd and 4th Semesters.

17. **New Nature of Question Paper:** New Nature of Question Paper for LL.B. Course is implemented in phase-wise manner starting from March/April 2008 Examination. Solapur University notifies to all affiliated Law Colleges, at the beginning of each term, as to which of the Years and which of the Semesters of LL.B. Course will have New Nature of Question Paper. The students should see College Notice Board to ascertain for which Semester Examination New Nature of Question Paper will be set.

New Nature of Question Paper

- Instructions:**
- 1) Question No. 1, 2 & 6 are compulsory.
 - 2) Solve any one from question No. 3 to 5.
 - 3) Figures in the right indicate full marks.

| | | | |
|------------------------------------|-----|--|------|
| 20 % marks objective | Q.1 | a) Multiple choice questions --- 5 b) Fill in the Blanks/answer in one sentence --- 5 | 10 |
| | Q.2 | Descriptive question --- 10 | 10 |
| 40 % marks Descriptive type | Q.3 | Descriptive question --- 10 | } 10 |
| | Q.4 | Descriptive question --- 10 | |

Q.5 Descriptive question --- 10

Q.6 Write short Notes on (Any Four) --- 20

20

i)

ii)

iii)

iv)

v)

vi)

**40 % marks
short notes**
