



DIRECTORATE OF DISTANCE EDUCATION
KURUKSHETRA UNIVERSITY,
KURUKSHETRA-136 119

SYLLABUS

LL.M. Part-I

SESSION 2019-20

| Paper | Name of the Paper | Max. Marks | Time |
|-------------------------|--|-------------------|-------------|
| 101DE-Paper-I : | Law, social Transformation and Judicial Process in India | 100 | 3 Hours |
| 102DE-Paper-II : | Indian Constitutional Law and the New Challenges | 100 | 3 Hours |
| 103DE-Paper-III : | Principles of statutory Interpretation | 100 | 3 Hours |
| 104DE-Paper- IV : | Legal Theory | 100 | 3 Hours |
| 105DE-Paper-I (Opt.) : | Business Law Group(C): Corporate Law and Management | 100 | 3 Hours |
| 106DE-Paper-II (Opt.) : | Business Law Group(C): Law of Contractual Transactions | 100 | 3 Hours |

IOIDE- Paper-I : Law, social Transformation and Judicial Process in India

Max. Marks: 100

Time: 3 Hours

Objectives

- (i) Eight questions shall be set with two questions from each unit. The candidates shall be required to attempt four questions in all, selecting one question from each Unit.
- (ii) All questions shall carry equal marks.

UNIT - I

Principle of Legislation

1. Principles of Utility
2. Principles of Civil Code
3. Principles of Penal Code
4. Constitutional Utilitarianism, Modern Trends

UNIT - II

Legislative Process in India

1. Legislative procedure; ordinary and money bills, joint session, Assent to bills.
2. Procedure in the House, Committees of the House, need for reforms.
3. Delegated Legislation- Need for delegated legislation, classification of delegated legislation. Constitutionality of delegated legislation and control mechanism of administrative rule making in India

4. Failure of the Executive Administration to enforce the law, civil disobedience of law.

UNIT - III

1. Law and Social Transformation- Law as an instrument of social change- Law as the product of tradition and culture.
2. Responses of law to social institutions
 - (a) Religion and Law
 - (b) Language and Law
 - (c) Community and Law
3. Women and Law
4. Children and Law
5. Modernization trends in different areas
 - (a) Family Law
 - (b) Local Self Government
 - (c) Court Processes- Civil Law and Criminal Law

UNIT - IV

Judicial Process

1. Judicial Legislation as an instrument of social ordering.
2. Power of Judicial Review under the constitution of India, Judicial activism, Dworkin's Theory of Adjudication.
3. Concept of Justice. Relation between law and justice, Equivalence theories, Dependence theories. Independence of Justice theories.

Books Recommended

- Galanter, March (Ed.) : Law and Society in Modern India (1997), Oxford.
- Lingat, Robert : The Classical Law of India (1998).
- Baxi, U. : The Crisis of the Indian Legal System (1998), Vikas, New Delhi.
- Baxi, U. (Ed.) : Law and Poverty Critical Essay (1988), Tripathi, Bombay.
- Derret, Duncan : The state, Religion and Law in India (1999), Oxford University Press, New Delhi.
- Seervai, H.M. : Constitutional Law of India (1996), Tripathi.
- Basu, D.D. : Shorter Constitution of India (1996) Prentice-Hall of India(P) Ltd., New Delhi.
- Destha, Sunil and : Law and Menace of child Labour (2000),
Destha, Kiran Anmol Publications, Delhi.
- Gunasekhere, Sayitri : Children, Law and Justice (1997), Sage.
- Indian Law Institute : Law and social Change: Indo-American Reflections, Tripathi (1988)
- Kripalani, J.B. : Gandhi: His Life and Thought (1970). Ministry of Information and Broadcasting, Government of India.
- Jain, M.P. : Outlines of Indian Legal History (1993)
- Flavb, Agnes : Law and Gender Inequality: The Politics of women's right in India(1999), Oxford.

**102DE- Paper-II : Indian Constitutional Law
and the New Challenges**

Max. Marks: 100

Time: 3 Hours

Objectives

- (i) Eight questions shall be set with two questions from each unit. The candidates shall be required to attempt four questions in all, selecting one question from each Unit.
- (ii) All questions shall carry equal marks.

UNIT - I

1. The Executive- Union & States

- 1.1 Parliamentary/Presidential form Governments-Suitability.
- 1.2 President/Govemor & Council of Ministers-Relationship.
- 1.3 Coalition government. Power Politics.

2. Parliament & State Legislatures

- 2.1 Composition of Legislature, Elections, Corrupt Practices.
- 2.2 Role of the Legislature, Elections, Corrupt Practices

3. Judiciary in India

- 3.1 Independence of Judiciary, Appointment, Removal of the Judges, Code of Conduct for Judges.

3.2 Power of Judicial Review, Writ Jurisdiction & other powers of the court, Judicial Activism.

3.3 Separation of Powers, Relationship of Executive, Legislature & Courts.

UNIT - II

1. Fundamental Rights, Definitions of State and Law.
2. Right to Equality, Reverse discrimination.
3. Political Freedom of the citizen reasonableness of restrictions.
4. Right to life & personal liberty, various dimensions of the right to life and personal liberty.

UNIT - III

1. Secularism, right of the minorities.
2. Socio-economic rights, Directive principles of state policy-enforcement by the state relationship between directive principles & fundamental rights.
3. Doctrine of eminent domain, right to property
4. Parliamentary, privileges & fundamental rights.
5. Fundamental duties of the citizen.

UNIT - IV

1. Federalism, Co-operative federalism.
2. Legislative and Administrative relations.

3. Distribution of financial resources, Inter-State trade and commerce.

4. Amendment of the Constitution Basic structure theory.

Select Bibliography :

- Seervai, H.M. : Constitutional Law of India (3 Volumes).
- Jain, M.P. : Indian Constitutional Law
- Shukla, V.N. : Constitution of India
- Basu, D.D. : Constitution of India
- Bar Council of India : Constitution of India
(Edited by Hidayatulla)
Ex. C.J. of India
- Dr. Pal, Chander : Centre-State Relation and Co-operative
Federalism.
- Gupta. R.K. : Centre State Fiscal Relation under the
Indian Constitutional Law
- Wheare, K.C. : Federal Government (1963)

103DE- Paper-III : Principles of statutory Interpretation

Max. Marks: 100

Time: 3 Hours

Objectives

- (i) Eight questions shall be set with two questions from each unit. The candidates shall be required to attempt four questions in all, selecting one question from each Unit.
- (ii) All questions shall carry equal marks.

UNIT - I

1. Basic Principles of Interpretation:

Meaning of Interpretation, Interpretation and Construction, Intention of Legislature. Statute must be read as a whole in its context, Presumption in favour of constitutionality of a statute. If meaning plain, effect must be given to it irrespective of consequences.

2. Rule of Literal Construction.

3. Golden Rule of Construction.

4. Mischief Rule of Construction

UNIT - II

1. Internal Aids to Construction:

Short Title, long title, Preamble, Headings, Marginal Notes, Punctuations, Illustrations, Interpretations, Clause, Proviso, Explanation, Schedules.

2. Maxims

(i) Eiusdem Generis

(ii) Expressio Unius Est Exclusio Alterius

(iii) Noscitur A Sociis

3. Interpretation of Constitution.

UNIT - III

1. External Aids to Construction:

Parliamentary History, Historical Facts and Surrounding Circumstances, Dictionaries, Text-books, Use of Foreign Decisions, Statutes in Parl-materia.

2. Codifying and Consolidation Statutes.

3. Mandatory and Directory Provisions.

4. Commencement and Repeal of Statutes.

UNIT - IV

1. Beneficial and Liberal Construction.

2. Construction of Remedial and Penal Statutes.

3. Construction of Taxing Statutes.

4. Presumption as to Jurisdiction of the Courts.

5. Construction to Prevent, Evasion and Abuse.

Select Bibliography :

- Maxwell : Inrerpretation of Statutes.
- Craies : Statute Law.
- Sutherland : Statutory Construction.
- Singh, G.P. : Principles of Statutory Interpretation.
- Swarup, Jagdistt : Legislation and Interpretation.
- Sarathi, V.P. : Interpretation of Statutes.
- Bindra : Interpretation of Statutes.

104DE- Paper- IV : Legal Theory

Max. Marks: 100

Time: 3 Hours

Objectives

- (i) Eight questions shall be set with two questions from each unit. The candidates shall be required to attempt four questions in all, selecting one question from each Unit.
- (ii) All questions shall carry equal marks.

UNIT - I

1. Nature, Value and Province of Jurisprudence
2. Positivism:
 - (a) Betham and Positivism
 - (b) John Austin and Analytical Jurisprudence
3. Modern Positivism
 - (a) Kelsen's Pure Theory of Law
 - (b) Hart's Concept-of Law
 - (c) Dworkin's Criticism of Positivism and his theory of Law

UNIT - II

1. Historical Jurisprudence:
 - (a) Savigny and the Historical School

(b) Henry Maine and the Anthropological School

2. Natural Law

(a) Revival of Natural Law

(b) Lon L. Fuller- Morality of Law

(c) Stammler- 'Natural Law with a variable content'

3. The Theory of Precedent in India

UNIT - III

1. Modern Realism.

2. Sociological Jurisprudence:

(a) Ihering, Ehrlich and Duguit

(b) Roscoe Pound's social Engineering

3 Theory of Social Justice:

(a) John Rawls

(b) Indian Approach to socio-economic justice

UNIT - IV

Legal Concepts:

1. Legal Rights

2. Legal Personality

3. Possession and Ownership

Select Bibliography :

- Paton : A Textbook of Jurisprudence
- Dias : Jurisprudence
- Friedmann : Legal Theory
- Hart : Concept of Law
- Llloyd : Introduction to Jurisprudence
- Fuller : The Morality of Law
- Basu : Modern Theories of Law(TLL)
- Austin : The Province of Jurisprudence
Determined
- Bodenheimer : Jurisprudence
- Stone : Social Dimensions of Law and Justice
- Jennings : Modern Theories of Law
- Allen : Law in the Making
- Pound : Jurisprudence Vol.⁴ I-IV
- Weermantrury : Equality and Freedom: Some Third
world Prospective
- Hilaire Mc Coubery : Text boak of Jurisprudence
& Nigel D. White
- Dworkin : Taking Rights Seriously (1972), Law's
Empire (1986)
- Bentham : Limits of Jurisprudence Defined (Ed. By
Evertt) 1945.

- Savigny : Law of Possession
- Stone, Julius : The Province & Function of Law
- Sir Henry Maine : Ancient Law
- Rawls, John : Theory of Justice
- Cardozo : Nature of Judicial Process
- Holmes : The Path of Law

105DE- Paper- I (Opt.): Business Law Group(C):
Corporate Law and
Management

Max. Marks: 100

Time: 3 Hours

Objectives

- (1) Eight questions shall be set with two questions from each unit. The candidates shall be required to attempt four questions in all, selecting one question from each Unit.
- (2) All questions shall carry equal marks.

Prescribed Course of Studies:

To study the legal and quasi-legal problems connected with the corporate sector with particular references to the laws, regulations and administrative framework relating to the organization and working of joint stock enterprise and the regulations of the capital market in India.

To give an appreciation of the significance of the law of corporate enterprises in industrializing of India and a comprehension of the economic and social values which economy and evaluation of the Indian Company law and practice in that context.

To study and evaluate the relevant case law with a view to the evolution of a sound code of company practice, and

To make a comparative study of the law and practice in other countries on important aspect of Company law and its administration

UNIT - I

- Corporation- its past, present and future.
- Development of various concepts relating to company law; Jurisprudence; History of company Legislation in India.
- Concept of corporate personality and limited liability advantages of Incorporation; Doctrine of Piercing the Corporate Veil, Corporation and , Fundamental Right.
- Kinds of companies and other Forms of Business Organization.
- Registration and in-corporation, powers of company, sources of Power, Memorandum of Association, Doctrine of Ultra Vires.
- Promoters- position, importance, duties and liabilities.
- National Company Law Tribunal-Constitution, Powers and Functions.

UNIT - II

- Prospectus; Statement in lieu of Prospectus, Liability for mis-statements.
- Shares- Meaning and Nature, Kinds, Allotment, Transfer and Transmission, Effects of irregular Allotment, Right issues, Bonus Shares, Purchase of its own shares, Borrowing Powers of Companies- Debentures, Kinds of Debentures, Charges, Classification of Charges, Regulation of Charges.

- Securities and Exchange Board of India Act,1992- Salient Features; - Dividend- Meaning and Nature, power to pay dividend, mode of payments, Limitations on payments.
- Charitable and political contributions by companies.

UNIT - III

- Meetings- Meaning and kinds of meeting, Procedure and conduct of meeting-Notice; quorum, Voting Resolutions and Minutes.
- Directors- Concepts of Directors and its evolution, Philosophy for the emergence of Board of Directors, Position and status of directors, kinds of directors, Appointment of Directors and their retirement.
- Directors- qualifications, disqualifications, powers and duties including fiduciary obligations, removal of directors.
- Managing Director, Whole-time Directors and Manager appointment, Powers and Functions, Managerial Remuneration; Statutory Limits and Restrictions.
- Investigation and inspection-powers of Central Government and Company Law Board.

UNIT - IV

- Control- Share-holders Control over the management and Government Control over management.
- Majority powers and Minority rights, oppression and mismanagement.

- Winding up and distribution- Meaning and scope, kinds of winding up.
- Effects of Liquidation proceedings on the company and its organs, members, creditors and workers.
- Liquidator and official liquidator- position, power and duties.

Select Bibliography :

- Thomson, J.M. : Palmer's Company Law.
- Gower, L.C.B. : Principles of Modern Company Law.
- Ramiya : Guide to the Companies Act.
- Devedasan, B.D. & Devedasan, T.S.V : Company Meetings and Resolution
- Indian Law Institute : Current Problems of Corporate Law
- Shah, S.M. : Lectures on Company Law
- Topham and Ivamy : Company Law
- Ghosh, M.K. : Indian Company Law
- Arya : Company Directors.
- Sen, S.C. : The New Frontier of Company Law
- Sahgal, P.S. : National and Multi-national Companies, Some Legal Issues.
- Palmer's : Company Law
- Pennigton's : Company Law

106DE- Paper- II (Opt.): Business Law Group(C): Law of Contractual Transactions

Max. Marks: 100

Time: 3 Hours

Objectives

- (i) Eight questions shall be set with two questions from each unit. The candidates shall be required to attempt four questions in all, selecting one question from each Unit.
- (ii) All questions shall carry equal marks.

Prescribed Course of Studies:

The students would be expected to be well conversant with the general principles of contract and the law relating to specific contracts in India. They should also be well familiar with the evolution of law, leading judicial decisions (English and Indian) with important comparative developments elsewhere.

UNIT - I

- Genesis and Philosophy of Contracts and its importance in a commercial developing society.
- Freedom of Contract; Nature and basis of contractual obligation.
- Formation of Contract- Agreement and Contract, Intention to create legal obligation; Requirements of valid contract.

- Proposal and Acceptance- Essential elements, communication and revocation, proposal and invitation for proposal standing order. Tenders and Auction sale.
- Standard Forms of Contract- Exclusion clauses and their effects.
- Unilateral and bilateral contracts.
- Capacity to Contract- Meaning and Scope, Contractual Capacity of a Minor, Corporation, Government, Consequences of Minor's Agreement and Stopple, Ratification.
- Contract by a person of unsound mind- Legal effects.
- Other Legal disabilities.
- Free consent- Meaning and Scope: Vitiating elements- Coercion, Fraud, Misrepresentation, Undue influence and Mistake. Distinction between Fraud and innocent misrepresentation, Coercion and Duress, Mistake of Law and Mistake of Fact. Common, Mutual and Unilateral Mistake, Remedies available when agreement is vitiated by mistake.

UNIT - II

- Consideration- Nudum pactum- Its need, meaning and essential; Adequacy of consideration. privity of contract and consideration- its exceptions; past; executed and executory consideration. Doctrine of Consideration and Promissory Estoppels: Essentiality of consideration with exceptions.
- Legality of objects and consideration- Unlawful consideration and objects; void, voidable and unlawful agreements and their

effects. Concept of immoral and public policy, Heads against public policy.

- Void Agreements, Agreement in restraint of Marriage, Agreement in restraint of Trade, Agreement in restraint of legal proceedings, Uncertain Agreement and Wagering Agreement.
- Contingent Contract- Meaning and scope. Reciprocal Promises.
- Discharge of Contract- Meaning and modes of discharge; performance and Tender- place and time of performance, time as essence of contract performance of joint promises.
- Discharge by Agreement- Novation -Remission of performance, Accord and Satisfaction.
- Discharge by Impossibility of performance and Frustration- Nature and scope of the doctrine of Frustration, Specific ground of frustration.

UNIT - III

- Restitution;
- Quasi-Contracts or certain relation resembling those created by contract.
- Breach of contract and remedies, Meaning of breach and Anticipatory breach, Damages- Meaning and Nature. Kinds, Rule in Hadly v. Baxendable-Remotences of Damage.
- Contract of Indemnity- Definition and Nature, distinction between Indemnity and Guarantee. Rights of the Indemnity Holder.

- Contract of Guarantee- Definition and scope, Specific and Continuing Guarantee; Creditors Right against Principal Debtor and Surety, Discharge of Surety; Surety's Rights against the principal debtor and Co-surety, Principal of Contribution by co-surety.

UNIT - IV

- Bailment- Definition and Essential Features, Bailment for Reward and gratuitous Bailment, Right and duties of Bailor and bailee.
- Finder of lost goods- Rights and Duties of finder; Rights and Liabilities of owner.
- Pledge- Definition, Nature and Scope; who can pledge, Rights and duties of pawnor and pawnee.
- Kinds of Agents- Factory, Brokers, Auctioneers, Del-Cordere agents, etc.
- Agency- Nature, Distinction from other transactions; Contractual basis of Agency.
- Modes of Creation of Agency- Express, implied. ratifications by operation of law.
- Scope of Agent's Authority; Rights and Liabilities of the Agent as against principal and third party; Rights and Liabilities of Principal and third party as against each other and as against agent.
- Delegation by Agent- Sub-agent and substituted Agent- Distinction and Legal Effects.

- Termination of Agency, modes of termination. Agency couple with interest.

Select Bibliography :

- Chaturvedi, A.N. : Lectures on Indian Contract Act.
- Cheshire and Fifoot : The Law of Contract.
- Anson : Principles of the English Law of Contract
- Chitty : On Contracts (General Principles).
- Pollock and Mulla : Indian Contract and Specific Relief Act.