



**KARNATAKA STATE LAW UNIVERSITY**

Navanagar, Hubballi– 580 025

**Accredited with 'A' Grade by NAAC**

**SYLLABUS DETAILS OF  
2 YEAR LL. M. (TRADE AND BUSINESS LAW)  
PROGRAMMES**



# **KARNATAKA STATE LAW UNIVERSITY'S LAW SCHOOL**

**Accredited with 'A' Grade by NAAC**

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## **LL.M. (BUSINESS AND TRADE LAW)**

### **Programme Outcomes of LL.M Courses**

1. Knowledge of law: A post graduate in law should possess specialized and in-depth knowledge on the law subjects like Constitutional Law, Intellectual property rightslaw, business and commercial law, criminal law etc.and also be acquainted with the latest developments in the areas of specialization and should have abilities to apply the knowledge to solve problems and advise institutions and also individuals. Intellectual input is the essence of this autonomous profession.
2. Professional ethics: A post graduate should have strong underpinnings of professional ethics in order to belong to the noble profession
3. Development of professional skills: The post graduate should develop the skills of good analytical, comparative legal research; legal research paper writing; analysis of the present law and its implication in a globalized world. Use the library and modern tools, resources/software in writing legal research paper and dissertation. It is very important for a professional to be effective.
4. Knowledge of law and procedures: The post graduate should study and acquire knowledge about appropriate justice delivery system and application of law in specialized areas like Constitutional Law, Intellectual property rightslaw,Business and

Commercial Law, Constitutional Law. he should also acquaint with the updated information on the area of specialisation

5. Ready to take-up profession: the post graduate should develop critical and contextual approaches across a wide variety of legal subject matter like Criminal and Security Law; Corporate and Commercial Law; Constitutional Law and also be able to form their own opinion and observation on legal aspects related to their specialized areas
6. Social responsibility: A post graduate should be an active citizen first. He should provide leadership to the society when it is at the crossroads.

The level of attainment of Programme Outcomes, Programme Specific Outcomes and Course Outcomes are measured using various indicators throughout the semester of the academic year.

The faculty records the performance of each student with the help of the specified course outcomes through a continuous evaluation process.

The faculty provides assignments to students, conducts internal tests, viva voce, projects etc. in order to assess the Programme Outcomes and Programme Specific outcomes attained by each student.

**Key indicators of measuring attainment are:**

### **End Semester University Examination**

Students are required to take examinations as per the semester through which the institution measures programme outcomes based on the course attainment level fixed by the programme.

### **Internal Assessment**

The Internal Assessment constitutes 30% weightage of the total marks (100) in each subject. The students are given assignments which are designed in alignment with Course outcomes of the respective subject and Programme Outcomes.

### **Result Analysis**

At the end of each semester, result analysis of each course is carried out. The percentage of students falling in different categories is obtained. This is an effective indicator in order to evaluate the level of attainment of POs, PSOs and Cos.

## **PROGRAMME SPECIFIC OUTCOMES**

**Programme Name: LL.M.(Business and Trade Law)**

**Duration: 2 years**

**Pattern: Semester pattern**

1. Conduct sustained, independent research on a self-defined topic with limited supervision. and also to analyse the legal research papers, judgments and law of their specialized area.
2. Critically evaluate and assess complex areas of legal knowledge within a wider social, economic, political, historical, philosophical, ethical, cultural and environmental context
3. Critically assess law reform proposals and present alternatives in analytical, critical and comparative mode of study of the laws, principles, doctrine, rules and regulation related to their specialized subject
4. Present critical arguments, drawing on both doctrinal and policy-based perspectives from a wide range of sources, in both written and oral form
5. Define, sustain and critically reflect upon their own learning and practical/professional skills development as autonomous learners.

### **I SEMESTER**

#### **PAPER 1: LAW AND SOCIAL TRANSFORMATION IN INDIA [Compulsory]**

##### **Objectives:**

This course is designed to offer the teacher and the taught with (a) awareness of Indian approaches to social and economic problems in the context of law as a means of social control and change; and (b) a spirit of inquiry to explore and exploit law and legal institutions as a means to achieve development within the framework of law. The endeavor is to make the students aware of the role the law has played and has to play in the contemporary Indian society.

##### **Course Outcomes:**

After successful completion of the course, the student will be able to –

1. Comprehend the provisions in the Constitution regarding Law which impacts social transformation.
2. Assess the continuing tussle between law and morality.
3. Infer and assess that the principles of Law and Social Transformation.

4. Analyse the Indian approaches to social and economic problems in the context of law as a means of social control and change

**Course content:**

**Unit I**

**Theory, History, Alternatives and the Constitution**

Law and social transformation: a theoretical discussion

Historical and social discourse on law's role in social transformation

Alternatives to legal strategy: gandhism, sarvodaya, marxism and naxalism

Constitution's orientation and response to social transformation

**Unit-II**

**Multiculturalism and Social Transformation: Religion, Language, Region and Ethnicity**

Religion and law

Language and law: towards equality in language rights?

Language rights in education people's language as the language of courts; perspectives, problems and the needed strategies

Regionalism, law and social transformation

Ethnic pluralism, tribal development and social transformation: a focus on security, self government and social justice

**Unit-III**

**Social Transformation by Empowerment: Empowering the Backward Classes, Women and Children**

Caste, law and empowerment of the backward classes

Constitutional policy and development towards gender justice

Crimes against women and law's response thereto

Law, child welfare and social transformation

**Unit IV**

**Modernisation and Social Transformation: Concept, Family Law, Economic Reforms**

Modernisation and law

Family law, modernisation and social transformation

Economic development, law and social transformation: focus on agriculture, industry and environment

**Unit V**

**Justice Delivery System and Participative Democracy**

Reforms in the justice delivery system, modernization and law

Role of democracy, Panchayat Raj and NGOs in social transformation through law

**Prescribed Books:**

Bhat Ishwar P., Law and Social Transformation ( Lucknow: Eastern Books Company, 2009)

**Reference Books:**

Friedman Wolfgang, Law in a Changing Society ( Berkly: University of California Press, 1959)

Mark Galanter Ed., Law and Society in Modern India ( London: Oxford University Press, 1989)

**PAPER 2: INDIAN CONSTITUTIONAL LAW: THE NEW CHALLENGES**  
**[Compulsory]**

**Objectives:**

The constitution, a living document, is said to be always in the making. The judicial process of constitutional interpretation involves a technique of adapting the law to meet changing social mores. Constitution being the fundamental law, an insight into its new trends is essential for a meaningful understanding of the legal system and processes. The post graduate students in law who had the basic knowledge of Indian Constitutional Law at LL.B. level, should be exposed to the new challenges and perspectives of constitutional development which they are allowed to chose an area of law for specialization. Obviously, rubrics under this section of the paper require modification and updating from time to time.

**Course Outcomes:**

On successful completion of the course the student will be able to –

1. analyse the new challenges and perspectives of constitutional development.
2. acquaint with the emerging regime of new rights and remedies such as right to education, commercialization of education of its impact on society
3. understand the various rights of minorities and the constitutional safeguards available to them.
4. describe the meaning of secularism and the religious fanaticism regarding it.
5. explore the doctrine of basic structure and separation of powers

**Course content:****Unit I**

Federalism: creation of new states; allocation and share of resources - distribution of grants in aid; The inter-state disputes on resources; Centre's responsibility and internal disturbance within states; Directions of the center to the state under Article 356 and 365; Special status of certain states; Tribal Areas, Scheduled Areas;

**Unit II**

Constitution and Constitutionalism; "State": Need for widening the definition in the wake of liberalization and horizontal application of fundamental rights. Right to Equality: Privatization and Its Impact on Affirmative Action; Empowerment of women.

### **Unit III**

Freedom of press and challenges: Freedom of speech and right to broadcast and telecast; Right to life, privacy, strikes, hartal and bandh; Emerging Regime of New Rights and Remedies: Reading Directive principles and fundamental duties into fundamental rights; Compensation jurisprudence; Right to education; Commercialization of education and its impact

### **Unit IV**

Rights of Minorities to establish and administer educational institutions and state control  
Secularism and religious fanaticism.

### **Unit V**

Separation of Powers: Stresses and Strain: Judicial activism and judicial restraint; PIL: implementation; Judicial independence; Appointment, transfer and removal of judges; Accountability: executive and judiciary; Tribunals  
Democratic process; nexus of politics with crime and business; election; status of election commission; electoral reforms; coalition government- stability, durability and corrupt practice, grass roots democracy.

### **Select Bibliography:**

Considering the nature of the subject, no textbooks can be prescribed. Hence, the required material is to be gathered from the latest amendments of laws, case law, critical comments, studies, reports, articles and research papers.

## **PAPER 3: LEGAL THEORY [Compulsory]**

### **Objectives:**

LL. M. students are expected to develop a philosophical and analytical mind by making a deep study of various theories of law. It is helpful in understanding the law in its social and temporal context. It will also help students to appreciate the limitations of law.

### **Course Outcomes:**

On successful completion of the course the student will be able to –

1. to understand the various theories and concepts which deals with the sources of law
2. analyse the meaning of law, purposes of law and the relationship between law and justice

### **Course content:**

#### **Unit I**

Natural Law Theories: Jewish, Roman, Greek, Middle Ages, Renaissance and Reformation Period, Modern period, Indian: ancient and modern.

## **Unit II**

Positive Law Theories: Bentham, Austin, Kelson, Hart

## **Unit III**

Historic Theories and Anthropological Theories: Hegel, von Savigny, Puchta, Henry Maine, Gierke, Hegel. Economic Theories: Marx and Engels, Lenin, Pushukanis, Stalin, Tito, Mao, Gorbachev

## **Unit IV**

Sociological Theories: Bentham, Ihering, Earlich, Pound, Duiguit

## **Unit V**

Realism: American and Scandinavian

### **Select Bibliography:**

1. Julius Stone, The Province and Function of Law, Part-II Chs.1,8 -16(2000), Universal, New Delhi.
2. W. Friedmann, Legal Theory (1960), Stevens, London.
3. Bodenheimer, Jurisprudence - the philosophy and Method of the Law (1997), Universal, Delhi.
4. R. W. M. Dias, Jurisprudence
5. John Salmon, Jurisprudence
6. H. L. A. Hart, The Concept of Law

## **PAPER 4: LAW OF INDUSTRIAL AND INTELLECTUAL PROPERTY**

### **Objectives:**

The concept of intellectual property rights as developed in India cannot be divorced from the developments in the international arena as well as in the nation-to-nation relations. The impact of IPR regime on the economic front is emphasized in this paper. In particular, greater attention would be given here to the law relating to unfair and restrictive trade practices as affecting the regime of intellectual property rights. New areas of development, especially plant patenting and patenting of new forms of life (biotechnology) should receive special attention. Evidentiary aspects of infringement, and human right dimensions of the regime of intellectual property law will also be addressed.

### **Course content:**

#### **Unit I**



IPR and International Perspectives: Meaning of the term intellectual property; various types of intellectual property; evolution of IPR; impact of IPR on international social, political and economic systems; impact of IPR on ethics and morality.

## **Unit II**

Trademarks and Consumer Protection (Study of UNCTAD report on the subject). Special Problems of the Status of Computer Software in Copyright and Patent Law: A Comparative Study

## **Unit III**

Patent Search, Examination and Records; International and global patent information retrieval system (European Patent Treaty); Patent Co-operation Treaty (PCT); Differences in resources for patent examination between developed and developing societies; The Indian situation.

## **Unit IV**

Special Problems of Proof of Infringement; Status of intellectual property in transit - TRIPS obligation Indian position; the evidentiary problems in action of passing off; The proof of non-anticipation, novelty of inventions protected by patent law; Evidentiary problems in piracy: TRIPS obligation-reversal of burden of proof in process patent; Need and Scope of Law Reforms.

## **Unit V**

Intellectual Property and Human Rights: Freedom of speech and expression at the basis of the regime of intellectual property right - copyright protection on internet - WCT (WIPO Copyright Treaty 1996); Legal status of hazardous research protected by the regime of intellectual property law; Human right of the impoverished masses intellectual property protection of law products for healthcare and food security. Traditional knowledge - protection - biodiversity convention - right of indigenous people

### **Select Bibliography:**

1. Special attention should be given to literature of the U.N. System, WIPO and the UNESCO.
2. Terence P. Stewart (ed.), *The GATT Uruguay Round : A Negotiating History (1986-1994) the end game (Part-1)* (1999), Kluwer
3. Iver P. Cooper, *Biotechnology and Law* (1998), Clerk Boardman Callaghan, New York
4. David Bainbridge, *Software Copyright Law* (1999), Butterworths
5. Sookman, *Computer Law* (1998), Carswell
6. Carlos M. Correa (ed.), *Intellectual Property and International Trade Patent Co-operation Treaty Hand Book* (1995) Sweet and Maxwell
7. Christopher Wadlow. *The Law of Passing-Off* (1998), Sweet and Maxwell
8. W.R. Cornish, *Intellectual Property Law* (1999), Sweet and Maxwell

## **SECOND SEMESTER**

### **PAPER 5: LEGAL EDUCATION AND RESEARCH METHODOLOGY [Compulsory]**

#### **Objectives:**

A post-graduate student of law should get an insight into the objectives of legal education. The student should be introduced to the legal regime governing legal education so that they can contribute better when involved in activities of centres of legal education. Further, the student should be thoroughly introduced to the idea and methods of legal research to better equip them to effectively discharge their responsibilities in the capacity of both academicians and professionals. This course is designed to equip the students with the requirements of legal education and legal research in contemporary society.

#### **Course Outcome:**

On successful completion of the course the student will be able to –

1. apply the best methods of research including the historical and comparative methods which include Case Study to the given situation.
2. critically evaluate the research methodology and their utility in academic legal research.
3. write a research report conveying the findings of the Legal Research in a cogent form

#### **Course content:**

##### **Unit I : Introduction to Legal Education**

Legal Education; history of Legal education; National Education Policy; objectives of Legal education, Bar Council of India Rules of Legal education, present problems of Legal education and future perspectives; curriculum making and reform; designing teaching methods to suit the curriculum requirements; diversity in teaching methods and their merits and demerits; legal aid, legal literacy and law reform.

##### **Unit-II: Idea of Legal Research, Methodology and ensuring good quality research**

Legal research: introduction; legal research methodology, purposes and foot steps; thinking process in legal research: diverse models; objectivity, value neutrality, originality and ethics in legal research; choosing, designing and building the research theme; formulation and testing of hypothesis; rules against plagiarism, introduction to kinds of research.

##### **Unit-III: Doctrinal Legal Research**

Doctrinal Legal Research as a means of synthesizing facts, thoughts and legal principles; analytical legal for expanding the legal world; historical legal research: implications and applications; philosophical research in law: the possibilities; comparative method of legal research: nature, process and potentiality.

#### **Unit-IV: Non- Doctrinal Methods of Legal Research**

Empirical Legal Research: nature, features and expanding Horizons; tools of data collection in empirical legal research:, observation, interview case study, ethnography, questionnaire , survey , qualitative legal research; sampling method: varieties and uses; qualitative legal research

#### **Unit-V: Integrated Methods of Legal Research and Research Reporting:**

Multi -method legal research: nature, features, procedure and potentiality; policy research in law, action research in law, methodology of feminist legal research , legal writing based on Research report writing, writing articles, case comments and notes.

#### **Prescribed books:**

Bhat Ishwara P., Idea and methods of legal Research (Oxford: Oxford University Press,2019)

#### **References:**

1. Whitney F.L., The Elements of Research (rev. edn., Prentice Hall, 1948)
2. Goode William J. and Hatt Paul K., Methods in Social Research, McGraw-Hill Book Company, London
3. Mike McConville and Wing Hong Chi, Research Methods for Law (Edinburg University Press, 2007)
4. Justice A.S. Anand, “Legal education in India- Past, Present and Future” in Lokendra Malik and Manish Arora ed., Legal Education in India: Essays in honour of Professor Ranbir Singh (New Delhi: Universal Law Publishing Co. 2014) pp.11-20.
5. Justice A.R. Lakshmanan, “Legal Education- Role of Bar” in Lokendra Malik and Manish Arora ed., Legal Education in India: Essays in honour of Professor Ranbir Singh (New Delhi: Universal Law Publishing Co. 2014) pp.35-48.

### **PAPER 6: JUDICIAL AND LEGISLATIVE PROCESS [Compulsory]**

#### **Objectives:**

A lawyer whether academic or professional is expected to be competent to analyze 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 section of the 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 section of the paper further intends to expose the intricacies of judicial creativity and the judicial tools and techniques employed in the process.

Since the alternate aim of any legal process or system is to pursue justice a systematic study of the concept of justices and its various theoretical foundations is required. This

section of the paper therefore, intends to familiarize the students with various theories, different aspects and alternative ways, of attaining justice.

### **Course Outcome:**

On successful completion of the course the student will be able to –

1. explain the concept and development theory of justice.
2. describe the concept of judicial process and its significance in social ordering.
3. express the tools and technique of judicial creativity.
4. describe the relation between law and justice and role of judicial process in the attaining the objectives of justice.
5. understand the process of law making.

### **Course content:**

#### **Unit I**

Nature of Judicial Process: Judicial process as an instrument of social ordering; judicial process and creativity in the law- common law model- legal reasoning and growth of law-change and stability; stare decisis; the Tools and techniques of judicial creativity and precedent; identifying ratio decidendi and obiter dicta; Legal development and creativity through legal reasoning under statutory and codified systems.

#### **Unit-II**

Special Dimensions of Judicial process in the constitutional Adjudications: notions of Judicial review; role in constitutional adjudication- various theories of judicial role; Tools and techniques in the policy making and creativity in the constitutional adjudication; variance of judicial and juristic activism.

#### **Unit-III**

Problems of accountability and judicial law making. Judicial process in India: Indian debate on the role of judges and on the notion of Judicial review; the “independence “ of judiciary and the "political" nature of judicial process; judicial activism and creativity of the supreme court; the tools and a techniques of creativity; institutional liability of course and judicial activism- scope and limits. structural challenges.

#### **Unit-IV**

Legislation as a source of law: it's relation with other sources of law; Supreme legislation: law making by Indian Parliament, interaction between law and public opinion; drafting of Bills; presentation and discussion in a Legislature Houses, subordinate legislation; types of subordinate legislation. major roles of interpretation of statutes: literal are plain meaning rule; golden rule; purposive approach: mischief rule; compromise approach.

#### **Unit V: Legislative Drafting**

Nature of Legislative drafting; diseases of language to be dealt and taken care of; its history in India and England; components or parts of legislation and their purposes; role of legislation in social welfare and transformation; role of draftsman; the skills, traits and

abilities he should process; legislative draftman's position, duties and responsibilities: relation with the government legislative division, public and the society at large; impact of constitutional values and provisions on legislative drafting; impact of the General Clauses Act upon legislative drafting; impact of principles of statutory interpretation upon legislative drafting; steps in a legislative drafting: pre- draft preparation; drafting, deliberation with others; post draft refinement; drafting of delegated legislation- limits and cautions; drafting exercise

### **Select Bibliography:**

1. W. Friedman, Law in a Changing Society
2. Julius Stone, The Province and Function of Law, Part II, Chs. 1, 8-16 (2000), Universal, New Delhi.
3. Cardozo, The Nature of Judicial Process (1995) Universal, New Delhi
4. Henry J. Abraham, The Judicial Process (1998), Oxford.
5. J. Stone, Precedent and the Law: Dynamics of Common Law Growth (1985) Butterworths
6. W. Friedmann, Legal Theory (1960), Stevens, London
7. Bodenheimer, Jurisprudence - the Philosophy and Method of the Law (1997), Universal, Delhi
8. C. K. Allen, Law in the Making
9. C. K. Allen, Law and Orders (2<sup>nd</sup> edn.)
10. Sir Henry Maine, Ancient Law
11. J. Stone, Legal System and Lawyers' Reasonings (1999), Universal, Delhi
12. U. Baxi, The Indian Supreme Court and Politics (1980), Eastern, Lucknow.
13. Rajeev Dhavan, The Supreme Court of India - A Socio -Legal Critique of its Juristic Techniques (1977), Tripathi, Bombay.
14. John Rawls, A Theory of Justice (2000), Universal, Delhi
15. Edward H. Levi, An Introduction to Legal Reasoning (1970), University of Chicago.
16. F. C. Cohen, 'Modern Ethics and the Law' (1934) 4 Brooklyn Law Review 33
17. P. Devlin, 'Judges, Government and Politics' (1978) 41 Modern Law Review 501
18. J. Dickinson, 'The Law Behind Law' (1929) 29 Columbia Law Review 285
19. T.K. Vishwanathan (Ed.) G. Rajagopal's Legislative Drafting: Shaping the Law for the Millennium (Indian Law Institute, 2007)
20. B.R. Atre, Legislative Drafting: Principles and Techniques (Universal, 2014)
21. Helen Xanthaki, Thorton's Legislative Drafting (5<sup>th</sup> ed)
22. G.C. Thorton, Legislative Drafting (Butterworths, 1996)
23. Constantin and Helen Xanthaki, (ed) Drafting Legislation (Ashgate, 2008).
24. Reed Dickerson, Legislative Drafting
25. Reed Dickerson, Interpretation of Statutes
26. G.P. Singh, Statutory Interpretation (14<sup>th</sup> ed., 2018).

## **PAPER 7: LEGAL CONCEPTS [Compulsory]**

### **Objectives:**

Students at LL. M. level are required to conduct a detailed critical and analytical study of various dimensions of legal concepts, which are the basic tools in the hands of law fraternity to appreciate varied branches of discipline in law. Legal concepts are to be understood as the bridges of comprehension of law in its application in the process of administration of justice. The process of administration of justice would remain incomplete without the comprehension and use of legal concepts. The teacher is required to give instructions to the students by citing examples of decided cases of various legal systems, with special reference to Indian Cases, in which legal concepts have been used by the judges in rendering justice. The unitised syllabus for this course is as follows.

**Course Outcome:**

On successful completion of the course the student will be able to –

1. to understand the various concepts like right, possession, ownership etc.
2. analyse the meaning of person and property from philosophical perspective
3. critically analyse and research complex problems relating to law and make reasoned and appropriate choices amongst alternatives.

**Course content:**

**Unit I:**

Rights: Conception; Definition; characteristics; types; Rights in the wider sense of the term; Jural relationship of Right-Duty, Liberty-No-right, Power-Liability and Immunity-Disability; critique on jural relations; temporal dimensions.

**Unit II:**

Persons: Concept of personality, status of unborn persons, dead and lower animals; natural and legal persons; corporations: sole, aggregate, limited etc; registered friendly associations. Multinational Corporations and Juristic Personality; Transnational Juristic Personality; Theories of personality.

**Unit III**

Property: Meaning; Types; Movable and Immovable property; Corporeal and Incorporeal Property; Emergence and expanding regime of Incorporeal property: Patents; Copyrights; Designs; Trademarks, Geographical Indications; Integrated Circuits; Protection of Plant Varieties; Confidential Information.

**Unit IV**

Possession: Idea of Possession; Possession in Roman Law; Possession in English Law; Possession in Indian Law; Theories of Possession; Judicial Interpretation of Possession in Indian and British Courts. Adverse possession.

**Unit V**

Ownership: The Idea of Ownership; Analysis of Ownership; Function of Ownership in Social Engineering; Ownership and Allocation of burdens and Benefits; Ownership and Liberty;

Ownership and Power; Ownership in India: Tiller of the Land as Owner: Sons of the Soil Theory.

**Select Bibliography:**

1. R W M Dias, Jurisprudence
2. Salmond on Jurisprudence ( ed P J Fitzgerald)
3. G W Paton, A Text-book of Jurisprudence
4. W Friedmann, Law in a Changing Society
5. W N Hohfeld, Fundamental Legal Conceptions As Applied in Judicial Reasoning (ed W W Cook)
6. A Kocourek, Jural Relations
7. J Stone, Legal System and Lawyers' Reasonings
8. M Radin, 'A Restatement of Hohfeld' (1938) 51 Harvard Law Review 1141
9. A L Goodhart, Essays in Jurisprudence and the Common Law
10. F Hallis, Corporate Personality
11. J W Bingham, 'The Nature and Importance of Legal Possession' (1915) 13 Michigan Law Review 534
12. H Bond, 'Possession in Roman Law' (1890) 6 LQR 259
13. D R Harris, 'The Concept of Possession in English Law' in Oxford Essays in Jurisprudence (ed A G Guest) ch 4
14. L C Becker, Property Rights: Philosophical Foundations
15. A ABERLE & G C Means, The Modern Corporation and Private Property
16. A M Honore, 'Ownership' in Oxford Essays in Jurisprudence (ed A G Guest)
17. J M Lightwood, A Treatise on Possession of Land
18. J W C Turner, 'Some Reflections on Ownership in English Law' (1941) 19 Canadian Bar Review 342

**PAPER 8: CORPORATE GOVERNANCE**

**Objectives:**

The post independent period is regarded as an era of industrial development which is a principal means in the strategy for achieving the goal of economics and social justice envisioned in the Constitution of India. Corporations, both public and private are viewed as a powerful instrument for development, and thereby, for ameliorating the living standards of masses. The objective of the course is to understand the economic and legal dimensions of corporate governance in the process of industrial development in establishing a "just" social order in the context of Constitutional values.

The students are to acquaint themselves with the issues of corporate governance with regard to the incoming capital and outgoing finances. A lawperson's advice will be sought in regard to the formation of initial capital and also in regard to much needed working capital by the industries. The student has to acquaint with the organization, functions, lending and recovery procedures, conditions of lending and accountability, National and State financing

institutions and also of commercial banks. The objective here is to acquaint the students with the economic contours of various statutory rules relating to corporate finances.

The finances of a corporation are also directly linked with various governmental regulations regarding industrial development and regarding the issue of capital by way of shares, bonus shares, rights shares, and debentures and also regarding the borrowing by way of deposits from the public at large. Besides, the issues of corporate governance are closely related to industrial policy and taxation structure. The student has to acquaint with the process of the inflow and outflow of corporate finance.

### **Course content:**

#### **Unit I**

The formation of a company; Incorporation; Memorandum of Association; Alteration of Memorandum of Association; Articles of Association; Alteration of Articles of Association; Companies registered outside India; Kinds of Companies.

#### **Unit II**

Powers of the Company and its agents; The Doctrine of *Ultravires*; Constructive Notice and Indoor Management and recent developments; Corporate ethics and code of conduct; Directors; Constitution of Board of Directors; Managing Directors Position; Powers and Liabilities of Directors; Role of Company Secretary; Powers and Functions of Inspectors.

#### **Unit III**

Issue of Shares; Types of Shares; Instrument of Prospectus; Procedure for allotment of Shares and Debentures; Transfer and Transmission of Shares; different types of Shareholders and their privileges; Shares and Debentures as Property; Lien on Shares; Forfeiture of Shares.

#### **Unit IV**

Share Capital; Kinds of Share Capital; Debenture Capital; Registration of Charges; Rights and Privileges of Shareholders; Control over Company Management by Shareholders; Majority Powers and Minority Rights; Dividends; Corporate Taxation; Impact of Tax Laws; Labour Participation in Management.

#### **Unit V**

Prevention of Oppression and Mismanagement; Winding Up of Companies; Modes: Voluntary Winding Up; Winding Up by Court; Winding Up subject to the Supervision of the Court; The Regulatory Authorities: The Central Government; The Department of Company Affairs; The Company Law Board; The SEBI; The Stock Exchange.

### **Select Bibliography:**

1. Palmer, Company Law, Stevens, London
2. LGB Grover, Principles of Modern Company Law, Sweet and Maxwell, London
3. Pennington, Company Law, Butterworths, London
4. A. Ramaiya, Guide to the Companies Act, Wadhwa and Co. Agra
5. S K Roy, Corporate Image in India, Shah S M Lectures on Company Law, N M Tripathi, Bombay



## **THIRD SEMESTER**

### **PAPER 9: LEGAL REGULATION OF ECONOMIC ENTERPRISES**

#### **Objectives:**

The planning process and mixed economy in India presupposes a kind of control on economic enterprises on certain higher value considerations. The State controls should be pressed into service to subserve the Constitutional values. The purpose of all regulation by government is to see that society is benefitted by it. Such regulation has to help in generating productive forces, lessening inequalities and also to avoid exploitation, exhaustion of natural resources.

Such regulation may assume diverse forms. It may relate to the establishment and expansion of industries. It may be in regard to production, distribution, storage, sale transport, etc., of various commodities. It may affect capital formation and its issuance. There may be diverse fiscal and monetary controls. It may assume the form of control of imports, exports and foreign exchange; or imposition of taxation on both sections. Such control may be exercised, directly or through the instrumentality of State financial institutions. Each specific sector may need its own regulatory mechanism. The State has to ensure accountability and draw clear boundaries of their legal liability. The extreme form that the State regulation may take shape is the nationalization of sick units.

The course is designed to acquaint the students with legal perspectives and implications of such regulation. The course enables the students to have adequate perspectival insight into the constant interaction between state law and economy in the post GATT era.

#### **Course content:**

##### **Unit I**

The Rationale of Government Regulation: Constitutional perspectives; The new economic policy - Industrial policy resolutions, declarations and statements; The place of public, small scale, co-operative, corporate, private and joint sectors - in the changing context; Regulation of information; Disclosure of information; Fairness in competition; Emphasis on consumerism.

##### **Unit II**

Development and Regulation of Industries; Take-over of Management and Control of Industrial Units; Sick Undertakings: Nationalization or Winding Up?

##### **Unit III**

Critical Issues Regarding the Capital Issues: Equity and debt finance; Global depositories; De-materialized securities.

##### **Unit IV**

Problems of Control and Accountability: Regulation of Hazardous Activity; Mass disaster and environmental degradation: legal liability and legal remedies; Public Liability Insurance: adequacy; Issues in zoning and location of industrial units.

### **Unit V**

Legal Regulation of Multi Nationals: Collaboration agreements for technology transfer; Development and regulation of foreign investments; Investment in India: FDIs and NRIs; Investment abroad.

### **Select Bibliography:**

6. S.Aswani Kumar, The Law of Indian Trade Mark (2001), Commercial Law House, Delhi
7. Industrial Policy Resolutions of 1948,1956, 1991
8. Industrial Licensing Policy 1970, 1975
9. Industrial Policy Statements 1973, 1977, 1980
10. Reports of Committees on Public Undertaking of Parliament
11. Industries (Development and Regulation) Act, 1951
12. U.Baxi (ed.), Incensement Forum and Convenient Catastrophe The Bhopal Case (1986),
13. Baxi & T.Paul (eds.) Mass Disasters and Multinational Liabilities (1986)
14. U.Baxi & A.Dhandba, Valiant Victims and Lethal Litigation : The Bhopal Case (1989)
15. Indian Law Institute Law of International Trade Transactions (1973)

## **PAPER 10: LAW OF EXPORT IMPORT REGULATION**

### **Objectives:**

After independence India has embarked upon all round efforts to modernize her economy through developmental ventures. Greater and greater emphasis is placed on increase of production in both industrial and agricultural sectors. Besides, there was the ever-pressing need for raising capital for investment in certain basic and key industries. All these required a considerably high rate of investment of capital. The process of modernization necessitated the adoption of newer technologies for industry and agriculture. These technologies had to be borrowed from other developed countries. This, in turn, needed foreign exchange which could be earned by the increased exports of goods and raw materials from India. Economy can hardly be overemphasized. Export earnings enable a developing country to finance its massive requirements of growth, to maintain its essential imports and thereby stimulate the process of its economic developments. In the words of Prof. V.K.R.V. Rao: "In fact, expansion of exports may well be described as an integral part of the development process, neglect of which can only be at the peril of development itself." Increasing exports have been necessitated to meet the growing needs of defense. India is a country rich in natural resources. One of the approaches to combat its economic backwardness could be in large-scale production and in maximization of its exports. Import and export of goods and raw materials is a complex, complicated and intricate activity. It involves elaborate economic, fiscal, budgetary and monetary policy considerations. Export and Import control policy is also closely connected with country's balance of payment position. The detailed procedures for imports and exports are provided in the Hand Book. The Union Government used to declare its import and export policy for a three-year period. At present they declare the policy for five years. The controls on exports and imports are closely connected with the Foreign Trade Regulation Act, 1992.

### **Course content:**

### **Unit I**

Introduction: State control over import and export of goods - from rigidity to liberalization; Impact of regulation on economy. The Basic Needs of Export and Import Trade: Goods; Services; Transportation.

## **Unit II**

International Regime: WTO agreement; WTO and tariff restrictions; WTO and non-tariff restrictions; Investment and transfer of technology; Quota restriction and anti-dumping; Permissible regulations; Quarantine regulation; Dumping of discarded technology and goods in international market; Reduction of subsidies and counter measures.

## **Unit III**

General Law on Control of Imports and Exports: General scheme; Legislative control; Foreign Trade Development & Regulation Act, 1992; Control under FEMA. Control of Exports: Quality control; Regulation on goods; Conservation of foreign exchange; Foreign exchange management; Currency transfer; Investment in foreign countries

## **Unit IV**

Exim Policy: Changing Dimensions: Investment policy: NRIs, FIIs (foreign institutional investors); FDIs; Joint venture; Promotion of foreign trade; Agricultural products; Textile and clothes; Jewellery; Service sector

## **Unit V**

Technology transfer: Restrictive terms in technology transfer agreements; Automatic approval schemes

### **Select Bibliography:**

1. Government of India, Handbook of Import Export Procedures (Refer to the latest edition)
2. Government of India Import and Export Policy (1997-2002)
3. The students should consult the relevant volumes of the Annual Survey of Indian Law, Published by the Indian Law Institute, New Delhi
4. Foreign Trade Development and Regulation Act, 1992 and Rules
5. Foreign Exchange Management Act, 1999
6. Marine Products Exports Development Authority Act, 1972
7. Customs Manual (Latest edition)
8. Final Treaty of GATT, 1994.

## **PAPER 11: BANKING LAW**

### **Objectives:**

A vitally important economic institution the banking system is deeply influenced by socio-political and economic changes. The emerging changes in India, particularly after the initiation of the planning process as an instrument of rapid economic development had moulded and affected the banking structure, policies, patterns and practices. A significant development in the banking system is diversification in banks financing. The commercial banks entered 'into the field of wide ranging financial assistance to industry, both large and small scale, requiring the need for social control of the banking system eventually leading to the nationalization of banks. The conventional banking system, found to be deficient for planned developmental purposes, paved the way for developmental banking. The fag end of the last millennium witnesses influx of foreign banking companies into India and a shift in

the banking policy as part of the global phenomenon of liberalisation. The legal system is adopting itself into the new mores.

This course is designed to acquaint the students with the conceptual and operational parameters of banking law, the judicial interpretation and the new and emerging dimensions of the banking system. The course will comprise of about 42 units of one-hour duration each spread over a period of one semester.

### **Course content:**

#### **Unit I**

Introduction: Nature and development of banking; History of banking in India and elsewhere -indigenous banking-evolution of banking in India - different kinds of banks and their functions; Multi-functional banks - growth and legal issues. Law Relating to Banking Companies in India; Controls by government and its agencies; On management; On accounts and audit; Lending; Credit policy; Reconstruction and reorganization; Suspension and winding up; Contract between banker and customer: their rights and duties.

#### **Unit II**

Social Control over Banking: Nationalization; Evaluation: private ownership, nationalisation and disinvestment; Protection of depositors; Priority lending; Promotion of under privileged classes. Deposit Insurance: The Deposit Insurance Corporation Act 1961: objects and reasons; Establishment of Capital of DIC; Registration of banking companies insured banks, liability of DIC to depositors; Relations between insured banks, DIC and Reserve Bank of India.

#### **Unit III**

The Central Bank: Evolution of Central Bank; Characteristics and functions; Economic and social objectives; The Central Bank and the State - as bankers' bank. The Reserve Bank of India as the Central Bank: Organizational structure; Functions of the RBI; Regulation of monetary mechanism of the economy; Credit control; Exchange control; Monopoly of currency issue; Bank rate policy formulation; Control of RBI over non-banking companies; Financial companies; Non-financial companies. Relationship of Banker and Customer; Legal character; Contract between banker and customer; Banker's lien; Protection of bankers; Customers; Nature and type of accounts; Special classes of customers - lunatics, minor, partnership, corporations, local authorities; Banking duty to customers; Consumer protection: banking as service.

#### **Unit IV**

Negotiable Instruments: Meaning and kinds; Transfer and negotiations; Holder and holder in due course; Presentment and payment; Liabilities of parties; Lending by Banks; Good lending principles; Lending to poor masses; Securities for advances; Kinds and their merits and demerits; Repayment of loans : rate of interest, protection against penalty; Default and recovery; Debt recovery tribunal.

#### **Unit V**

Recent Trends of Banking System in India: New technology; Information technology; Automation and legal aspects; Automatic teller machine and use of internet; Smart card; Use of expert system; Credit cards; Reforms in Indian Banking Law; Recommendations of committees: a review.

### **Select Bibliography:**

1. Basu, A. Review of Current Banking Theory and Practice (1998) Mac Milan
2. M. Hapgood (ed.), Pagets' Law of Banking (1989) Butterworth's, London
3. R. Goode, Commercial Law, (1995) Penguin, London.
4. Ross Cranston, Principles of Banking Law (1997) Oxford.
5. L.C. Goyle, The Law of Banking and Bankers (1995) Eastern
6. M.L. Tannan, Tannan's Banking Law and Practice in India (1997) India Law House, New Delhi, 2 volumes
7. K.C. Shekhar, Banking Theory and Practice (1998) UBS Publisher Distributors Ltd. New Delhi.
8. M. Dasse, S. Isaacs and G. Pen, E.C. Banking Law, (1994) Lloyds of London Press, London
9. Conti and Hamaui (eds.), Financial Markets' Liberalization and the Role of Banks', Cambridge University Press, Cambridge, (1993).
10. J. Dermine (ed.), European Banking in the 1990s' (1993) Blackwell, Oxford.
11. C. Goodhart, The Central Bank and the Financial System (1995), Macmillan, London
12. S. Chapman, The Rise of Merchant Banking (1984) Allen Unwin, London
13. K. Subrahmanyam, Banking Reforms in India (1997) Tata Macgraw Hill, New Delhi.
14. Subodh Markandeya and Chitra Markandeya, Law Relating to Foreign Trade in India: Being a Commentary on the Foreign Trade, (Development and Regulation) Act 1992, Universal Law Publishing Co. Pvt. Ltd. Delhi.
15. R.S. Narayana, The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993), Asia Law House, Hyderabad.
16. M.A. Mir, The Law Relating to Bank Guarantee in India (1992), Metropolitan Book, New Delhi.
17. Anthony Pierce, Demand Guarantees in International Trade (1993) Sweet & Maxwell,
18. Ross Cranston (ed.) European Banking Law: The Banker-Customer Relationship (1999) LLP, London
19. Mitra, The Law Relating to Bankers' Letters of Credit and Allied Laws, (1998) University Book Agency, Allahabad.
20. R.K. Talwar, Report of Working Group on Customer Service in Banks
21. Janakiraman Committee Report on Securities Operation of Banks and Financial Institution (1993)
22. Narasimham Committee report on the Financial System (1991)- Second Report (1999)

## **PAPER 12: INSURANCE LAW**

### **Objectives:**

As early as in 1601 one finds an excellent exposition of the insurance idea expressed in these words of an Act of British Parliament "the loss lighteth rather easily, upon many than heavily upon few". The insured person transfers from his own shoulders to the insurers, who, in return for agreeing to assume a potential risk of loss receive a payment known as premium. The insurers rely on the probability that only some of the losses, they insure against will in fact occur within any given period. They calculate, therefore, that they will be left with a profit. The insurer, on the other hand, is better able to risk his capital in trade since he knows that certain events which he cannot control, such as fire, shipwreck, will not cause him to lose his investment. The insurance idea is an old-institution of transactional trade. The age old form of insurance was the marine insurance. There is nothing like disaster to set men's minds to work. Consequently, in due course of time fire and life insurance, made their appearance. Within the last hundred years the insurance principle is being extended wider. Today one

finds insurance cover for accidents, motor vehicles, glass, live stock, crop, burglary and various other disasters. Insurance is a device not to avert risks, calamities and disasters; but to mitigate their rigours and financial losses. The function of insurance is to spread such loss arising from risks of life over a large number of persons. The operational framework of insurance idea is provided by the general principles of contract. The insurance policy, being a contract, is subject to all the judicial interpretative techniques. Besides, the insurance idea has a compensatory justice component. This brings it in the arena of the law of tort as well. It is even suggested that a fully grown and developed law of insurance may, if not totally displace, decrease the significance of the law of tort.

This course is designed to acquaint the students with the conceptual and operational parameters of insurance law in the context of the development of the general principles of law and judicial interpretation to inform the students about the use of law for the establishment of "just" order in insurance and to develop the appreciative and evaluative faculties of the students. The following syllabus prepared with the above perspective will be spread over a period of one semester

### **Course content:**

#### **Unit I**

Introduction: Nature of insurance contract, various kinds of insurance, proposal, policy, parties, consideration, need for utmost good faith, insurable interest, indemnity; Insurance policy, law of contract and law of torts-future of insurance: need, importance and place of insurance; Constitutional perspectives- the Entries 24,25,29,30,47 of List 1 Union List; 23, 24, of List III

General Principles of Law of Insurance: Definition, nature and history; The risk - commencement, attachment and duration; Assignment and alteration; Settlement of claim and subrogation; Effect of war upon policies. Indian Insurance Law: General; History and development; The Insurance Act 1938 and the Insurance Regulatory Authority Act 2000; Mutual insurance companies and cooperative life insurance societies; Double Insurance and re-insurance.

#### **Unit II**

Life Insurance; Nature and scope; Event insured against life insurance contract; Circumstances affecting the risk; Amounts recoverable under life policy; Persons entitled to payment; Settlement of claim and payment of money.

#### **Unit III**

Marine Insurance; Nature and Scope; Classification of marine policies; The Marine Insurance Act, 1963: Marine insurance; Insurable interest, insurable value; Marine insurance policy - condition. - express warranties construction of terms of policy; Voyage-deviation; Perils of the sea; Assignment of policy; Partial laws of ship and of freight, salvage, general average, particular charges; Return of premium.

#### **Unit IV**

Insurance Against Accidents: The Fatal Accidents Act, 1855: Objects and reasons; Assessment of compensation; Contributory negligence; Apportionment of compensation and liability; The Personal Injuries (Compensation insurance) Act 1963; Compensation payable under the Act; Compensation insurance scheme under the Act-Compulsory insurance. Property Insurance; Fire insurance; The Emergency Risks (Factories) Insurance; The Emergency Risks (Goods) Insurance; Policies covering risk of explosion; Policies covering

accidental loss, damage to property; Policies covering risk of storm and tempest; Glass-plate policies; Burglary and theft policies; Livestock policies; Goods in transit insurance; Agricultural insurance.

### **Unit V**

Insurance Against Third Party Risks: The Motor Vehicles Act, 1988: Nature and scope; Effect of insolvency or death on claims of insolvency and death of parties, certificate of insurance; Claims tribunal: constitution, functions, application for compensation, procedure, powers and award. Liability Insurance: Nature and kinds of such insurance; Public liability insurance; Professional negligence insurance; Miscellaneous Insurance Schemes: New Dimensions; Group life insurance; Medi-claim, sickness insurance.

### **Select Bibliography:**

1. John Hanson and Christophals Henly, All Risks Property Insurance (1999), LLP Asia, Hongkong.
2. Peter Mac Donald Eggers and Patric Foss, Good Faith and Insurance Contracts (1998) LLP Asia, Hongkong
3. Banerjee, Law of Insurance (1994), Asia Law House, Hyderabad.
4. Mitra B.C, Law Relating to Marine Insurance (1997) Asia Law House, Hyderabad
5. JCB Gilmar and Mustill, Arnold on the Law of Marine Insurance, (1981), Sweet & Maxwell
6. Birds, Modern Insurance Law (1997) Sweet & Maxwell
7. Colinvaux's Law of Insurance (1997), Sweet & Maxwell
8. O'Mary on Marine Insurance (1993), Sweet & Maxwell.
9. International Labour Office, Administration Practice of social Insurance (1985)
10. E.R. Hardy Ivamy, General Principles of insurance Law (1979)
11. Edwin W. Patterson, Cases and Materials on Law of insurance (1955)
12. M. N. Sreenivasan Law and the Life Insurance Contract (1914)

## **FOURTH SEMESTER**

### **PAPER 13: CORPORATE FINANCE AND LAW**

#### **Objectives:**

Industrialization has played and has to play a very vital role in the economic development of India. In the post independent era industrial development is regarded, and hence employed, as principal means in the strategy for achieving the goal of economic and social justice envisioned in the Constitution. Corporations, both public and private, are viewed as a powerful instrument for development. In a developing society like India enormous varieties of consumer goods are manufactured or produced. Obviously, the situation raises the issues of procuring utilizing and managing the finances. For this purpose a science of financial management techniques has been evolved. The faculties of commerce, business and management studies have since last decades started to impart instruction so as to turn out sufficiently well equipped and adequately trained financial personnel. However the legal and juristic aspects of corporate finance have been more or less not effectively taken care of.

**In view of the above perspectives the broad objectives of this course may be formulated as follows:**

1. To understand the economic and legal dimensions of corporate finance in the process of industrial development in establishing social order in the context of constitutional values;
2. To acquaint the students with the normative, philosophical and economic contours of various statutory rules relating to corporate finance.
3. To acquaint the students with the organization, functions, leading and recovery procedures, conditions of lending and accountability of international, national and state financing institutions and also of commercial banks; and
4. To acquaint the students with the process of the flow and outflow of corporate finance.

**Course content:**

**Unit I**

Introduction : Meaning, importance and scope of corporation finance; Capital needs-capitalization working capital securities - borrowings - deposits debentures; Constitutional perspectives - the entries 37,43,44,45,46,47,52,82,85 of List - 1, Union List; entry 24 of List - 2 - State List.

**Unit II**

Equity Finance: Share capital; Prospectus - information disclosure. Debt Finance: Debentures; Creation of charges; Mortgages.

**Unit III**

Protection of Investors: Individual shareholder right; Corporate membership right; Derivative actions; Qualified membership right; Conversion, consolidation and re-organization of shares; Transfer and transmission of securities; Dematerialization of securities.

**Unit IV**

Corporate Fund Raising: Depositories - IDR (Indian depository receipts), ADR (American depository receipts), GDR (Global depository receipts); Public financing institutions-IDBI, ICICI, IFC & SFC; Mutual fund and other collective investment schemes; Institutional investment - LIC, UTI and banks; FDI and NRI investment-Foreign institutional investment (IMF and World Bank).

**Unit V**

Administrative Regulation on Corporate Finance: Inspection of account; SEBI; Central government of companies; RBI control.

**Select Bibliography:**

1. Alistair Hondson, The Law on Financial Derivatives (1998), Sweet Maxwell
2. Will's Ferran, Company Law and Corporate Finance (1999), Oxford
3. Jonathan Charkham, Fair Shares: the Future of Shareholder Power and Responsibility (1999), Oxford
4. Ramaiya A, Guide to the Companies Act (1998), Vol. I,II and III
5. H.A.J. Ford and A.P. Austen, Fords Principle of Corporations Law (1999), Butterworths
6. J.H. Farrar and B.M. Hanniyan, Farrar's Company Law (1998), Butterworths
7. Austenn R.P., The Law of Public Company Finance (1986), LBC.
8. R.M. Goode, Legal Problems of Credit and Security (1988), Sweet and Maxwell
9. Altman and Subhramanyan, Recent Advances in Corporate Finance (1985), LBC



10. Gilbert Harold, Corporation Finance (1956)
11. Henry F. Hoagland, Corporation Finance (1975)
12. Maryin M. Kristein, Corporate Finance (1975)
13. R.C. Osborn, Corporation Finance (1959)
14. S.C. Kuchhal, Corporation Finance : Principles and Problems (6<sup>th</sup> ed. 1966)
15. V.G. Kulkarni, Corporate Finance (1961)
16. Y.D. Kulshreshta, Government Regulation of Finance Management of Private Corporate Sector in India (1986)
17. Journals - Journal of Indian Law Institute, Journal of Business Law,
18. Chartered Secretary, Company Law Journal, Law and Contemporary Problems.
19. Statutory Materials - Companies Act and laws relating to SEBI, depositories, industrial financing and information technology

## **PAPER 14: LAW RELATING TO CONSUMER PROTECTION AND COMPETITION**

### **Objectives:**

There is an increasing awareness among consumer about their right to receive goods in good condition and effective services. Law in this regard is emerging across the world. Exploitation of the consumer is safeguarded under consumer laws. The movement of consumer started in the U S gained momentum and spread across the world. Anti-trust and competition laws have also developed to protect the consumers. A critical and analytical study of these laws for students specialising in Business and Trade Laws is needed to equip masters students respond to the challenges that are to be faced by these laws and institutions implementing these laws in the wake of emerging unethical practices.

### **Course content:**

#### **Unit I**

Evolution of Consumer Law; Developments in the United States, U. K.; India; Concept of “Consumer” and “Consumerism”; The Profile of Indian Consumer; State Monopoly and Consumer Interest; Law of Contract and Consumer Protection; Sanctity of Contracts and the Doctrine of Caveat Emptor; Conditions and Warranties; Fraud and Misrepresentation; Remedies; Exclusion of Liability; Consumer Credit; Supply of Service.

#### **Unit II**

The Consumer Protection Act, 1986: The Concept of Consumer; Consumer Disputes Redressal Agencies: The District Forum; The State Commission; The National Commission; The Kinds of Consumer Disputes; Unfair Trade Practices; Restrictive Trade Practices; Defect in Goods; Deficiency in Services; Liability for Deficient Services; Liability of Doctors, Advocates, Architects, Engineers, Builders and Contractors; Charging of Excessive Price; Sale of Hazardous Goods; Exception to Jurisdiction; Remedies available to Consumer under the Act.

#### **Unit III**

State Agencies of Consumer Protection; Self Regulation of Business; Consumer Protection through Voluntary Agencies; International Organisation of Consumer Unions; United Nations Guidelines of Consumer Protection; Consumer Protection Methods; Criminal Law and Consumer Protection; Making Essential Commodities available at Fair Prices; Prevention

of Food Adulteration; Drugs and Cosmetics; Weights and Measures; Standard of Packed Commodities; Bureau of Indian Standards.

#### **Unit IV**

The Aim and Scope of Anti-Trust; the Origins and Historical Development of Anti-Trust in U S A; Restraint of Trade; Rule of Reason; Per Se Rules; Main Provisions of the Sherman Act, Clayton Act and Federal Trade Commission Act; Monopolization; Mergers and Acquisitions; Anti-Trust as an American Policy.

#### **Unit V**

The Concept of Competition; Degree of Economic Competition in the Retail Trade; Perfect Competition and Imperfect and Monopolistic Competition; the General Nature of Retail Competition; the Principles of differential Advantage; Product and Enterprise Differentiation; the Marketing Mix and Differentialities; Intertype Institutional Competition in Retailing; Pricing and Retailing in U K Competition Act – A Detailed Study.

#### **Select Bibliography:**

1. Cranston Ross, Consumer and the Law, Weidenfeld, London
2. Saraf D N, Law of Consumer Protection in India, Tripathi, Bombay
3. Agarwal Y K, Consumer Protection Law and Practice, DLH Publishers, New Delhi
4. Nayak Rajendra Kumar, Consumer Protection Law In India, Tripathi, Bombay
5. Harvey BW, The Law of Consumer Protection and Fair trading, Butterworths, London
6. RM Vats, Consumer and the Law, Universal Book traders, New Delhi
7. Pollock & Mulla, Indian Contract Act, Tripathi, Bombay
8. JD Havenga, Competition and Trade Practices, AF Sijthaff, Lieden
9. AD Neale, The Antitrust Laws of the USA, Cambridge University Press
10. Openheim and Weston, Federal Anti-trust Laws, West Publication, St.Paul

### **PAPER 15: INTERNATIONAL TRADE LAW**

#### **Objectives:**

Establishment of WTO has brought about revolutionary change in the international trade system. Laws relating to international trade have undergone revolutionary change. A specialised study of these developments against the historical background and their impact on international trade in the future is to be studied by masters students seeking to specialise in Business and Trade Laws.

#### **Course content:**

##### **Unit I**

Economic Principles of International Trade; Principles of Advantage; Balance of payment; General Agreement on Trade and Tariff; Evolution of World Trade Organisation; Organisation Structure; Powers and Objectives; Most Favoured Nation Treatment and National Treatment; tariffs and safeguards.

##### **Unit II**

Technical Barriers to Trade: Sanitary and Phyto-sanitary Measures; Trade Related Investment Measures; Subsidies and Countervailing Measures; Anti-Dumping Measures; Agreement on Agriculture; General Agreement on Trade in Services.

##### **Unit III**

International Sale of Goods; Formation of Contract of Sale; Trade Terms in International Sales; Effect of the Contract; Rights and Obligations of the Seller and the Buyer; Frustration of Contract; Unification of International Sales Law; Export Import Licensing.

#### **Unit IV**

International Transport of Goods: Carriage of Goods by Sea; Contracts of Affreightment, Carriage Covered by Bills of Lading; Hague & Hague & Visby Rules; Humber Rules; Charter Parties; The Indian Carriage of Goods by Sea Act, 1925; Carriage by Air; The Indian Carriage of Goods by Air Act, 1972.

#### **Unit V**

Settlement of Disputes Arising in Foreign Trade: Dispute Settlement Understanding Under WTO; International Commercial Arbitration; Recognition and Enforcement of Foreign Arbitral Awards; UNCITRAL Model Law on International Commercial Awards; UNCITRAL Arbitration Rules; Conciliation; UNCITRAL Conciliation Rules.

#### **Select Bibliography:**

1. John H Jackson, The World Trading System, The MIT Press, Cambridge
2. Bhagirath Lal Das, The World Trade Organisation, Earthworm Books
3. United Nations UNCITRAL Year Book
4. Arun Goyal, WTO in the New Millennium
5. Eddy Win Ship, Commercial Transactions, Little Brown & Co, Boston
6. Eugen Langen, Transnational Commercial Law, AW Sijthoff, Netherlands
7. Christopher Arup, The New World Trade Organisation Agreement, Cambridge University Press
8. International Legal Materials, 33 ILM 13
9. Schmithoff's Law of International Exports
10. Raj Bala, International Trade Law

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