

GUJARAT UNIVERSITY

NEW SYLLABUS

OF

LL.M.

GROUP C : BUSINESS LAW

Effective from

the academic year 2010-11

GUJARAT UNIVERSITY

LL.M. (Business Law) Syllabus

Semester – I

- 1. LAW 401 Legal Theories**
- 2. LAW 402 Indian Constitutional Law: The New Challenges**
- 3. LAW 403 PuEBLic International Law**
- 4. LAW404 EBL Law of Industrial and Intellectual Property Paper–I**
- 5. LAW 405EBL Legal Regulation of Economic Enterprise Paper – I**
- 6. LAW406 EBL Law of Export Import Regulation**

Semester – I

LAW 401

Legal Theories

4 Credits

- 1. Analytical Legal Positivism**
 - 1.1 Analytical School
 - 1.1.1 Jermy Bentham
 - 1.1.2 John Austin

- 2. The Pure Theory**
 - 2.1 Hans Kelsen
 - 2.1.1 The Basic Norm
 - 2.1.2 Implication of Pure Theory
 - 2.1.3 Contribution of Kelsen

- 3. Sociological School**
 - 3.1 The Social Origin of Laws & Legal Institution
 - 3.2 Impact of Laws on Society
 - 3.3 The Task of Law in Society
 - 3.3.1 Roscoe Pound
 - 3.3.2 Social Engineering

- 4. American Realism**
 1. Justice Holmes
 2. Carl. N. Llewellyn

- 5. Natural Law**
 - 5.1 The Greek Period
 - 5.2 The Roman Period
 - 5.3 The Medieval Period
 - 5.4 Revival of Natural Law Theories

References :

1. Bodenheimer, Jurisprudence - The Philosophy and Method of Law (1996) Universal, Delhi
2. Fitzgerald, (ed.) Salmond on Jurisprudence (1999) Tripathi, Bombay.
3. W. Friedmann, Legal Theory (1999) Universal, New Delhi.
4. Paton G. W., Jurisprudence (1972) Oxford, ELBS.

5. Dias, Jurisprudence (1994 First Indian re-print), Adithya Books, New Delhi.
6. Roscoe Pond, Introduction to the Philosophy of Law (1998 re-print) Universal, New Delhi.
7. Hart, H.L.A., The Concepts of Law (1970) Oxford, ELBS
8. Lloyds Introduction to Jurisprudence, Sweet and Maxwell.

LAW 402

Indian Constitutional Law: The New Challenges 4 Credits

- 1 "State" : Need for Widening the Definition in the Wake of Liberalization**
- 2. Right to Equality : Privatisation and its Impact on Affirmative Action and Freedom of Press and Challenges of New Scientific Development**
 - 2.1 Freedom of speech and right to broadcast and telecast
 - 2.2 Access to information
 - 2.3 Right to strikes, hartal and bandh
- 3. Emerging Regime of New Rights and Remedies**
 - 3.1 Reading Directive Principles and Fundamental Duties into Fundamental Rights
 - 3.1.1 Compensation jurisprudence
 - 3.1.2 Right to education
 - 3.1.2.1 Commercialisation of education and its impact
 - 3.1.2.2 Brain-drain by foreign education market
- 4. Secularism, Religious Fanaticism and Federalism**
 - 4.1 Allocation and share of resources - distribution of grants in aid
 - 5.1.1 The inter-state disputes on resources
 - 4.2 Directions of the centre to the State under Article 356 and 365
 - 4.2.1 Special status of certain States
 - 4.3.1 Tribal Areas, Scheduled Areas
- 5. Separation of Powers: Stresses and Strain**
 1. Judicial activism and judicial restraint
 2. PIL: implementation
 3. Judicial independence
 4. Appointment, transfer and removal of judges
 5. Accountability: executive and judiciary
 6. Tribunals

References :

4. H.M. Sheervai, Constitution of India (three Volumes)
5. M.P. Jain, Constitution Law of India (2008), Tripathi, Bombay
6. D. D. Basu's Commentaries of Indian Constitution
7. Latest Judgments of the Supreme Court

1. Introduction

- 1.1 Nature of International Law
- 1.2 Basis of International Law
- 1.3 Evolution and Development of International Law
- 1.4 Codification of International Law

2. Sources of International Law

- 2.1 General
- 2.2 Custom
- 2.3 Treaties
- 2.4 The General Principles of Law
- 2.5 Judicial Decisions
- 2.6 Juristic Work on International Law
- 2.7 General Assembly Resolutions and Declarations

3. Relation between International Law and Municipal Law

- 3.1 Theories on Relationship
- 3.2 Theories on the Application of International Law within Municipal Law
- 3.3 Municipal Law before International Tribunals
- 3.4 International Law within Municipal Sphere

4. Subjects of International Law

- 4.1 State as a Subject
- 4.2 Public International Organizations
- 4.3 Individual as Subject of International Law

5. Law and Practice of Treaties

- 5.1 The Treaty Making Process
- 5.2 Treaties and Third Parties
- 5.3 Treaty Interpretation
- 5.4 Amendment and Modification of Treaties

References:

1. Akehurst's Modern Introduction to International Law, Ed. By Peter Malanczuk, 7th Edition, (Revised)
2. Alina Kacxorowska, Public International Law 150 Leading Cases, Old Bailey Press, 2002.
3. Bowett D.W., The Law of International Institutions, 4th Edition, 2003, Universal.
4. Brownlie, Ian (2003) Principles of Public International Law, Oxford University Press, 6th Edition.
5. David D. Caron, Cases & Materials on International Law.
6. Oppenheim, International Law (Vol. I & II)
7. Starke J.G., Introduction to International Law.
8. M.P. Tandon, Public International Law, 16th Edition, (2005), Allahabad Law Agency.

**LAW404 EBL Law of Industrial and Intellectual
Property Paper–I**

4 Credits

1. IPR and International Perspectives
2. Trademarks and Consumer Protection (Study of UNCTAD report on the subject)
3. The Legal Regime of Unfair Trade Practices and of Intellectual Industrial Property
 - 3.1 United Nations approaches (UNCTAD, UNCITRAL)
 - 3.2 EEC approaches
 - 3.3 Position in U.S.
 - 3.4 The Indian situation.
4. Special Problems of the Status of Computer Software in Copyright and Patent Law: A Comparative Study
5. Biotechnology Patents:
 - 5.1. Nature and types of biotechnology patents
 - 5.2 Patent over new forms of life : TRIPS obligations
 - 5.3 Plant patenting
 - 5.4 Sui generis protection for plant varieties
 - 5.5 Multinational ownership
 - 5.6 Regulation of environment and health hazards in biotechnology Patents
 - 5.7 Indian policy and position.

References :

Special attention should be given to literature of the U.N. System, WIPO and the UNESCO.

Terence P. Stewart (ed.), *The GATT Uruguay Round: A Negotiating History (1986-1994) the End Game (Part - 1)*(1999), Kluwer

Iver P. Cooper, *Biotechnology and Law* (1998), Clerk Boardman

Callaghan, New York. David Bainbridge, *Software Copyright Law* (1999), Butterworths

Sookman, *Computer Law* (1998), Carswell

Carlos M. Correa(ed.), *Intellectual Property and International Trade*
(1998), Kluwer

Patent Co-operation Treaty Hand Book (1998), Sweet and Maxwell

Christopher Wadlow, *The Law Of Passing-Off* (1998), Sweet and Maxwell

W.R.Cornish, *Intellectual Property Law* (1999), Sweet and Maxwell

**LAW 405EBL Legal Regulation of Economic
Enterprise Paper – I**

4 Credits

1. The Rationale of Government Regulation
 - 1.1 Constitutional perspectives – Circle from *Laissez faire* to welfare state and again back to *Laissez faire*
 - 1.2 The new economic policy - Industrial policy resolutions, declarations and statements
 - 1.3 The place of puEBLic, small scale, co-operative, corporate, private and joint sectors - in the changing context
 - 1.4 Regulation of economic activities
 - 1.4.1 Disclosure of information
 - 1.4.2 Fairness in competition
 - 1.4.3 Emphasis on consumerism
2. Development and Regulation of Industries
3. Take-over of Management and Control of Industrial Units
4. Sick Undertakings: Nationalisation or Winding Up?
5. Licensing Policy and Legal Process - Growing Trends of Liberalisation

References :

S.Aswani Kumar, *The Law of Indian Trade Mark* (2001), Commercial Law House, Delhi.

Industrial Policy Resolutions of 1948,1956, 1991

Industrial Licensing Policy 1970,1975

Industrial Policy Statements 1973, 1977, 1980

Reports of Committees on PuEBLic Undertakings of Parliament.

Industries (Development and Regulation) Act, 1951

U. Baxi (ed.), Inconvenient Forum and Convenient Catastrophe The Bhopal Case, (1986) U. Baxi & T. Paul (eds.), Mass Disasters and Multinational Liability (1986)

U. Baxi & A. Dhandba, Valiant Victims and Lethal Litigation: The Bhopal Case (1989)

Indian Law Institute, Law of international Trade Transactions, (1973)

LAW406EBL Law of Export Import Regulation 4 Credits

1. Introduction

- 1.1 State control over import and export of goods - from rigidity to liberalisation.
- 1.2 Impact of regulation on economy.

2. The Basic Needs of Export and Import Trade

- 2.1 Goods
- 2.2 Services
- 2.3 Transportation

3. International Regime

- 3.1. WTO agreement
- 3.2. WTO and tariff restrictions
- 3.3. WTO and non-tariff restrictions
- 3.4. Investment and transfer of technology
- 3.5. Quota restriction and anti-dumping
- 3.6. PermissiEBLe regulations
- 3.7. Quarantine regulation
- 3.8. Dumping of discarded technology and goods in international market
- 3.9. Reduction of subsidies and counter measures.

4. General Law on Control of Imports and Exports

- 4.1. General scheme
- 3.2 Legislative control
- 3.3 Power of control: Central government and RBI
- 3.4 Foreign Trade Development and Regulation Act 1992
- 3.5 Restrictions under customs law
 - 4.5.1 Prohibition and penalties
- 4.6 Export-Import formulation : guiding features
 - 4.6.1 Control under FEMA
 - 4.6.2 Foreign exchange and currency
- 4.7 Import of goods
- 4.8 Export promotion councils
- 4.9 Export oriented units and export processing zones

5. Foreign Trade Policy and Law relating to customs

- 5.1 Recent Foreign Trade Policy and subsequent amendments
- 5.2 Law Relating to Customs
 - 5.2.1 Prohibition on importation and exportation of goods
 - 5.2.2 Control of smuggling activities in export-import trade
 - 5.2.3 Levy of, and exemption from, customs duties
 - 5.2.4 Clearance of imported goods and export goods
 - 5.2.5 Conveyance and warehousing of goods

References :

Government of India, Handbook of Import Export Procedures, (Refer to the latest edition) Government of India *Import and Export Policy* (1997 -2002)

The Students should consult the relevant volumes of the *Annual Survey of Indian Law*, PuEBLished by the Indian law Institute, New Delhi.

Foreign Trade Development and Regulation Act 1992 and Rules

Foreign Exchange Management Act 1999

Marine Products Export Development Authority Act 1972

Customs Manual (Latest edition) Jain R. K.

Final Treaty of GATT, 1994.

Foreign Trade Policy and its amendments

Nabhi's Volumes on Export-Import

GUJARAT UNIVERSITY

LL.M. (Business Law) Syllabus

Semester – II

- 1. LAW 407 Judicial Process**
- 2. LAW 408 Law and Social Transformation of India Law and Social Change**
- 3. LAW 409 Legal Research Methodology**
- 4. LAW 410 EBL Corporate Finance Paper – I**
- 5. LAW 411EBL Banking Law**
- 6. LAW412 EBL Insurance Law**

Semester – II

LAW 407

Judicial Process

4 Credits

1. Nature of Judicial Process

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

2. Special Dimension of Judicial Process in Constitutional Adjudications

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

3. Judicial Process in India

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

4. The Concepts of Justice

- 4.1 The concept of justice or Dharma in Indian thought
- 4.2 Dharma as the foundation of legal ordering in Indian thought

- 4.3 The concept and various theories of justice the western thought
- 4.4 Various theoretical bases of justice : the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition

5. Relation between Law and Justice

- 5.1 Equivalence Theories - Justice as nothing more than the positive law of the stronger class
- 5.2 Dependency theories - for its realisation justice depends on law, but justice is not the same as law
- 5.3 The independence of justice theories - means to end relationship of law and justice - the relationship in the context of the Indian constitutional ordering.
- 5.4 Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

References :

1. Julius Stone, The Province and Function of Law, Part II, Chs.I,8-16(2000), Universal, New Delhi
2. Cardozo, The Nature of Judicial Process (1995), Universal, New Delhi
3. Henry J. Abraham, The Judicial Processes (1998), Oxford
4. Julius Stone, Precedent and the Law: Dynamics of Common Law Growth(1985), Butterworth
5. W. Friedmann, Legal Theory (1960), Stevens, London
6. Bodenheimer, Jurisprudence - The Philosophy and Method of the Law (1997), Universal, New Delhi
7. Julius Stone, Legal System and Lawyers' Reasonings (1999), Universal, New Delhi
8. Upendra Baxi, The Indian Supreme Court and Politics (1980), Eastern, Lucknow
9. Rajeev Dhavan, The Supreme Court of India - A Socio-Legal Critique of Its Juristic Techniques (1977), Tripathi, Bombay
10. John Rawls, A Theory of Justice (2000), Universal, New Delhi
11. Edward H. Levi, An Introduction to Legal Reasoning (1970), University of Chicago

**LAW 408 Law and Social Transformation of India Law
and Social Change** **4 Credits**

- 1.1 Laws as an instrument of social change
- 1.2 Law as the product of traditions and culture. Criticism and evaluation in the light of Colonization and the introduction of common law system and institutions in India and its impact on further, development of law and legal institutions in India.

2. Law and Its Inter-relationships with Religion, Language, Community and Regionalism

- 2.1 Religion, Language, community and regionalism as divisive factors
- 2.2 Responses of law to :
 - (a) Religion - through secularism
 - (b) Language - through constitutional guarantees
 - (c) Community - through non-discrimination
 - (d) Regionalism - through unity
 - (e) Non- discrimination and protective discrimination (reservation)

3. Women, Children and the Law :

- 3.1 Crimes against women
- 3.2 Gender injustice and its various forms
- 3.3 Women's Commission
- 3.4 Empowerment of women: Constitutional and other legal provisions
- 3.5 Child labour
- 3.6 Sexual exploitation
- 3.7 Adoption and related problems
- 3.8 Children and education

4. Modernizations and the Law

- 4.1 Modernization as a value: Constitutional perspectives reflected in the fundamental duties
- 4.2 Modernization of social instructions through law
 - 4.2.1 Reform of family law

- 4.2.2 Agrarian reform - Industrialisation of agriculture
- 4.2.3 Industrial reform: Free enterprise v. State regulation Industrialisation v. environment protection
- 4.3 Reform of court processes
 - 4.3.1 Criminal law: Plea bargaining; compounding and payment of compensation to victims
 - 4.3.2 Civil law: (ADR) Confrontation v. consensus; meditation and conciliation; Lok Adalat
 - 4.3.3 Prison reforms
- 4.4 Democratic decentralization and local self-government

5. Alternative Approaches to Law

- 5.1 The jurisprudence of Sarvodaya - Gandhiji, Vinoba Bhave; Jayaprakash Narayan -Surrender of dacoits; concept of gram nyalalayayas
- 5.2 Socialist thought on law and justice; an enquiry through constitutional debates on the right to property
- 5.3 Indian Marxist critique of law and justice
- 5.4 Naxalite movement: causes and cure

References:

1. Marc Galanter (ed.), Law and Society in Modern India (1997), Oxford
2. Robert Lingat, The Classical Law of India (1998), Oxford
3. U. Baxi, The Crisis of the Indian Legal System (1982), Vikas, New Delhi
4. U. Baxi (ed.), Law and Poverty Critical Essays (1988), Tripathi, Bombay Manushi A, Journal about Women and Society
5. Duncan Derret, The State, Religion and Law in India (1999), Oxford University Press, New Delhi
6. H. M. Seervai, Constitutional Law of India (1996), Tripathi
7. D. D. Basu, Shorter Constitution of India (1996), Prentice-Hall of India (P) Ltd., New Delhi
8. Sunil Deshta and Kiran Deshta, Law and Menace of Child Labour (2000), Armor PuEBLications, Delhi
9. Savitri Gunasekhare, Children, Law and Justice (1997), Sage
10. Indian Law Institute, Law and Social Change: Indo-American Reflection (1988), Tripathi

11. J. B. Kripalani, *Gandhi: His Life and Thought* (1970), Ministry of Information and Broadcasting,
12. Government of India
13. M. P. Jain, *Outlines of Indian Legal History* (1993), Tripathi, Bombay
14. Agnes, Flavia, *Law and Gender Inequality: The Politics of Women's Rights in India* (1999), Oxford

LAW 409 Legal Research Methodology

4 Credits

1. Research Methods

- 1.1 Socio-legal research
- 1.2 Doctrinal and non-doctrinal
- 1.3 Relevance of empirical research
- 1.4 Induction and deduction

2. Identification of ProBLEM of Research

- 2.1 What is a research proBLEM ?
- 2.2 Survey of available literature and bibliographical research
- 2.3 Legislative materials including subordinate legislation notification and policy statements
- 2.4 Decisional materials including foreign decisions; methods of discovering the "rule of the case" tracing the history of important cases and ensuring that these have not been over-ruled; discovering judicial conflict in the area pertaining to the research proBLEM and the reasons thereof.
- 2.5 Juristic writings - a survey of juristic literature relevant to select proBLEMs in India and foreign periodicals
- 2.6 Compilation of list of reports or special studies conducted relevant to the proBLEM

3. Preparation of the Research Design

- 3.1 Formulation of the Research proBLEM
- 3.2 Devising tools and techniques for collection of data :
Methodology
 - 3.3.1 Methods for the collection of statutory and case materials and juristic literature
 - 3.3.2 Use of historical and comparative research materials
 - 3.3.3 Use of observation studies
 - 3.3.4 Use of questionnaires/ interview
 - 3.3.5 Use of case studies
 - 3.3.6 Sampling procedures- design of sample, types of sampling to be adopted
 - 3.3.7 Use of scaling techniques
 - 3.3.8 Jurimetrics

4. Classification and tabulation of data

- 4.1 Rules for tabulation
- 4.2 Explanation of tabulated data
- 4.3 Analysis of data

5. Computerized Research - A study of legal research programmes such as Lexis and West law coding

References:

1. M. O. Price, H. Bitner and Bysiewicz, Effective legal Research (1978)
2. Pauline V. Young, Scientific Social Survey and Research (1962)
3. William J. Grade and Paul K. Hatt, Methods in Social Research, Mc Graw - Hill Book Company, London.
4. H. M. Hyman, Interviewing in Social Research (1965)
5. Payne, The Art of Asking Questions (1965)
6. Erwin C. Surrency, B. Fielf and J. Crea, A Guide to Research (1959)
7. Morris L. Cohan, Legal Research in Nutshell (1996), West PuEBLishing Co.
8. Havard Law Review Association, Uniform System of Citations
9. ILI PuEBLication, Legal Research and Methodology

LAW 410 EBL Corporate Finance Paper – I 4 Credits

1. Introduction

- 1.1. Meaning, importance and scope of corporation finance
- 1.2. Capital needs - capitalisation - working capital - securities-borrowings-deposits debentures
- 1.3. Objectives of corporation finance - profit maximisation and wealth maximisation
- 1.4. Constitutional perspectives - the entries 37, 38, 43, 44, 45, 46, 47, 52, 82, 85, and 86 of List 1 - Union List; entry 24 of List 11 - State List.

2. Equity Finance

- 2.1. Share capital
- 2.2. Prospectus - information disclosure
- 2.3. Issue and allotment
- 2.4. Shares without monetary consideration
- 2.5. Non-opting equity shares

3. Debt Finance

- 3.1. Debentures
- 3.2. Nature, issue and class
- 3.3. Deposits and acceptance
- 3.4. Creation of charges
- 3.5. Fixed and floating charges
- 3.6. Mortgages
- 3.7. Convertible debentures

4. Conservation of Corporate Finance

- 4.1 Regulation by disclosure
- 4.2 Control on payment of dividends
- 4.3 Managerial remuneration
- 4.4 Payment of commissions and brokerage
- 4.5 Inter-corporate loans and investments
- 4.6 Pay-back of shares
- 4.7 Other corporate spending

5. Protection of creditors

- 5.1 Need for creditor protection
- 5.2 Preference in payment
- 5.3 Rights in making company decisions affecting creditor interests
- 5.4 Creditor self-protection
- 5.5 Incorporation of favourable terms in lending contracts
- 5.6 Right to nominate directors
- 5.7 Control over corporate spending

References :

- Alastair Hundson, *The Law on Financial Derivatives* (1998), Sweet & Maxwell
- Eil's Ferran, *Company Law and Corporate Finance* (1999), Oxford.
- Jonathan Charkham, *Fair shares: the Future of Shareholder Power and Responsibility* (1999), Oxford.
- Ramaiya A, *Guide to the Companies Act* (1998), Vol. I, II and III.
- H.A.J. Ford and A.P. Austen, *Ford's principle of Corporations Law* (1999) Butterworths.
- J.H. Farrar and B.M. Hanniyan, *Farrar's company Law* (1998) Butterworths
- Austen R.P., *The Law of Public Company Finance* (1986) LBC

R.M. Goode, Legal Problems of Credit and Security (1988) Sweet and Maxwell

Altman and Subrahmanyam, Recent Advances in Corporate Finance (1985) LBC

Gilbert Harold, Corporation Finance (1956)

Henry E. Hoagland, Corporation Finance (1947)

Maryin M. Kristein, Corporate Finance (1975)

R.C. Osborn, Corporation Finance (1959)

S.C. Kuchhal Corporation finance : Principles and Problems (6th ed. 1966)

LAW 411EBL Banking Law

4 Credits

1. Introduction

- 1.1 Nature and development of banking
- 1.2 History of banking in India and elsewhere -indigenous banking- evolution of banking in India - different kinds of banks and their functions.
- 1.3 Multi-functional banks - growth and legal issues.
- 1.4 Evolution of Central Bank, its characteristics, objectives, functions and importance
- 1.5 Reserve Bank of India and its various functions, its role as Central Bank, Bank rate policy formulation
- 1.6 Nationalization of banks and its importance
- 1.7 Co-operative Banks : Importance and drawbacks

2. Law Relating to Banking Companies in India

- 2.1. Controls by government and its agencies on management, audit and accounts, lending and credit policy of the Banking Companies
- 2.2 Reconstruction and reorganisation
- 2.3 Suspension and winding up

3. Social Control over Banking

- 3.1 Nationalization
- 3.2 Evaluation: private ownership, nationalisation and disinvestment
- 3.3 Protection of depositors
- 3.4 Priority lending
- 3.5 The Deposit Insurance and Credit Guarantee Corporation Act, 1961

3.5.1 Objects and reasons

3.5.2 Establishment of Capital of DIC

3.5.3 Registration of banking companies insured banks,
liability of DIC to depositors

3.5.4 Relations between insured banks, DIC and Reserve Bank
of India

4. Relationship of Banker and Customer

4.1 Legal character

4.2 Contract between banker and customer : their rights and duties

4.3 Banker's lien

4.4 Protection of bankers

4.5 Customers

4.5.1 Nature and type of accounts

4.5.2 Special classes of customers - lunatics, minor,
partnership, corporations, local authorities

4.6 Banking duty to customers

4.7 Consumer protection: banking as service

5. Negotiable Instruments

5.1 Meaning and kinds

5.2 Transfer and negotiations

5.3 Holder and holder in due course and his rights

5.4 Liabilities of parties in case of dishonour of Negotiable
Instruments

5.4.1 Individual liability under the Negotiable Instruments Act,
1881 for dishonour of cheque

5.4.2 Liability of firms and partners as well as companies and its
directors for dishonour of cheque

5.4.3 Punishment and remedies available under the Act

5.4.4 Judicial approach in case of dishonour of cheque

References :

Basu, A. Review of Current Banking Theory and Practice (1998) Macmillan

M. Hapgood (ed.), Pagets' Law of Banking (1989) Butterworths, London

R. Goode, Commercial Law, (1995) Penguin, London. Ross Cranston, Principles of Banking Law (1997) Oxford.

L.C. Goyle, The Law of Banking and Bankers (1995) Eastern

M.L. Tannan, Tannan's Banking Law and Practice in India (1997) India Law House, New Delhi, 2 volumes

K.C. Shekhar, Banking Theory and Practice (1998) UBS Publisher Distributors Ltd. New Delhi.

M. Dasse, S. Isaacs and G. Pen, E.C. Banking Law, (1994) Lloyds of London Press, London

V. Conti and Hamaui (eds.), Financial Markets' Liberalization and the Role of Banks', Cambridge University Press, Cambridge, (1993).

J. Dermine (ed.), European Banking in the 1990s' (1993) Blackwell, Oxford.

C. Goodhart, The Central Bank and the Financial System (1995), Macmillan, London

S. Chapman, The Rise of Merchant Banking (1984) Allen Unwin, London

K. Subrahmanyam, Banking Reforms in India (1997) Tata McGraw Hill, New Delhi.

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.

R.S. Narayana, The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993), Asia Law House, Hyderabad.

M.A. Mir, The Law Relating to Bank Guarantee in India (1992), Metropolitan Book, New Delhi.

Anthony Pierce, Demand Guarantees in International Trade (1993) Sweet & Maxwell,

Ross Cranston (ed.) European Banking Law: The Banker-Customer Relationship (1999) LLP, London

Mitra, The Law Relating to Bankers' Letters of Credit and Allied Laws, (1998) University Book Agency, Allahabad.

R.K. Talwar, Report of Working Group on Customer Service in Banks
Janakiraman Committee Report on Securities Operation of Banks and Financial Institution (1993) Narasimham Committee report on the Financial System (1991)- Second Report (1999)

1. Introduction

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

2. General Principles of Law of Insurance

- 2.1 Definition, nature and history
- 2.2 The risk - commencement, attachment and duration
- 2.3 Assignment and alteration
- 2.4 Settlement of claim and subrogation
- 2.5 Effect of war upon policies

3. Indian Insurance Law: General

- 3.1 History and development
- 3.2 The Insurance Act 1938 and the Insurance Regulatory Authority Act 2000
- 3.3 Mutual insurance companies and cooperative life insurance societies
- 3.4 Double Insurance and re-insurance

4. Life Insurance

- 4.1 Nature and scope
- 4.2 Event insured against life insurance contract
- 4.3 Circumstances affecting the risk

- 4.4 Amounts recoverable under life policy
- 4.5 Persons entitled to payment
- 4.6 Settlement of claim and payment of money

5. Insurance Against Third Party Risks

5.1 The Motor Vehicles Act, 1988

5.1.1 Nature and scope

5.1.2 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

5.2 Liability Insurance

5.3 Nature and kinds of such insurance

5.4 Public liability insurance

5.5 Professional negligence insurance

References :

John Hanson and Christophals Henly, All Risks Property Insurance (1999), LLP Asia, Hongkong.

Peter Mac Donald Eggers and Patric Foss, Good Faith and Insurance Contracts (1998) LLP Asia, Hongkong

Banerjee, Law of Insurance (1994), Asia Law House, Hyderabad.

Mitra B.C, Law Relating to Marine Insurance (1997) Asia Law House, Hyderabad

JCB Gilmar and Mustill, Arnold on the Law of Marine Insurance, (1981), Sweet & Maxwell

Birds, Modern Insurance Law (1997) Sweet & Maxwell

Colinvaux's Law of Insurance (1997), Sweet & Maxwell

O'Maryon Marine Insurance (1993), Sweet & Maxwell.

International Labour Office, Administration Practice of social Insurance (1985)

E.R. Hardy Ivamy, General Principles of insurance Law (1979)

Edwin W. Patterson, Cases and Materials on Law of insurance (1955)

M. N. Sreenivasan Law and the Life Insurance Contract (1914)

GUJARAT UNIVERSITY

LL.M. (Business Law) Syllabus

Semester – III

- 1. LAW 501 EBL. Special Contract and E – Commerce**
- 2. LAW 502 EBL Law of Industrial and Intellectual Property – II**
- 3. LAW 503 EBL Legal Regulation of Economic Enterprises Paper– II**
- 4. LAW 504 EBL Corporate Finance Paper– II**
- 5. LAW 505 EBL Labour Laws**
- 6. LAW 506 EBL Principles of Taxation Laws**

Semester – III

LAW 501 EBL Special Contract and E – Commerce 4 Credits

1. Law of Agency

2. Sale of Goods Act

3. Partnership Laws

3.1 Partnership Act

3.2 Limited Liability Partnership Act

4. E – Commerce

1.4.1 Emerging significance of E-Commerce

1.4.2 Transactions and Technology of E – Commerce

1.4.3 E – Commerce Contracts

5. E – Commerce Legislations

References :

Beasten (Ed), Anson's Law of Contract (2yth ed. 1998)

P. S. Atiya, Introduction to the Law of Contract 1992 reprint (Claredon Law Series)

Avtar Singh, Law of Contract (2000) Eastern Lucknow

G. C. Cheshire, and H. S. Fifoot and M. p. Formston Law Contract (1992) ELBS with Butterworths.

M. Krishnan Nair, Law of Contract, (1998)

G.H. Trinel , Law of Contract Sweet & Maxwell (1997 Reprint)

R.K. Abichandani (ed), Pollock and Mulla on the Indian contract and the Specific Relief Act (1999), Tripathi.

Partnership Act : Pollock and Mulla

Mukarjee, Indian Partnership Act Central Law House

LAW 502 EBL

Law of Industrial and Intellectual Property – II 4 Credits

1. Patent Search, Examination and Records:

- 1.1 International and global patent information retrieval systems (European Patent Treaty).
- 1.2 Patent Co-operation Treaty(PCT)
- 1.3 Differences in resources for patent examination between developed and developing societies
- 1.4 Indian scenario

2. Special Problems of Proof of Infringement:

- 2.1 Status of intellectual property in transit - TRIPS obligation - Indian position.
- 2.2 The evidentiary problems in action of passing off.
- 2.3 The proof of non-anticipation, novelty of inventions protected by patent law
- 2.4 Evidentiary problems in piracy : TRIPS obligation - reversal of burden of proof in process patent
- 2.5 Need and Scope of Law Reforms.

3. Intellectual Property and Human Right

- 3.1 Freedom of speech and expression as the basis of the regime of intellectual property right - copyright protection on internet - WCT (WIPO Copyright Treaty, 1996).
- 3.2 Legal status of hazardous research protected by the regime of intellectual property law.
- 3.3 Human right of the impoverished masses intellectual property protection of new products for healthcare and food security
- 3.4 Traditional knowledge - protection- biodiversity convention- right of indigenous people.

4. The Biological Diversity Act, 2002

- 4.1 Regulation of access to Biological Diversity
- 4.2 National Biodiversity Authority, its functions and powers
- 4.3 State Biodiversity Board,
- 4.4 Biodiversity Management Committees
- 4.5 Local Biodiversity Fund

5. Intellectual Property Valuation

References :

Special attention should be given to literature of the U.N. System, WIPO and the UNESCO.

Terenee P. Stewart (ed.), *The GATT Uruguay Round: A Negotiating History (1986-1994) the End Game (Part - 1)*(1999), Kluwer

Iver P. Cooper, *Biotechnology and Law* (1998), Clerk Boardman Callaghan, New York. David Bainbridge, *Software Copyright Law* (1999), Butterworths

Sookman, *Computer Law* (1998), Carswell

Carlos M. Correa(ed.), *Intellectual Property and International Trade* (1998), Kluwer

Patent Co-operation Treaty Hand Book (1998), Sweet and Maxwell

Christopher Wadlow, *The Law Of Passing-Off* (1998), Sweet and Maxwell

W.R.Cornish, *Intellectual Property Law* (1999), Sweet and Maxwell

LAW 503 EBL

4 Credits

Legal Regulation of Economic Enterprises Paper– II

- 1. Deregulation of essential commodities: developmental sign or a social mishap?**
Financial Services : Changing Techniques of Regulation
- 2. Critical Issues Regarding the Capital Issues**
 - 2.1 Equity and debt finance
 - 2.2 Global depositories
 - 2.3 De-materialised securities
- 3. Problems of Control and Accountability: Regulation of Hazardous Activity**
 - 3.1 Mass disaster and environmental degradation : legal liability and legal remedies of national and multi-national Industries
 - 3.2 Charter on Industrial Hazards and Human Rights
 - 3.3 The Hazardous Waste (Management, Handling and Transboundary Management) Rules, 2008
 - 3.4 Public Liability Insurance : adequacy
 - 3.5 Issues in zoning and location of industrial units
- 4. Legal Regulation of Special Economic Zones :**
 - 4.1 Gujarat Special Economic Zone Act, 2004
 - 4.1.1 Establishment of SEZ,
 - 4.1.2 Appointment of Developer, his responsibilities to provide facilities at the SEZ
 - 4.1.3 SEZ Development Authority
 - 4.1.4 Unit Approval Committee, SEZ Development Committee
 - 4.1.5 Single Window Clearance
 - 4.1.6 Powers of the Development Commissioner in SEZ

4.1.7 Amendments in different Labour Laws within SEZs and effects thereof

4.2 Gujarat SEZ Rules, 2006

4.2.1 Incentives to promote development of industries in SEZ

4.3 Special Aspects of Legal Regulation of Select Public Enterprises

(Universities may select some such representative public enterprises for transport, mining and energy).

4.3.1 Telecom Regulatory Authority

4.3.2 Insurance Regulatory and Development Authority

4.3.3 Broadcasting Regulatory Authority

5. Legal Regulation of Multi-Nationals

5.1 Collaboration agreements for technology transfer

5.2 Development and regulation of foreign investments

5.3 Investment in India : FDIs and NRIs

5.4 Investment abroad

References :

S.Asواني Kumar, The Law of Indian Trade Mark (2001), Commercial Law House, Delhi.

Industrial Policy Resolutions of 1948,1956, 1991

Industrial Licensing Policy 1970,1975

Industrial Policy Statements 1973,1977, 1980

Reports of Committees on Public Undertakings of Parliament.

Industries (Development and Regulation) Act, 1951

U. Baxi (ed.), *Inconvenient Forum and Convenient Catastrophe The Bhopal Case*, (1986) U. Baxi & T. Paul (eds.), *Mass Disasters and Multinational Liability* (1986)

U. Baxi & A. Dhandba, *Valiant Victims and Lethal Litigation: The Bhopal Case* (1989)

Indian Law Institute, *Law of international Trade Transactions*, (1973)

Charter on Industrial Hazards and Human Rights

The Hazardous Waste (Management, Handling and Transboundary Managwement) Rules, 2008

Gujarat Special Economic Zone Act, 2004 Universal Publication

Gujarat Special Economic Zone Rules, 2006 Universal Publication

1. Protection of Investors

- 1.1 Individual share holder right
- 1.2 Corporate membership right
- 1.3 Derivative actions
- 1.4 Qualified membership right
- 1.5 Conversion, consolidation and re-organisation of shares
- 1.6 Transfer and transmission of securities
- 1.7 Dematerialisation of securities

2. Corporate Fund Raising

- 2.1 Depositories - IDR(Indian depository receipts), ADR(American depository receipts), GDR(Global depository receipts)
- 2.2 PuEBLic financing institutions - IDBI, ICICI, IFC and SFC
- 2.3 Mutual fund and other collective investment schemes
- 2.4 Institutional investments - LIC, UTI and banks
- 2.5 FDI and NRI investment - Foreign institutional investments (IMF and World bank)

3. Administrative Regulation on Corporate Finance

- 3.1 Inspection of accounts
- 3.2 SEBI
- 3.3 Central government control
- 3.4 Control by registrar of companies

3.5 RBI control

4. Reconstruction and Amalgamation :

4.1 Sanction, duties and powers of the Court

4.2 Reconstruction

4.3 Amalgamation

4.4 Take-over and Acquisition of Minority interests

5. Corporate Winding up :

5.1 Types of Winding up :

5.1.1 Winding up under the order of the court

5.1.2 Voluntary winding up

Members' voluntary winding up

Creditors' Voluntary winding up

5.2 Voluntary winding up under supervision of the court

References :

Alastair Hundson, The Law on Financial Derivatives (1998), Sweet & Maxwell

Eil's Ferran, Company Law and Corporate Finance (1999), Oxford.

Jonathan Charkham, Fair shares: the Future of Shareholder Power and Responsibility (1999), Oxford.

Ramaiya A, Guide to the Companies Act (1998), Vol. I, II and III.

H.A.J. Ford and A.P. Austen, Fords' principle of Corporations Law (1999) Butterworths.

J.H. Farrar and B.M. Hanniyan, Farrar's company Law (1998) Butterworth's

Austen R.P., The Law of Public Company Finance (1986) LBC

R.M. Goode, Legal Problems of Credit and Security (1988) Sweet and Maxwell

Altman and Subrahmanyam, Recent Advances in Corporate Finance (1985)

LBC

Gilbert Harold, Corporation Finance (1956)

Henry E. Hoagland, Corporation Finance (1947)

Maryin M. Kristein, Corporate Finance (1975)

R.C. Osborn, Corporation Finance (1959)

S.C. Kuchhal Corporation finance : Principles and Problems (6th ed. 1966)

V.G. Kulkarni, Corporate Finance (1961)

Y.D. Kulshreshtha, Government Regulation of Financial management of
Private Corporate Sector in India (1986)

Journals - Journal of Indian Law Institute, Journal of Business Law,
Chartered Secretary, Company Law Journal, Law and Contemporary
Problems.

Statutory Materials - Companies Act and laws relating SEBI, depositories,
industrial financing and information technology.

1. Labour Laws : International Scenario

- 1.1 Theories of labour and surplus value
- 1.2 From laissez faire to welfarism and to globalisation: transition from exploitation to protection and from contract to status : changing perspectives on labour
- 1.3 **National Commission on Labour and ILO on industrial relations.** Recommendations of the second national commission on labour on industrial relation.
- 1.4 Contribution of ILO and its impact on national labour relations. ILO standard conventions and recommendations

2. Collective bargaining, Condition of services and Discipline in Industries

- 2.1 The concept, Bargaining process, Negotiation
Techniques of pressurization: strike and lockout, go-slow, work to rule, gherao\ bundh
- 2.2 Structure of bargaining: plant, industry and national levels
- 2.3 Doctrine of hire and fire - history of management's prerogative.
- 2.4 Fairness in disciplinary process : Punishment for misconduct - meaning of misconduct
Conditions of services Stages of Departmental Inquiry under the Industrial Employment Standing Order Act, 1946
 - 2.4.1 Judicial decisions relating to the procedure of Departmental Inquiry.

3. State Regulation of Industrial Relations

- 3.1 Theoretical foundations: social justice, labour welfare, public interest, productivity, industrial peace and development and price control.
- 3.2 Methods of regulation: Constitutional Provisions, Provisions under the ID Act
 - 3.2.1 Recognition of mutual arrangements

- 3.2.2 Assistance to bipartite settlement: conciliation, voluntary arbitration, formulation of standing orders.
- 3.2.3 State prescription of machinery: reference for adjudication (the political overtones), the adjudicatory mechanisms (How do they differ from courts?), award and its binding nature, judicial review of awards.
State prescription of standards in lay off, strike, lockout, retrenchment, closure and transfer of undertakings.
- 3.3 The conceptual conundrum : industry, industrial dispute, workmen.
- 3.4 Unfair labour practices.

4. Health and Safety :

- 4.1. Obligations for health and safety of workmen - legislative controls: factory, mines and plantations.
- 4.2. Employer's liability
- 4.3 Employees' Compensation, Employee's State Insurance
- 4.4 Employment of young persons: prohibition of employment of children, regulation of employment of young persons.
- 4.5 Woman and labour force

5. Labour Welfare and Remuneration

- 5.1 Welfare provided by the employers and through bipartite agreements and by statutory prescription under different laws
- 5.2 Provident fund and family pension.
- 5.3 Gratuity, bonus and Insurance.
- 5.4 Equal remuneration law, maternity benefits, protective provisions for women under factories, plantations and mines laws

References :

- John Bowers and Simon Honeyball, Text Book on Labour Law (1996), Blackstone, London
- Srivastava K.D., Commentaries on Payment of Wages Act 1936 (1998), Eastern, Lucknow
- Srivastava K.D., Commentaries on Minimum Wages Act 1948 (1995), Eastern, Luknow

Rao.S.B., Law and Practice on Minimum Wages (1999) , Law Publishing House, Allahabad

Seth.D.D., Commentaries on Industrial Disputes Act 1947 (1998), Law Publishing House, Allahabad

Srivastava K.D., Disciplinary Action against Industrial Employees and Its Remedies (1990), Eastern, Lucknow

Srivastava. K .D., Commentaries on Factories Act 1948 (2000), Eastern, Luknow

R.C. Saxena, Labour Problems and Social Welfare Chapters 1, 5 and 6.(1974)

V.V. Giri, Labour Problems in Indian Industry Chs. 1 and 15, (1972). Indian Law Institute,

Labour Law and Labour Relations (1987) (1982) Cochin University Law Review, Vol. 6 pp. 153-210.

Report of the National Commission on Labour. Ch. 14-17, 22, 23 and 24.

O.P. Malhotra, The Law of Industrial Disputes (1998), Universal, Delhi.

S.C. Srivastava, Social Security and Labour Laws Pts. 5 and 6 (1985).Universal, Delhi.

S.C.Srivastava, Commentary on the Factories Act 1948 (1999) Universal, Delhi.

Bhatia, S.K., Constructive Industrial Relations and Labour Laws (2003)

Davar, R.S., Personnel Management & Industrial Relations (2nd ed. 1987)

Kaul, B.T., Labour Law - I

LAW 506 EBL Principles of Taxation Laws 4 Credits

Note : The objective of this paper is to acquaint the student about the intricacies of Taxation Laws with regard to concept of Income, Sources of Income, the taxation on the value of goods, sale or purchase of goods in the course of inter-state trade and commerce and Taxability of Wealth and various Services and their assessment and appellate authorities under the respective laws.

1. Constitutional Perspectives :

- 1.1 Articles 14, 19(1)(g), 19(6), 269, 271 of the Constitution of India
- 1.2 Entries 82-92 C of List I of the Seventh Schedule of the Constitution of India
- 1.3 Entry 46, 54 of List II of Seventh Schedule of the Constitution of India
- 1.4 Principle of Unjust Enrichment
- 1.5 Relevant decisions of the Supreme Court

2. Income Tax Act, 1961

3. Income Tax Act, 1961

4.1 Gujarat Value Added Tax Act, 2003

4.2 Central Sales Tax Act, 1956

5. Wealth Tax and Service Tax

- 5.1 Wealth Tax Act. 1957
- 5.2 Principles of Service Tax

References :

H.M. Sheervai, Constitution of India (three Volumes)

M.P. Jain, Constitution Law of India (2008), Tripathi, Bombay

D. D. Basu's Commentaries of Indian Constitution

Ramesh Sharma, Supreme Court on Direct Taxes (1998) , Bharath Law House, New Delhi.

Sampath Lyengar, Law of Income Tax (1998) , Bharath Law House, New Delhi

Diwan B. K. and Sanjay Mehtani, Formation, Taxation, and Assessment Charitable and Religious Trusts (1999) Bharath law House, New Delhi.

Kanga and Palkiwala. The Law and Practice of Income Tax (1999), Wadha, Nagpur

K. Parameswaran, Power of Taxation under the Constitution (1987), Eastern Lucknow

V. Ramachandran & T.A. Ramakrishnan (eds) A. N. Aiyar's Indian Tax Laws (2000) Company Law Institute of India Pvt. Ltd. Chennai.

S. Bhattacharya & H. R. . Garg, Handbook of Direct Taxes (1990) Eastern Law House, Calcutta.

C.A. Gularickar, Law and Practice of Wealth Tax and Valuation (1998), Gularikar, Mumbai.

Walter R. Mahler, Sales and Excise Taxation in India (1970) Orient Longman, Delhi.

R.V. Pattel. The Central Sales Tax Act (1966) Thripathi Bombay.

S.D. Singh, Principles of Law of Sales Tax (1973) , Eastern, Lucknow.

Harish N. Shah : The Gujarat Vat Manual, SBD Publication

Sanjeev Malhotra : Practice Procedures & Conveyancing under VAT & CST : Bharat Publication

Service Tax , Taxmann Bharat Law House

GUJARAT UNIVERSITY

LL.M. (Business Law) Syllabus

Semester IV

LAW 507PR Class room Teaching

LAW 508PR Doctrinal Research

LAW 509PR Non-Doctrinal Research

LAW 510PR Clinical Research Report

LAW 511PT Dissertation and Submission of Thesis

Semester IV

LAW 507PR Class room Teaching

4 Credits

Each student will be assign two topics in advance to deliver class room teaching. Each class will be of 45 minutes by selecting any methods of teaching relating to Law and shall be assessed according to his/her performance.

LAW 508PR Doctrinal Research

4 Credits

Each student has to submit a doctrinal research on the basis of the doctrinal research method taught in the legal research methodology by collecting secondary data from various sources collating with legal issues.

LAW 509PR Non-Doctrinal Research

4 Credits

Each student has to submit a doctrinal research on the basis of the doctrinal research method taught in the legal research methodology by collecting primary data from various sources collating with legal issues.

LAW 510PR Clinical Research Report

4 Credits

As a part of clinical research each student has to visit for a week to different Legal Institutions to understand the functioning of these institutions and its relation with the society at large and has to submit a report for evaluation.

LAW 511PT Dissertation and Submission of Thesis

8 Credits

To make the LL.M. program in IPR research oriented every student has to carry out Dissertation work selecting any topic from the subjects taught in the last three semesters applying Legal Research Methodology which is to be submitted for evaluation internally externally has to appear for viva-voce.