

CURRICULUM AND SYLLABI

(5th Semester)

**B.A.LL. B
(Integrated Law degree course)**

SCHOOL OF LAW



RAFFLES
UNIVERSITY

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FAMILY LAW – I

INTRODUCTION TO THE COURSE

India being a country of rich cultural and religious diversity offers personal laws pertaining to each religion, be it Hindus, Muslims, Christians, etc. Personal laws govern matters like marriage, divorce, adoption, succession, maintenance etc. Family Law I deals with the sources and development of Hindu Law. This course is a study of the fundamentals of Hindu Law and includes the Hindu Marriage Act, 1955, the Hindu Adoptions and Maintenance Act, 1956, the Hindu Minority and Guardianship Act, 1956 and the structure of Family Courts in India.

COURSE OBJECTIVES

This course has the following objectives

1. To evaluate the strength of the family system in India.
2. and the extent of legal support provided to the same and also to examine when and how and to what extent the constitutional directive of Uniform Civil Code enables to regulate a religious part of family life if any, may emerge. Besides this to give an overview of some of the current problems arising out of the foundational inequalities.

TEACHING METHODOLOGY

As per the norms of the University for this Course, there will be 6 classes per week. Clinical and tutorial forms of learning should be followed. The teaching methodology will include Lectures-cum-discussion, Assignments, Court room exercises, Projects, and Presentations.

THE EVALUATION SCHEME

- Continuous Assessment- 40%
- Mid-Term- 20%
- End Term- 40%

COURSE OUTLINE

Unit-I

Credit 6

Concept of Hindu law & Sources of law

(Hours 60)

Philosophy & Concept of Hindu law, Schools of Hindu law, Sources of Hindu law, who is a Hindu, un codified general law among the various religious groups of people of India.

Unit-II

The Hindu Marriage and Divorce

- A. Applicability of Legislation (Section 2)
- B. Concept and forms of Marriage (Section 5 R/w Section 7)
- C. Conditions for the Validity of Marriage (Section 5 R/w Section 3 R/w Section 18)
- D. Solemnization of Marriage (Section 7)
- E. Section 3 of PCMA R/w Section 9 of PCMA
- F. Child Marriage R/w Provisions of POCSO
- G. Void and Voidable Marriages (Section 11 and Section 12)
- H. Registration of Marriage (Section 8)
- I. Restitution of Conjugal Rights (Section 9 R/w Article 21 of Indian Constitution)
- J. Judicial Separation (Section 10) R/w 13 (1A)
- K. Status of sologamy?
- L. Unisex Marriages and Question of living together?

Divorce (Hindu Marriage Act, 1955)

- A. Theories of Divorce- Guilt Theory and Consent Theory
- B. Grounds of Divorce Cruelty, Desertion, Adultery along with Joseph Shine vs. UOI, 2018, SC
- C. Study on Section 13
- D. Options of Puberty, Breakdown of Marriage, Mutual Consent (Section 13B), Grounds for Divorce for Woman Only (Section 13(2))
- E. Irretrievable Breakdown of Marriage as a ground of Divorce.

Cases:

- *Dr. Surajmani Stella Kujur v. Durga Charan Hansdah* AIR 2001 SC 938
- *S. Nagalingam v. Sivagami* (2001) 7 SCC 487 4
- *Bhaurao Shankar Lokhande v. State of Maharashtra*, AIR 1965 SC 1564 8
- *Lily Thomas v. Union of India*, AIR 2000 SC 1650 12
- *Pinninti Venkataraman v. State*, AIR 1977 AP 43 23
- *Asha Qureshi v. Afaq Qureshi*, AIR 2002 MP 263 33
- *P. v. K.*, AIR 1982 Bom. 400 37
- *Babui Panmato Kuerv. Ram Agya Singh*, AIR 1968 Pat. 190 47
- *Seemav. Ashwani Kumar* (2006) 2 SCC 578 51
- *Javed & Ors. v. State of Haryana & Ors.* AIR 2003 SC 3057
- *Kailashwati v. Ayudhia Parkash*, 1977 C.L.J. 109 (P. & H.) 55
- *Swaraj Garg v. K.M. Garg*, AIR 1978 Del. 296 66
- *Saroj Rani v. Sudarshan Kumar*, AIR 1984 SC 1562 74
- *N.G. Dastane v. S. Dastane*, AIR 1975 SC 1534 81
- *Samar Ghosh v. Jaya Ghosh*, 2007 (3) SCJ 253 101
- *Bipin Chandra Jaisingh Bai Shah v. Prabhavati*, AIR 1957 SC 176 122
- *Dharmendra Kumar v. Usha Kumar*, AIR 1977 SC 2213 139
- *T. Srinivasan v. T. Varalakshmi*, 1 (1991) DMC 20 (Mad.) 142
- *Hira Chand Srinivas Managaonkar v. Sunanda*, AIR 2001 SC 1285 149
- *Sureshta Devi v. Om Prakash*, 1 (1991) DMC 313 (SC) 155

Unit-III

Hindu Adoptions and Maintenance

ADOPTION

- A. Law on the legitimacy of children and adoption.
- B. Legitimacy of the issue in void and voidable marriage and the rights of such children
- C. Issues relating to custody of children
- D. Requisite of Valid Adoption- Conditions for giving in, taking of person adopted procedure and conditionality.
- E. When adoption is complete
- F. Effects of Adoption
- G. Inter-Country adoption
- H. Adoption in different religious groups.

MAINTENANCE

- A. Maintenance during the pendency of the suit.

- B. Maintenance after the dissolution of marriage and conditions of permanent alimony (Section 24 R/w Section 25 HMA, 1955, Section 18 HAMA, 1956, Section 125 CrPC, Section 20 DVA)

Unit-IV

Hindu Minority and Guardianship Act, 1956

- A. Guardian under the Guardian and Wards Act
- B. Who can be appointed
- C. Procedure of application – who can apply – what are powers – what matters court would consider for appointment of a guardian – cessation of authority
- D. General and special liability of a guardian
- E. Natural guardian and his/her power

Unit-V

The Hindu Succession Act,

- A. Origin and Nature of Joint Family and Coparcenary
- B. Characteristic features of Coparcenary
- C. Classification of Property
- D. Karta: Position, Power and Liabilities, Privileges and Obligations.
- E. Partition: Definition, Persons entitled to demand partition, Reopening and Reunion.

Cases:

- *Brijendrav. State of M.P.*, AIR 2008 SC 1058 164
- *Amar KantaSenv. SovanaSen*, AIR 1960 Cal. 438 159
- *Padmja Sharma v. Ratan Lal Sharma*, AIR 2000 SC 1398 162
- *GithaHariharanv. Reserve Bank of India* (1999) 2 SCC 228 169

Recommended Readings

Aqil Ahmad, *Mohammedan Law*, (Central Law Agency, 24th ed. 2011)

R.K. Agarwala, *Hindu Law*(Central Law Agency, 22nd ed. 2007)

ParasDiwan, *Law of Intestate and Testamentary Succession* (1998), Universal

Basu, N.D., *Law of Succession* (2000), Universal

Kusem, *Marriage and Divorce Law Manual* (2000) Universal

Machanda.S.C.*Law and Practice of Divorce in India* (2000) Universal

P.V.Kane, *History of Dharmasastras* Vol.2 pt.1 at 624-632 (1974)

A.Kuppuswami (ed.) *Mayne's Hindu Law and Usage*Ch.4(1986)

B.Sivaramayys, *Inequalities and the Law*, (1985)

K.C.Daiya, "*Population control through family planning in India*, "*Indian Journal of Legal Studies*,85 (1979)

J.D.M. Derrett, *Hindu Law: Past and Present*

J.D.M. Derrett, *Death of Marriage Law*

A.A.A.Fyzee, *Outline of Muhammadan Law*, (1998)

AlladiKuppuswami,(ed.) *Mayne's Hindu Law and Usage*, (1986)

J.D.M.Derret, *A Critique of Modern Hindu Law*, (1970)

ParasDiwan, *Hindu Law* (1985) Law 45

S.T.Desai (ed.) *Mulla's Principles of Hindu Law*, (1998) -Butterworths-India.

Pares Diwan, *Family Law: Law of Marriage and Divorce in India*, (1984).

A.M.Bhattacharjee, *Muslim Law and the Constitution* (1994) Eastern Law House, Calcutta.

CRIMINAL LAW-III

CRIMINAL PROCEDURE CODE

INTRODUCTION TO THE COURSE

The primary objective of criminal law is to maintain law and order in society and to protect the life and liberty of people. It is for this reason that people place their ultimate reliance on this branch of law for protection against all injuries that human conduct can inflict on individuals and institutions. Due to these reasons, the penal law cannot afford to be weak, ambiguous or ineffective. Nor can it be harsh and arbitrary in its impact. The application of criminal law has to be uniform regardless of any discrimination on grounds of class, caste, religion, sex or creed etc. of either the criminal or the victim.

COURSE OBJECTIVE

This course has the following objectives

1. Identify the stages in investigation and procedure of trial in criminal cases.
2. Explain the powers, functions, and limitations of the police investigation.
3. To study procedural nuances of criminal court inquiry and trial.
4. Make the distinction between different types of trials provided under the code.
5. To use their skill of knowledge to protect and promote the basic fundamental rights provided by our constitution.

COURSE OUTCOMES

The students shall be able to;

1. Understand the nature and scope of the code.
2. Analyze the drawbacks of complicated procedural requirements of the code.
3. Develop necessary understanding of procedural knowledge of court proceedings.
4. Apply necessary skill set to assist the court and law enforcement agencies

Unit-I

Credit 6

INTRODUCTORY

(Hours 60)

- a) Object and Importance of Cr.P.C
- b) Functionaries under the Cr.P.C
- c) Basic Concepts: Bailable Offence, Non-Bailable Offence, Cognizable Offence,

- d) Non-cognizable Offence, Complaint, Charge, Police Report, Investigation, Inquiry and Trial, Summons Case, Warrant Case
- e) Constitution & Powers of Criminal Courts & Offices
- f) Public Prosecutor

Unit-II

PRE-TRIAL PROCEEDINGS

- a) Information to Police & their Powers to investigate
- b) Jurisdiction of Criminal Courts in Inquiries & Trials
- c) Conditions requisite for Initiation of proceedings
- d) Complaints to Magistrates
- e) Commencement of proceedings before Magistrates
- f) Provisions as to Bail & Bonds
- g) The Criminal Procedure (Identification) Bill, 2022

Unit-III

TRIAL PROCEEDINGS

- a) Framing of Charge & Joinder of Charges
- b) Trial before a Court of Session
- c) Trial of Warrant cases by Magistrates
- d) Trial of Summons cases by Magistrates
- e) Summary Trials
- f) Evidence in Inquiries & Trials & General provisions

Unit-IV

MISCELLANEOUS

- a) Appeals
- b) Reference & Revision
- c) Inherent Power of Court
- d) Transfer of Criminal cases & Execution, Suspension, Remission & Commutation of Sentences
- e) Irregular Proceedings & Limitation for taking Cognizance of certain offences
- f) Plea Bargaining
- g) Maintenance of Public Order and Tranquillity
- h) Security for peace and good behaviour
- i) Maintenance of wives, children and parents
- j) Compounding of Offences

Unit-V
SPECIAL PROVISIONS RELATED TO PROBATION AND JUVENILE
JUSTICE

a) **Probation of Offenders Act, 1958**

Concept of Probation System-Origin and Development in India

b) **Juvenile Justice (Care and Protection of Children) Act,2000**

Power, composition, functions and procedure to be followed by the Juvenile Justice Board.

Text Books:

1. Rattan Lal & Dhirajlal- Code of Criminal Procedure
2. R.V. Kelkar - Code of Criminal Procedure
3. Chandrasekharan Pillai, Kelkar Lecturer on Criminal Procedure, 1998 Eastern Book Co.
4. Woodroffe, Commentaries on Criminal Procedure Code, 2000 Universal
5. Sarkar on Criminal Procedure Code
- 6.N.K. Chakrabarti- Probation System in the Administration of Criminal Justice
7. Ved Kumari- Juvenile Justice System s – (sections 441 – 462)

CORPORATE LAW-I

INTRODUCTION OF THE COURSE

The course is designed to understand the formation, management, and other activity of the companies. Because of the changing facts of global governance corporate governance plays a vital role in the development of an economy at both national and international levels. The companies Act 1956 has not been repealed but certain provisions replaced by the new Act of 2013. The notified sections which replace the provisions of the Companies Act 1956 will be highlighted. Accordingly, the paper aims to introduce to the students the nuance of corporate law and its obligations of it toward society in discharging its trade relations and being a good corporate citizen. Therefore, the paper needs to be taught in light of the new companies Amendment Act 2013.

COURSE OBJECTIVES

This course has the following objectives

1. To acquire knowledge and develop the regulatory framework of companies
2. To study various provisions of the Companies law
3. To differentiate between schedules, rules, notifications and circulars etc.
4. To develop legal skills about the dimensional issues of company law.

COURSE OUTCOMES

The students shall be able to;

1. Apply the practical aspect of company law in the global system of economic
2. Understand multinational companies in the legal system.
3. Frame the legal requirement for registration for companies.
4. Contest the cases pertaining to corporate law

COURSE OUTLINE

- | | |
|--|--------------------------------------|
| Unit-I
Company and its Nature and Scope | Credit 6
(Hours 60) |
| <ul style="list-style-type: none">• Meaning, Definition, and characteristics of the company.• Historical background of the company• Kinds of companies• Merits and Demerits of Incorporation of a company - Lifting the corporate veil. | |
| Unit-II
Procedure for Incorporation of companies | |
| <ul style="list-style-type: none">• Role of promoters, Legal Position of Promoter• Pre-incorporation contracts | |

- Memorandum of Association - Meaning, Purpose, Contents, Ultravires, and Doctrine of Ultra-vires
- Articles of Association - Meaning Purpose, Content. Alternation, Constructive Notice.
- Doctrine of Indomment Exceptions

Unit-III

Prospectus, Shares, and Debentures

- Meaning - Formalities of issue Prospectus - Misrepresentation of Prospectus - Golden Rule
- Shares - Meaning, Types of Shares, and Transfer of shares
- Share Capital, Meaning, Kinds, Alternation, Reduction, and Voting Rights
- Debenture - Meaning, Types, Charge-Fixed and Floating, Crystallization of Floating charge
- Borrowing Powers - Effective of unauthorized borrowings

Unit-IV

Members, Membership Rights & Management and Administration of Company

- Modes of acquiring Membership
- Rights and Privileges of Members and Shareholders
- Transfer and Registration of Transfer of Securities
- Transmission of Securities
- Dividend - Rules as to Payment of Dividend
- Directors - Appointment, Qualifications, Types, Position, Powers, Functions
- Duties and Liabilities of Directors
- Meetings, Kinds, Requisites of Valid Meeting
- Audit and Accounting System - Legal Position of Audit

Unit-V

Oppression, Mismanagement & Amalgamation and winding up

- Meaning of Oppression and Mismanagement
- Prevention of Oppression and Mismanagement - Rule in Foss v/s Harbottle (1843)
- Powers of the Company Law Board and Central Government
- Inspection and Investigation
- Role of Serious Fraud Investigation Office (SFIO).
- Merger and Demerger of the Company
- Amalgamation, Compromise, and Arrangement
- Winding up - Meaning, Types, Procedure
- Payment of Liabilities in the event of winding up
- Role of Official Liquidator, Court, and National Company Law Tribunal

Case Studies:

1. *Salomon v. Salomon & Co., Ltd.* (1897) A.C. 22 (H.L.) :(1895-95) All ER Rep. 33
2. *R.C. Cooper v. Union of India* (1970) 3 SCR 530
3. *Kelner v Baxter* (1866) LR 2 CP 174
4. *Ashbury Railway Carriage and Iron Co Ltd v Riche* (1875) LR 7 HL 653

5. *Royal British Bank v Turquand* (1856) 6 E&B 327
6. Regal Hastings Ltd. V. Gulliver, [1942] 1 All ER 378
7. Foss v. Harbottle (1843) 2 Hare 461 : (1843) 67 ER 189
8. Nagappa Chettiar V. Madras Race Club, ILR 1949 Mad 808
9. Jones V. Ahman Son (1970) 70 Col LR 1079
10. Derej Vs Peale

Act and Statute (As Amended)

- The Companies Act, 2013

Text Book

1. C.A.Kamal Garg, Bharat's Corporate and Allied Laws, 2013
2. Institute of Company Secretaries of India, Companies Act 2013, CCH Wolter Kluver Business, 2013
3. Lexis Nexis, Corporate Laws 2013 (Palmtop Edition)
4. Avtar Singh: Company Law
5. Dutta on Company Law
6. N.D. Kapoor on Company Law, Charles Wild, and Stuart Weinstein Smith and Keenan, Company Law, Pearson Longman, 2009
7. The Companies Acts from 1956 to 2014 as amended up to the date.
8. The New Company Law, Dr. N.V. Paranjape, Central Law Agency.

Reference Book

1. Smith and Keenan's, Company Law (2002)
2. Andrew Lidbetter, Company Investigations ad Public Law (1999)
3. Saleem Sheikh & William Rees, Corporate Governance & Corporate Control (2002).
4. Gower's Principles of Company Law 8thEdition 2008, R. Cambray & Co. Pvt. Ltd.
5. Smith and Keenan's Company Law.
6. S. K. Verma & Suman Gupta, Corporate Governance and Corporate Law Reform in India. (2005).
7. Companies Act, 1956
8. Suman Gupta: Shareholder's Democracy: Fact or Fiction. (1992)
9. Paul L. Davies, Gower and Davies Principles of Modern Company Law (8th ed., 2008)
10. Avtar Singh, Indian Company Law (2008), Eastern, Lucknow.
11. L.C.B. Gower, Principles of Modern Company Law (1997) Sweet and Maxwell, London
12. Ramaiya, Guide to the Companies Act, (2007), Wadha.

INTELLECTUAL PROPERTY LAW

COURSE OUTLINE

Objective: Intellectual property in the modern world is not confined only to the protection of intellectual creations or inventions. Rather now it has become a powerful tool of economic growth and prosperity by stimulating creative and innovative ideas, of generating revenue, promoting investment, enhancing literary, social and cultural values of mankind. It prevents 'brain-drain', and nurture over-all economic health. Every sphere of life is getting molded by intellectual properties. It has become an important component of business transactions. The developments in international telecommunications have increased its importance and put new challenges to the protection of intellectual property. With such an importance of IP, well-crafted IP courses require to be devised. The objective of the current draft is to impart knowledge the substantive intellectual property law and infuse with the skill of applying and construing the law to different factual situations. On theoretical level, students should be able to have the basic understanding of the IP. Subsequently they are required to engage in a critical discourse on the policy factors of each and every kind of intellectual property to become aware of their rights for the protection of their creations and inventions. Apart from the introductory levels, students should be increasingly exposed to international aspects of IP law. As a summary of the objectives are as follows:

1. To study the conceptualization of IPR
2. To focus on the investment, enhancing literary knowledge and cultural values of mankind.
3. To go through the substantive portion of IPR for the depth study.
4. To increase the international aspect of IPR

COURSE OUTCOMES

The students shall be able to;

1. Understand the international origin of IPR
2. Think over the Indian IPR law in relation to the International legal system.

3. Critically analyses the IPR law for protecting the intellectual property
4. Apply critically the principles of IPR laws for the protection creative activities.

Unit- I
Introduction

Credit 6
(Hours 60)

1. The meaning of Intellectual property
2. Competing rationales of the legal regimes for the protection of intellectual property
3. The main forms of intellectual property: copyright trademarks, patents, designs
4. Introduction to the leading international instruments concerning intellectual property rights:
 - a. The Berne Convention
 - b. The Paris Convention
 - c. Universal Copyright Convention
 - d. TRIPS Agreement
 - e. WCCT
 - f. WPPT
5. The role of the World Intellectual Property Rights Organisation (WIPO) and UNESCO in IP Protection.

Unit- II
Copy Rights Law

1. Historical evolution of copyrights law
2. Meaning of copyright; idea and expressions dichotomy
3. Subject matter of copyrights
 - a. Copyright in literary, dramatic, and musical works and artistic works
 - b. Copyright in sound records and cinematograph films
 - c. Copyright in computer programme
 - d. Copy right in data
 - e. Copy right in computer-created work and artificial intelligence
4. Rights protected by copyright
5. Moral Rights
6. Related rights
7. Acquisition, transfer & protection of Copyright
8. Limitations and exceptions to Rights
9. Notion of infringement
10. Criteria of infringement
11. Importation and infringement
12. Remedies, especially, the possibility of Anton pillar injunctive relief in India.

13. The Folklore: The cultural expressions meaning and justification for protection through sui generis Community IP legislation

Unit- III

The Law of Intellectual Property: Patents

1. Historical view of the patents law in India
2. Patent defined
3. Criteria for patenting;
 - a. Invention
 - b. Inventive steps
 - c. Obviousness non
 - d. Patentable and non-patentable invention
4. Process of obtaining a patent: application, examination, prior publication or anticipation
opposition and sealing of patents: general introduction
5. Procedure for filing patents under Patent co-operation treaty
6. Ground for pre-grant and post-grant opposition
7. Duration of patents: law and policy considerations
8. Compulsory licenses
9. Defences in suits for infringement
10. Traditional knowledge: Need and justification for community IP
11. Plant varieties and farmers rights: Criteria and procedure for protection

Unit- IV

Intellectual Property in Trademarks

1. The rationale of protection of trademarks
2. Definitions and concept of trademarks
3. Criteria for registration
 - a. Absolute grounds for refusal
 - b. Relative grounds for refusal
 - c. Procedure for Registration of Trade Marks
4. Process of International registration: the Madrid System
5. The doctrine of deceptive similarity
6. Protection of well-known marks
7. Domain name and its registration process
8. Passing off and infringement of trademarks and domain name
9. Remedies
10. Geographical Indications and Appellation of Origin
11. The Lisbon treaty and registration of the Appellation origin

Unit- V

Designs- The Designs Act, 2000

1. Definition of design - Copyright in Design (duration)
2. Need for protection of industrial designs
3. Subject matter of protection and requirements
4. Procedure for obtaining design protection
5. Process of International Registration of Industrial design: The Hague System
6. Registration of design for articles
7. Cancellation of Design
8. Infringement of copyright in Design
9. Remedies
10. Trade secret meaning and essentials

Recommended readings

- Cormish W.R., Intellectual Property, Patents, Trade Marks, Copy Rights and Allied Rights (1999),
- Asia Law House, Hyderabad.
- Vikas Vashishth, Law and Practice of Intellectual Property (1999), Bharat Law House, Delhi.
- P. Narayanan, Intellectual Property Law (1999), (ed) Eastern Law House, Calcutta.
- Bibeck Debroy (ed.) Intellectual Property Rights (1998) Rajiv Gandhi Foundation, Delhi.
- U.I.F. Anderfelt, International Patent Legislation and Developing Countries (1971).
- W.R. Cornish, Intellectual Property(3rd ed.) (1996) Sweet and Maxwell
- W.R. Mann, Transfer of Technology (1982)
- Mata Din, Law of Passing off and Infringement Action of Trade Marks (1986).
- P.S. Sangal and Kishore Singh, Indian Patent System and Paris Convention: Legal Perspectives(1987).
- K. Thairani, Copyright: The Indian Experience (1987)
- W.R. Cornish, Para and Materials on Intellectual Property (1999), Sweet &

PUBLIC INTERNATIONAL LAW

INTRODUCTION TO THE COURSE

Public international law concerns the structure and conduct of sovereign states; analogous entities, such as the Holy See; and intergovernmental organizations. To a lesser degree, international law also may affect multinational corporations and individuals, an impact increasingly evolving beyond domestic legal interpretation and enforcement. Public international law has increased in use and importance vastly over the twentieth century, due to the increase in global trade, environmental deterioration on a worldwide scale, awareness of human rights violations, rapid and vast increases in international transportation and a boom in global communications.

COURSE OBJECTIVE

This course has the following objectives

1. To provide the fundamental standing of international law
2. To study the law of treaty and the law of the sea
3. To learn the provisions of international relations among the nations
4. To examine the international provisions of state recognition

The objective of this course is to provide a basic understanding of the present scenario to the student so that they are able to understand the complete aspects of international relations among the nations.

COURSE OUTCOMES

The students shall be able to:

1. Understand the basic concept and sources of international law
2. Demonstrate knowledge and understanding of the international rights frame work, its origins and justifying theories
3. Establish the capacity to assess how specific human rights may be asserted, enforced or violated.
4. Critically evaluate the relationship between international and domestic law

COURSE OUTLINE

Unit- I INTRODUCTION

**Credit 6
(Hours 60)**

1. Definition and nature and scope of Public International Law
2. Distinction between Public International Law and Private International Law
3. Subjects of International law
4. Sources of International Law
5. Relationship between international law and municipal law (Monism, Dualism, British, American and Indian Practice)

Unit- II Law of Treaty and Law of Sea

1. Law of Sea:

- a. Meaning of Treaty and kinds of Treaty
- b. Important of consent in the treaty formation
- c. Process of formation of Treaty
- d. Interpretation of the Treaty
- e. Reservation against a Treaty
- f. Termination of the Treaty
- g. Pacta sunt servenda. Rebus Sic Stantibus and Peremptory norms of International Law

2. Law of Sea:

- a. Development of Law of Sea
- b. Territorial Sea,
- c. Contiguous Zone,
- d. Continental Shelf,
- e. Exclusive Economic Zone,
- f. The High Seas
- g. International Tribunal for the Law of the Sea
- h. International Seabed Mining- Parallel System of Mining

Unit- III State Jurisdiction, State Recognition and State Responsibility

1. State Recognition:

- a. Meaning, kinds of the State Recognition
- b. Recognition of the Government
- c. Theories of Recognition,
- d. Legal Effect of Recognition

- e. Withdrawal of Recognition States Succession
2. State Jurisdiction; meaning kinds of jurisdiction and exceptions to it.
3. State Responsibility, Meaning kinds of state responsibility and general defences

Unit- IV

Air and Space Law

1. Air Space: Various Theories, Aerial Navigation (Five freedom of Air), Outer Space Treaty, 1967 and recent trends
2. International Humanitarian Law: Meaning, Development and brief introduction to the Four Geneva Conventions and its Optional Protocols
3. International Organizations; Meaning, Characteristics
4. United Nations: Origin and Development, Purpose and Principles Main Organs and their compositions and functions.

Unit- V

Individuals under international law

1. Nationality meaning, legal consequence and termination of nationality
2. Stateless Person and Refugee; Meaning and their rights and duties under international law
3. Extradition: Definition, purpose and principles of extradition
4. Asylum: Meaning, types of asylum, and relation between asylum and extradition
5. Diplomatic Agents and Consuls: definitional and classification of heads of mission, the basis of immunities and privileges, privileges and immunities, waiver of immunity, termination of the diplomatic mission.

Recommended Readings

1. "International Law" Gurdip Singh/Macmillan India Ltd.
2. "International Law" J.G. Starke
3. "Cases and materials in International Law" Harris
4. "Principles of International Law" Brownlie/ Universal Publication
5. "Principles of International Law" S.K Kapoor / CLA
6. "International Law" Charles G. Fenwick/Oxford University Press
7. "WTO and International Trade" M. B Rao and Manjula Guru
8. "Understanding International Trade Law" Simone Scitner/Universal Publishing House
9. "The Law and Policy of the World Trade Organization" Peter Van den Bossche/Werner Zdouc Paperback
10. "International Trade Law" Indira Carr/Cavendish Publishing House

ECONOMICS-V

(LAW AND ECONOMICS)

INTRODUCTION TO THE COURSE

This course utilizes the standard tools of economic analysis for the study of law and legal institutions, with a special focus on (i) the economics of property;(ii) the economics of contracts; (iii) the economics of tort law, and (iv) economics of law making. This course explains the economic aspects of law making. It describes the normative aspect of economics. It appraises legal rules to determine the extent to which they meet the social goal of efficiency, an application of welfare economics.

COURSE OBJECTIVE

This course has the following objectives

1. To examine the importance of Economics to law
2. To examine legal impediments to the field of Economics
3. To understand law acts as an instrument for economic policymaking
4. To understand the economic basis of the Law of Property, Law of Contract, Law of Torts, and Criminology.

COURSE OUTCOMES

The students shall be able to:

1. Understand the relationship between law and economics
2. Know the basic concept of law and economics
3. Analyses the economics in relation to property law, the law of Tort and other laws
4. Apply critical thinking in crime and punishment in regard to economics

COURSE OUTLINE

Unit- I	Credit 6
Basic Concepts of Economics & Law	(Hours 60)

- a) Basic concepts of law – the common law & civil law tradition
- b) Basic concepts of economics – Review of Price Theory
- c) Concepts of Economic Efficiency – Pareto Optimum, Theory of Second Best
- d) The theory of markets

- e) Market failure -Externalities, Monopoly, Public goods & information
- f) The Game Theory

Recommended Readings

Cooter and Ulen: chapter 2; A Review of Microeconomic theory

Cooter and Ulen: chapter 3; An Introduction to Law and Legal Economics

Kenneth Gillingham, James Sweeney: “Market Failure and the Structure of Externalities” ; 2010

Vani K. Borooah: “Market Failure:An Economic Analysis of its Causes and Consequences” ; 2003

Game Theory : the library of Economics & Liberty,www.econlib.org/library/Enc/GameTheory.html

Unit- II

Economic Analysis of Property Law

- a) The Coase theorem
- b) Bargaining Theory
- c) The economic concept of property rights and their allocation: to lubricate or allocate
- d) How are property rights established & verified
- e) The Economic aspects of what can be privately owned
- f) Intellectual property as public goods (Patents, copyrights, trademarks)
- g) Remedies of violation of property rights

Recommended Readings

Cooter and Ulen: chapter 4 & 5: An Economic theory of Property

Gary North “The Coase theorem: A STUDY IN ECONOMIC EPISTEMOLOGY”. 1992

Posner, Richard A. (2005) “Intellectual Property: The Law and Economics Approach”.
Web Notes Cooter & Ulen

Matt Rognlie, “Understanding the Coase theorem” 2011,
mattrognlie.com/2011/05/04/understanding-the-coase-theorem/

Christopher K. Eppich, *Patenting Dilemma: Drugs for Profit Versus Drugs for Health*, 43 Santa Clara L. Rev. 289 (2002).

Unit- III

Economics of Law of Contract

- a) Bargain Theory – Introduction to Contract
- b) Economic theory of Contract
- c) Perfect Contracts and market Failures
- d) Remedies as Incentives
- e) Specific Performance
- f) Models of Remedies

Recommended Readings

Cooter and Ulen: chapter 6 & 7: An Economic Theory of Contracts
Steven Shavell, “Economic Analysis of Contract law” ; the national bureau of Economic Research, 2003.

Unit- IV

Economics of Law of Torts

- Economics of torts: Calabresi’s minimum social cost rule
- Drivers & pedestrians: *Caveat Emptor* or negligence or strict liability?
1. Caveats: activity levels; extent of precaution, administrative costs, court errors. 2. The Learned Hand rule
- Product liability: privity to negligence to strict liability to absolute liability
- Consumer Product Injuries
- Extension of Economic Model in Law of torts

Recommended Readings

Cooter and Ulen: chapter 8 & 9: An Economic Theory of Tort Law
Winand Emons, “An Introduction to the Legal & Economic Theories of torts” 1993.
Richard A Posner, “Instrumental and Non-Instrumental Theories of Tort Law” 2013.

Unit- V

Economic Theory Crime and Punishment

- a) Computing the value of a legal claim
- b) Settlement Bargaining
- c) Economics of Trials
- d) Economic Aspects of Appeals
- e) The theory of criminal law
- f) The concept of Rational Crime
- g) Optimal Amount of Crime Deterrence and of Efficient Punishment

- h) Social Cost of Crime
- i) The Deterrence effect of Imprisonment and capital punishment
- j) The Economics of addictive drugs and crime

Recommended Readings

Cooter and Ulen: chapter 10: An Economic Theory of Legal Process

Richard A Posner, “An Economic Approach to Legal Procedure & Judicial Administration” ;*The Journal of Legal Studies* : Vol 2, 1973

Cooter, Robert (1991) “Economic Theories of Legal Liability.” *Journal of Economic Perspectives* 5(3).

Cooter and Ulen: chapter 11 & 12: An economics of Crime & Punishment

Gary S. Becker, “Crime and Punishment: An Economic Approach”; *National Bureau of Economic Research*, Vol 1, 1974.

M.A.Cohen, “Environmental Crime & Punishment: Legal / Economic Theory”

Farmer, Amy and Dek Terrell (2001) “Crime versus Justice: Is There a Trade-off?” *The Journal of Law and Economics*, Vol. XLIV