

SHRI GOVIND GURU UNIVERSITY

SYLLABUS

(IN EFFECT FROM JUNE 2017 TILL FURTHER NOTIFICATION)

LL.B. Semester-III

CORE COURSE 301 FAMILY LAW-I

Objectives:

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

Contents:

1. General

- 1.1 Concept of Family and Development of Family System, Types of Family Law
- 1.2 Sources of Family Law
- 1.3 Schools of Family Law
- 1.4 Uniform Civil Code: Concept, reasons, Need to enact, problems, relevant Constitutional provisions, Judicial pronouncements

2. Marriage

- 2.1 Concept of Marriage, Essentials of valid Marriage under Different laws – Hindu, Muslim, Parsi, Christian law and Special Marriage Act,
- 2.2 Emerging concept : Maitri Sambandh (Live in Relationship) and divided home
- 2.3 Regular, irregular and void marriages under different family laws and effects thereof
- 2.4 Iddat and Types under Muslim Law
- 2.5 State Regulation over Customary Practices like Polygamy, Concubine, Child Marriage, Dowry, Sati System etc. by different legislations
- 2.6 Guardianship in Marriage (Jabar) and option of puberty under Muslim Law

3. MATRIMONIAL DISPUTES AND REMEDIES

- 3.1 Non-judicial resolution of marital conflicts.
- 3.2 Matrimonial Remedies : Restitution of Conjugal Rights, Judicial Separation and Dissolution of Marriage
- 3.3 Dissolution of Marriage
 - 3.3.1 Customary Dissolution of Marriage
 - 3.3.2 Unilateral Divorce
 - 3.3.3 Divorce by Mutual Consent
 - 3.3.4 Other Modes of Dissolution of Marriage like cruelty, Desertion, Adultery etc.
- 3.4 Emerging Concept : Irretrievably broken theory for granting divorce and Judicial pronouncements

- 3.5 Divorce under Muslim personal law-
 - 3.5.1 Talak and its Talaq-e-tafweez, Kinds of divorce
 - 3.5.2 Grounds for Divorce under the Dissolution of Muslim Marriages Act, 1939
- 3.6 Re-marriage under different Family Law
 - Judicial resolution of conflicts: the family court

4. GUARDIASHIP, ADOPTION, ALIMONY AND MAINTENANCE:

- 4.1 Guardianship under different family Laws
- 4.2 Provisions for adoption under various family law and CARA Guidelines for Adoption
- 4.3 Maintenance and Alimony under the Criminal Procedure Code and various Family Laws
 - 4.3.1 Maintenance of neglected Wives and Divorced wives
 - 4.3.2 Maintenance of children : disabled, legitimate and illegitimate
 - 4.3.3 Maintenance of Parents and Grand Parents
 - 4.3.4 Alimony and maintenance as an independent remedy : a reviews under different personal laws – need for reforming the law, Alimony and maintenance as an ancillary relief
 - 4.3.5 Maintenance of divorced Muslim women under Muslim Woman (Protection of Rights on Divorce) Act, 1986: a critical review I review, Judicial pronouncement on the issue : Shah Banoo's case and Danial Lefty v. Union of India's case

Suggested Books:

- Paras Diwan, Law of Intersate and Testamentary Succession, Universal
- Banu, N. D. Law of Succession, Universal
- Kuser, Marriage and Divice Law Manual, Universal
- Machanda S. C Law and Practice of Divorce in India, Universal
- P.V. Kane, History of Dharmasatras vol.2 Pl.I at 624-632
- Kuppuswami (ed) Mayne's Hindu Law and Usage ch.4
- B. Sivaramayys, Inequalities and the Law
- K. C. Dioiya "Population control through Family nplanning in Inadia" Indian Journal of Legal Studies,
- J.D.M. Derrett, Hindu Law
- A.A.A Fyzee, Outline of Muhammadan Law, Law, Alladi Kuppuswami,
- Mayne's Hindu Law and Usage
- J.D.M. Derret, A Critique of Modern Hindu Law
- Paras Diwan, Hindu Law

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CORE COURSE 302 ADMINISTRATIVE LAW

Objectives:

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

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

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

Though in the matter of protection of right of individual against administration the role of courts can not be minimized, it is no less important to know the advantages of informal method of settlement. Many new methods of grievance redressed have been devise which are note only efficacious but also inexpensive and less time consuming. Remedies available for administrative deviance need a critical study and evaluation in the context of realities.

Contents:

1. Introduction and Basic Constitutional of Principle

- 1.1 Administrative law : Definition, Nature, Scope Reasons for its growth
- 1.2 Development of Administrative Law, its relation with Constitutional law
- 1.3 Basic Constitutional Principles :
 - 1.3.1 Rule of Law
 - 1.3.2 Doctrine of Separation of Power
 - 1.3.3 Principles of Natural Justice, relevant statutory provisions, Natural Justice Principles as accepted in India, Judicial approach and important cases
- 1.4 Classification of Administration actions, Administrative functions, Judicial Functional and Quasi-Judicial functions.

2. Delegated Legislation and Quasi-Judicial Function

- 2.1 Delegated Legislation : Definition, Reasons of its growth
- 2.2 Delegated Legislation in USA and in India
- 2.3 Functions which can be and cannot be delegated, Conditional Legislation, Sub-delegation, General Principles for delegated legislation
- 2.4 Controls and Safeguards over delegated Legislation : Purpose
- 2.5 Judicial, Legislative and other controls over delegated Legislation
- 2.6 Quasi-judicial function : Definition, distinction from Administrative functions

3. Judicial Review of Administrative Discretion and Remedies

- 3.1 Administrative Discretion, judicial review definition
- 3.2 Judicial review of Administrative Discretion
 - 3.2.1 Failure to exercise discretion
 - 3.2.2 Excess or abuse of discretion
- 3.3 Judicial and other remedies :
 - 3.3.1 Write remedies, Kinds of write, jurisdiction, powers, against whom write to be issued, relevant constitutional provisions
 - 3.3.2 Statutory remedies : Civil Suits, Appeals to Courts, Appeal to tribunals, Appeal before the Supreme Courts, SLP, Public Interest Litigation.
 - 3.3.3 Other remedies like Council de Etat, Ombudsman, Lokpal & Lokayukt, self-help etc.
- 3.4 Administrative Tribunal : Definition, Origin, Nature, Scope, reasons for its growth
- 3.5 Characteristics of Administrative Tribunals, Distinction from courts, Kinds of Administrative Tribunals, relevant Constitutional provisions and amendments-effects thereof, Important judicial pronouncements : Case of Sampat Kumar, L.Chandrakumar.

4. Miscellaneous

- 4.1 Liability of the Government
 - 4.1.1 Contractual Liability
 - 4.1.2 Tortuous liability, Doctrine of Estoppel, Crown Privilege
- 4.2 Public Corporation : Definition, Characteristics, Control over public Corporations
- 4.3 Right and Liabilities of Public Corporations, Control over public Corporations
- 4.4 Vigilance Commission,
- 4.5 Doctrine of Legitimate Expectation, Doctrine of Unjust Enrichment

Suggested Books:

- A.N Karia, Administrative Law ,Jamnaadas and co.Ahamdabad,
- U.P.D.kesri, Administrative Law ,20 Edn.2008,CPL ,Allahabad.
- S.P.Santhe , Administrative Law ,ALAP ,Allahabad.
- Kailash Rai ,ALAP ,Allahabad.
- Dr.G.S.Sharma ,Administrative Law ,UBH ,Jaipur
- Molan,Text Book Administrative Law ,3rd Edn.
- Baret ,Constitutional and Administrative Law ,4 Edn.

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CORE COURSE 303 LABOUR AND INDUSTRIAL LAW-I

Objectives:

Protection of labour a constitutional mandate. A constitutional inspire by the vision of social justice is committed to the cause of upliftment of labour. Well balanced industrial development leads to increased productivity which in turn is factor of national progress. Labour makes significant contribution this respect.

Is labour merely a commodity? Is it only a factor in production? There may be different approaches towards this question. One fact is certain. Today's labour is engaged in a battle for position of honour and status equal with managements. The law and practice relating to labour is the story of this battle. In this context, the study of labour law is not to be confined to mastering of the rules and regulations is relating to the employment of the work force. Its wings speared wider. It has aim on the societal impulses on, and state reactions to the complex social-economic, human and political problems arising out of the constant conflicts between different classes.

The student should get an insight into the mechanics of socio-legal control of labour relations and should be aware of the history, the present norms, the emerging areas and possible future techniques of labour jurisprudents.

In order to meet with the above objectives important labour law are divided into two courses to be studied in Sem. III and IV respectively.

Contents:

1. The Industrial Disputes Act, 1947 :

Scope, objective and main features of the Act, Definition : Industry, Industrial Dispute (Individual and collective), Workmen etc. and judicial pronouncement

Authorities under the Act : Works committee, conciliation, courts of inquiry, labour court, Tribunal

Procedure, powers and duties of the Authorities

Strikes and Lock- outs, lay-off and Retrenchment

Unfair labour practices

2. The industrial Employment (Standing Orders) Act, 1946

Application of the Act

Standing orders. Model standing orders,

Certification and cancellation of standing orders

Provisions of Appeal

Disciplinary procedures : Departmental enquiries

3. **Trade Unions Act, 1926**

3.1 History and development of trade unionism in India

3.2 Registration of trade union: procedure

3.3 Rights and Liabilities of registered trade unions

4. **Gujarat industrial relations Act (former BIR Act) & collective bargaining.**

4.1 Important definitions: Industry, Workmen, Employee, Wage Board,

4.2 Classification of unions: Primary union, qualified union, representative union

4.3 Right, duties and privileges of the representative union

4.4 Notice of change

4.5 Concept and importance of principle of collective bargaining

Suggested Books:

- John bowers and simon honeyball, Tex book and Labour law, Blackstone, London.
- Srivastava K.D. Commentaries on payment of wages Act, 1936, Eastern, Lucknow.
- Srivastava K.D. Commentaries on minimum wages Act, 1948 Eastern, Lucknow.
- Rao S.B.Law and practice on minimum wages, law publishing House, Allahabad.
- Sheth D.D. commentaries on industrial dispute Act, 1947, law publishing house, Allahabad.
- Srivastava K.D. commentaries on factories Act, 1948, Eastern, Lucknow.
- R.C.Saxena, Labour problems and social welfare chapter 1.5 and V.V.Giri, labour problems in Indian Industry cha.1 and 15
- Indian Law institute, labour law and labour relation, Cochin University law review. Vol.6 app. 15-210
- Report of the national commission ao labour ch.14-17, 22, 23 aand 24
- O.P.Malhotra, The law of industrial dispute, universal, Delhi.
- S.C. Srivastava, social security and labour laws, universal, Delhi
- S.C. Srivastava, Commentary on the factories Act, 1948 universal, Delhi

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ELECTIVE COURSE 304 LAW OF TAXATION

Objectives:

Power to tax has been described as the power to destroy. This idea is being floated often whenever the state introduces a new tax is not necessary that in order to raise revenue and place the economy on solid foundation , the taxing power should be confirmed on the state ?

The power to tax shall not go unregulated. In the context of a federal structure the distribution of the taxing powers assumes added significance. Obviously, a study of the constitutional frame work on taxation becomes important. Along with this, an analysis of the different laws enacted in exercise of these powers with their safeguards and remedies sheds light on the mechanics of the taxation by the union and the states.

Contents:

| PARTICULARS | WEIGHTAGE |
|---|------------------|
| 1. Basic Concepts extent and commencement | 25% |
| <ul style="list-style-type: none">• Person-Residential status and tax planning• Computation of total income• Income which do not form part of total income• Deduction to be mad in computing total income• Income forming part of total income on which no income tax is payable | |
| 2. Heads of Income Tax | 25% |
| <ul style="list-style-type: none">• Salary• Income from House Property• Profits and gains of business or profession-Depreciation allowance and development -rebate• Capital gains• Agricultural and non-agricultural Income | |
| 3. Miscellaneous | 25% |
| <ul style="list-style-type: none">• Income From Other Sources• Set off and carry forward of losses• Procedure for assessment-Rebate and relief-Collection recovery and refund of tax• Income Tax Authorities• Appellate tribunal reference to high court• Penalty and prosecution | |
| 4. Goods and Service Tax | 25% |
| <ul style="list-style-type: none">• GST in India : Concept, Nature and Features of GST• Need & Benefits of GST• Relevant Definitions• Constitutional Validity of GST• Taxes subsumed in GST• Incidence of Tax• Basic Concepts – Supply, Composite and Mixed supplies, Charge of tax• GST Council | |

Suggested Books:

- Law of Taxation –Taxman
- Law of Taxation - Dr. Myneni
- Law of income tax -V.K.Sushakumari
- Income Tax Law –Dutta
- Income Tax Act -O.C.Tandon
- Law of Income Tax -Kailash Rai
- PoddarAvinash S : Glimpses of GST , CCH India – A Wolter Kluwer Business
- Batra Ashok, GST Law and Practice, CCH India– A Wolter Kluwer Business
- Datey V S, GST Ready Reckoner, Taxmann
- Mohan Rajat Illustrative Guide to GST, Bharat Law House
- PoddarAvinash S., Desai Mehul P., GST SaralSamjhuti, SBD Publication, Ahmadabad

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CORE COURSE 305 HUMAN RIGHTLAW & PRACTICE

Objectives:

Human rights were conceived rather narrowly as mere freedom from arbitrary government in the past. It was realised later and much more so during last fifty years since the end of the Second World War that the threats to liberty, equality and justice did not emanate from the state alone. Many nations of Asia and Africa came to nationhood during this period. These nations had to bring about their development and they needed capital. Foreign aid and foreign investments were invited but these could very well lead to their second subjugation. Poverty, ignorance, exploitation had to be fought at the global level. Development had to come without the sacrifice of human values. A greater awareness of human rights, not only as negative restrictions on the state but as positive obligations for creating an environment in which man could live with dignity was necessary. The focus of a course on human rights must be on the national problems with an international or global perspective. The world community's concerns about human rights have been expressed through various conventions. On the national levels, they are contained in constitutional provisions such as directive principles of state policy, fundamental rights, fundamental duties and judicial, legislative as well as administrative strategies of reconstruction. Human rights acquire much more comprehensive and wider meaning. It requires us to take up cudgels against poverty discriminations based on caste, colour or sex, make provisions for drinking water, population control, conservation and preservation of natural resources, ecological balance, protection of consumers against ruthless and profit seeking, traders or manufacturers, provisions against hazardous industries and so on and so forth. Human rights is an important parameter for a just society and future lawyers must be able to assess any programme of social transformation with reference to them. The following syllabus prepared with this perspective will be spread over a period of one semester.

Contents

1. HUMAN RIGHTS : GENERAL

1.1 Theoretical Foundations of Human Rights:

- 1.1.1 Meaning Basic Concept and Origin of Human Rights,
- 1.1.2 Source and significance of Human Rights
- 1.1.3 Different definitions of Human Rights, First Official Use of the term 'Human Right' at UN Meeting, Classification Of Human Rights
- 1.1.4 Theories of Human Rights

1.2 Historical development of the concept of Human Rights

- 1.2.1 Human rights in Indian tradition: ancient, medieval and modern.
- 1.2.2 Human rights in Western tradition
- 1.2.3 Concept of natural Law, Concept of natural rights
- 1.2.4 Human rights in legal tradition, international Law and National Law

2. UN and Human Rights:

2.1 International Documents relating to Human Rights

2.1.1 Universal Declaration of Human Rights (1948) : Individual and group rights, its significance and limitations

2.1.2 International Covenant on Human Rights:

- International Covenant on Civil & Political Rights, 1966
- International Covenant on Economic, Social & Cultural Rights, 1966

2.1.3 I.L.O and other Conventions and Protocols dealing with human rights

2.1.4 Importance and binding effect of above document on the member countries of UN

2.2 Impact and implementation of international human rights norms in India :

2.2.1 Human rights norms reflected in fundamental rights under the Constitution of India

2.2.2 Directive Principles legislative and administrative implementation of international human right norms.

2.2.3 Implementation of international human rights norms thoughts judicial process.

3. Human Rights under the Constitution and different Legislation in India :

3.1 Provisions for enshrining human rights to Woman and Children

3.2 Human Rights granted to Schedule Caste , Schedule Tribes and other socially and economically backward communities

3.3 Human Rights of prisoners and arrestees

3.4 Human Rights of victims and development of compensatory jurisprudence

4. Enforcement of Human Rights and Machinery Thereof :

4.1 International Commission of Human Rights , Amnesty International

4.2 Role of Courts : the Supreme Court, High Courts and other courts

4.3 Statutory commissions –

4.3.1 National Commission for Women

4.3.2 National Commission for Minority

4.3.3 National Commission for Schedule Castes and Schedule Tribes

4.4 Protection of Human Rights Act,1993

- National Human Rights Commission
- State Human Rights Commission
- Human Right Courts
- Protection of Human Rights Act,1993 : adequacy of the legislation

4.5 Role of various NGOs in the protection of Human Rights

Suggested Books:

- S. K. Avesti and R. P. Kataria, Law Relating Human Rights , Chh IV,V,VIII,XIV,XXIX, and XXXIX Orient, New Dilhi.
- Human Rights Watch Women”s Rights Project. The Human Rights Watch Global Repot on Women”s Human Rights Oxford
- Limacora, Network and Tretter, International Human Rights, Sweet & Maxwell
- Wallace, International Human Rights, Text & Materials, Sweet & Max well
- Muntarbhom. The Statu of Refugees in Asia Oxford
- Human Rights and Global Diversity, Frank Cass, London
- Niraml C.J. (ed) Human Rights in India, Oxford

- P.R. Gandhin, International Human Right Documents, Universal, Delhi.
- K.C. joshi : Internal Law & Human Rights, Eastern Book Company
- Dr.Vijay Chitnis : Human Right and Law : National & Global Perspectives, Sno White Publication Pvt. Ltd.
- Khwaja Abdul Muntaquim : Protection Of Humna Rights : Law Publisher (India) Pvt. Ltd.
- Law Realting to Human Rights : Asia Law House
- Dr. S.K.Kapoort : Human Rights Under International law Indian Law : Central Law Agency
- Dr.Vijay S Chitnis : Human Rights & Princes of Poverty : Snow White Publication Ltd.
- Dr. N. Subramanya : Human Rights nd Refugees : A.P.H Publishing Corportation, New Delhi.
- Mangari Rajender : The Protection of Human Rights Act and Relationg Law : Law Book Agency