

SHRI GOVIND GURU UNIVERSITY

SYLLABUS

(IN EFFECT FROM JUNE 2017 TILL FURTHER NOTIFICATION)

LL.B. Semester-IV

CORE COURSE 401 Jurisprudence

Objectives:

At the heart of the legal enterprise is the concept of law, without a deep understanding of the concept neither legal education nor legal practice can be a purposive activity oriented towards attainment of justice in society. Moreover, without a comprehension of the cognitive and teleological foundation for the discipline, pedagogy becomes a mere teaching of the rules. It is not unable to present various statutes, cases procedure, practices and customs as a systematic body of knowledge, nor is it able to show the inter-connection between these various branches of law, procedures and principles. The fact that the basic nature and purpose of law should be clear to every student and that it should be the very foundation of law teaching needs little argument. A course in jurisprudence should, primarily, induct the student into a realm of questions concerning law so that he is able to live with their perplexity of complexity and is driven to seek out answers for himself.

It may not be possible that a one year jurisprudence course can impart knowledge of doctrines about law and justice, developed over the year, in various nations and historical situations. At best an undergraduate course should impart the analytical skill and equip the student with the basic problems concerning law and the types of solutions sought. Thus the student not only will be able to use this skill in practice but also is motivated to take up detailed historical studies on his own after the course. Since a basic idea in the designation of this course is to bring jurisprudence closer to our reality, in the selection of cases and reading materials the teachers should try to make use of the Indian materials as far as possible.

Contents:

1. Introduction and Sources of Law :

- 1.1 Meaning and Importance of the term 'Jurisprudence'
- 1.2 Nature and Definition of Law, Relation between : Law and Morality, Law and Justice
- 1.3 Sources of Law : Legislation, Customs, Precedents : Concept of State decisions Writings

2. Schools of Jurisprudence

- 2.1 Analytical Positivism: Bentham and Austin's view, Criticism of Austin's theory of Positivism
- 2.2 Natural Law School, Historical school, Sociological School
- 2.3 Kelson's Pure Theory of Law, H.L.A Hart's theory

3. Legal Rights, Duties, Persons, Titles, Liabilities etc;

- 3.1 Rights, Duties and Wrongs: Definitions and relationship, Rights Legal Rights as defined by Hopfield, Right -Duty Correlations
- 3.2 Nature of Personality: Corporation Sole and Aggregate, Rights & Liabilities
- 3.3 Corporate Personality: Corporation Sole and Aggregate, Rights & Liabilities
- 3.4 Status of the Unborn, Minor, lunatic, Drunken and Dead persons

3.5 Kinds of legal Rights and duties.

3.6 Liabilities: conditions for imposing liabilities, Mens rea, International, Negligence, Vicarious liability, Strict Liability,

3.7 Theories of Punishment

4. Ownership, Possession and Property

4.1 Possession: Definition, concept and importance

4.2 Kinds of possession, Essentials of possession: Corpus Possessions And Animus Possidendi.

4.3 Ownership: Definition, Concept, kind of ownership

4.4 Distinction between ownership and possession, kind's property

Suggested Books

- Bodenheimer Jurisprudence – The Philosophy and Method of Law (1996), Delhi. Fitrgersld, (ed) Salmond on Jurisprudence, Tripathi, Bombay.
- W.Friedranann, Legal Theory, Universal, Delhi,
- V.D. Mahajan Jurisprudence and Legal Theory, Eastern, Lucknow M.D.A Freeman (ed).
- Lloy's Introduction to Jurisprudence, Sweet & Maxwell Paton G.W. Jurisprudence Oxford, ELBS
- H.L.A Hart the concept of law, Oxford ELBS
- Roscoe pond introduction to the philosophy of Law, Universal Delhi
- Dias, Jurisprudence Adithaya Books New Delhi
- Dhyani S.N Jurisprudence A Study of Indian Legal Theory, Metropolitan, New Delhi.

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(IN EFFECT FROM JUNE 2017 TILL FURTHER NOTIFICATION
LL.B. Semester-IV
CORE COURSE 402 FAMILY LAW-II

Objectives:

The course structure is designed mainly with flute objectives in view. One is to provide adequate sociological perspectives so that basic concepts relating, to family are expounded 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 laws based upon regions but as the one cutting across the religious lines and eventually enabling us to fulfill the constitutional directive of uniform civil code. Such a restructuring would make the study of familial relations more meaningful.

Contents:

1. JOINT FAMILY

- 1.1 Mitakshara Joint Family
- 1.2 Mitakshara coparcenary -
 - 1.2.1 Formation and Incidents
 - 1.2.2 Property under Miltakshara Law –Suppurate property and coparcener/property
- 1.3 Dayabhaga coparacenary–
 - 1.3.1 Formation and Incidents
 - 1.3.2 Property under Dayaybhaga law
- 1.4 Karta of the Joint family – His position, Powers Privileges and Obligations
- 1.5 Alienation of Property – Separate and Coparcenary.
- 1.6 Partition and Re – union.
- 1.7 Joint Hindu family as a Social Security Insitution and Impact of Hindus Gains of Learning Act and Various tax laws on it.

2. INHERITANCE

- 2.1 Hindus
 - 2.1.1 Historical Perspective of Traditional Hindu Law as a background to the study of the Hindu Sucession Act; 1956
 - 2.1.2 Succession to property of a Hindu male dying intestate under the provisions of the Hindu Sucession Act, 1956.
 - 2.1.3 Devolution of interest in Mitakshara coparcenary with reference to the provisions: of the Hindu Sucession Act, 1956.
 - 2.1.4 Succession to property of Hindu Female dying interstate under the Hindu Succession Act, 1956
 - 2.1.5 Disqualification relating to succession, General rules of Succession
- 2.2 Muslims
 - 2.2.1 General Rules of Succession and Exclusion from Succession.

- 2.2.2 Classification of Heris under Hanafi and IthanaAshria school and their share and distribution of property
- 2.3 Christians, Paraisis and Jews
 - 2.3.1 Heris and theirs shares and distribution of property under Indisan Sucession Act of 1925
 - 2.3.2 Testamenatry Succession under the Indian Sucession Act : Rules for distribution of property of Christians, Parsis and Jews
 - 2.3.3 Districution of property of Christans, Parsis and Jews dying intestate

3. Gifts

- 3.1 Essentials of valid Gift under Different Family Laws :
- 3.2 Kinds of Gift : Competency of Donor and Done, Subject Matter of Gift, properties which can be and cannot be the subject matter of gift, void gifts
- 3.3 Essentials of Valid Hiba (Gift) under Muslim Law, Kinds of Hiba, Sadquah, Marz-ul-maut, Revocations of gift

4 Family Court Act and Miscellaneous Provisions

- 4.1 Family Courts: Concept, need, Law Commission Reports
- 4.2 Powers and Jurisdiction of the Family Court
- 4.3 Issue to be decided by the family Court, Qualifications of Family Court Judge
- 4.4 Provisions regarding appearance of advocates in family courts Exemption from Court fees etc.
- 4.5 Provisions of Appeal under the Family Courts Act 4.6 Salient Features of the Protection against the Domestic Violence Act, 2005

Suggested Books:

- Paras Diwan, Family Law
- Paras Diwan, Law of Instestate and Testamentary Succession (1 PPS), Universal Law Books.
- Basu, N.D. Law of Sucession, Universal
- Kusem, Marriage and Divorce Law Manual Universal
- Machanda S.C. Law and Practice of Divorce in India, Universal
- P.V. Kane History of Dharamansasstras Vo;2 Ptl at 624-632
- A.Kuppsuwami (ed.) Mayne's Hindu Law and Usage Ch.4
- B.Sivramayys, Inequalities and the Law

- K.C.Daiya, " Population control through family planning n India, " Indian Journal of Legal Studies.
- J.D.M Derrett, Hindu Law
- A. Fyzee Outline of Muhannandan law
- AlladiKappuswami (ed.) Mayne's Hindu Law and Used J.D.M Derret a Critique of Modern Hindu Law

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CORE COURSE 403 PUBLIC INTERNATIONAL LAW

Objectives:

The main thrust of this course shall be development of human rights law and jurisprudence at international, regional and national levels. There need not be an attempt to teach the whole gamut of international law in this course. The Human Rights Dimensions shall be discussed in other papers like Environmental Law in the Municipal Laws of the member nations.

Contents:

1. Definition and Concept of International Law

- 1.1 Definition
- 1.2 Public International Law & Private International Law
- 1.3 Nature Of International Law and its functions
- 1.4 International Law – A weak law
- 1.5 Development of International Law in India

2. Theoretical Foundations of International Law :

- 2.1 Basic Principles : Sovereign equality of State – Non-intervention, Non use of force, International co-operation, Peaceful settlement of dispute
- 2.2 Individuals as subject of international law
- 2.3 State Jurisdiction on Terrorism, hijacking, Narcotics, War crimes and Crimes against Peace
- 2.4 Treatment of Aliens
- 2.5 Mechanism : Amnesty International, International Labour Organization (ILO) UNESCO , UNICEF

3. Concept

- 3.1 Sources of International Law : Customs, Treaties, General Principles of Law recognized by the Civilized Nations, Judicial Decisions, Writing of U=Jurists, Equity, Resolutions of General Assembly
- 3.2 Subjects of International Law
- 3.3 Jurisdiction of States
- 3.4 Legal Responsibility of State

4. Miscellaneous:

- 4.1 States, Recognition, State Territory, State Jurisdiction, State Responsibility
- 4.2 Aliens
- 4.3 Extradition
- 4.4 Asylum
- 4.5 Treaties
- 4.6 Security Council
- 4.7 International Terrorism: Aircraft Hijacking, Piracy
- 4.8 Disarmament: Threat to Human Rights

Suggested book:

- S.K. Verma, Public International Law Prentice – Hall, New Delhi.
- Peter J.VanKrieken (ed). The Exclusion on Clause, Kluwer
- S Rights Project. The Human Rights Watch Global Report on Women’s Human Rights, Oxford
- Limacora, Nowak and Tretter, International Human Rights, Sweet & Max well
- Wallace, International Human Rights, Text & Materials, Sweet & Maxwell
- Muntrabhom. The State of Fefugees in Asia, Oxford
- Human Rights and Global Diversity, Frank Cass, London
- Nirmal C.J. (ed) Human Rights in India, Oxford
- Nirmal B.C. The Rights to Self determination in International Law, Deep & Deep
- P.R. Gandhin, International Human Right Documents, Unoversal, Delhi.
- Agrwal : Public International Law
- Dr. S.K.Kapoor : International Law : Central Law Aggency

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CORE COURSE 404 LABOUR & INDUSTRIAL LAW –II

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.

1. Payment of Wages Act and Payment of Bonus Act

1.1 Payment Of Wages Act

- 1.1.1 Application and concept of Wages
- 1.1.2 Important Definitions: Wages, Workman etc.
- 1.1.3 Liabilities of employer for payment of wages
- 1.1.4 Authorized and Unauthorized Deductions
- 1.1.5 Remedies against unauthorized deductions (u/s.15)

1.2 Payment of Bonus Act :

- 1.2.1 Application and concept of Bonus
- 1.2.2 Important Definitions : Bonus, Employees, continuous Services
- 1.2.3 Calculation of Bonus : Available surplus and allocable surplus
- 1.2.4 Provisions for new establishments relating to calculation of Bonus,
Calculation of Bonus : Available surplus and allocable surplus
- 1.2.5 Minimum Bonus & Maximum Bonus ,Qualifications & Disqualifications
for Bonus, Recovery of Bonus

2. Factories Act, 1948 :

2.1 Application of the Act , Important Definitions : Factory , Worker, Manufacturing Process

- 2.1.1 Provisions relating to adolescent and women
- 2.1.2 Provisions relating to working hours to adult works, woman and adolescent

2.2 Provisions relating to Health of Work

2.3 Provisions relating to safety and Welfare of Workers

2.4 Special Provisions relating to Hazardous Process (Chapter IV-A) & provisions
Relating to leave with wages

2.5 Authorities under the Factories Act

3. Employees' State Insurance Act

3.1 Application and coverage of Act

3.2 Important Definitions: Workmen, Benefit Period, Contribution Period, Wages,
Employer

4. Payment of Gratuity Act

4.1 Application and coverage of Act

4.2 Important Definitions: Wages, Employees, Continuous Service

4.3 Qualifications and Disqualifications of Gratuity

4.4 Formula for calculation of Gratuity and related judicial Pronouncements

4.5 Recovery of Gratuity and authorities under the Act

Suggested Books :

- John Bowers and Simon Honey ball, Text Book on Law, Blackstone, London.
- Srivastava K.D. Commentaries on payment of Wages Act, 1936 Eastern Luck now.
- Srivastava K.D. Commentaries on Minimum Wages Act, 1948, Eastern, Luck now.
- Rao S. B. Law and Practice on Minimum Wages, Law Publishing House, Allahabad.
- Sheth D. D. Commentaries on industrial Disputes Act, 1947, Law Publishing House, Allahabad.
- Srivastava K. D. Disciplinary Action against Industrial Employees and its Remedies, Eastern, Luck now.
- R. C. Saxena, Labour Problems and Social Welfare
- V. V. Giri, Labour Problems in Industry Chs. 1 and 15
- India Law Institute, Labour Law and Labour Relation, Cochin University law Review, Vol. 6 app. 153-210
- Report of the National Commission Labour Ch. 14-17, 22-23, and 24
- O. P. Malhotra, The Law of Industrial Dipure, Universal Delhi
- S. C. Srivastva , Social Security and Labour Laws Pts. 5 and 6, Universal Delhi
- S. C. Srivastva , Commentary on the Factories Act, 1948, Universal, Delhi

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CORE COURSE 405 INTERPRETATION OF STATUTES

Objectives:

Interpretation of statute became a method by which judiciary explores the intention behind the statutes. Judicial interpretation involves construction of words, phrases and expressions. In their attempt to make the old existing statutes contextually relevant, court used to develop certain rules, doctrines and principal of interpretation. Judiciary plays a highly creative role in this respect. What are the techniques adopted by court in construing statutes? How for are they successful in their strategy?

Contents:

1. GENERAL RULES OF STATUTORY INTERPRETATION

- 1.1 Meaning of the term Statute
- 1.2 Commencement, operation and repeal of statute
- 1.3 Purpose and importance of interpretation of statutes
- 1.4 Meanings: interpretation and construction
- 1.5 Rules of statutory interpretation
 - 1.5.1 Primary rules
 - 1.5.2 Literal rules
 - 1.5.3 Golden rules
 - 1.5.4 Mischief rules (rule in heydons case)
 - 1.5.5 Rules of harmonious construction.
 - 1.5.6 Secondary rules
 - Noscitur a socials
 - Ejusdem generis
 - Reddendo singular singulis

2. AIDS TO INTERPRETATION

- 2.1 Internal aids
 - 2.1.1 Title, preamble, heading and marginal notes
 - 2.1.2 Sections and sub section, punctuation marks
 - 2.1.3 Illustration, exception, provition and saving clauses
 - 2.1.4 Schedules, Non – Obstante Clause
- 2.2 External aids
 - 2.2.1 Dictionaries
 - 2.2.2 Translations.
 - 2.2.3 Travaux Preparations
 - 2.2.4 Statutes in pari materials
 - 2.2.5 ContemporaneaExposito
 - 2.2.6 Debates, Inquiry Commission Report and Law Commission Reports.

3. PRESUMPTIONS IN STATUTORY INTERPRETATION

- 3.1 Statutes are valid
- 3.2 Statutes are territorial in operation
- 3.3 Presumption as to jurisdiction
- 3.4 Presumption against what is inconvenient or absurd
- 3.5 Presumption against Intending Injustice

3.6 Presumption against Impairing Obligations or Permitting Advantage from One's own Wrong

3.7 Prospective operation of statutes

4. INTERPRETATION WITH REFERENCE TO THE SUBJECT MATTER AND PURPOSE AND PRINCIPLES OF CONSTITUTIONAL INTERPRETATION

4.1 Interpretation with Reference to the subject Matter and Purpose

4.2 Restrictive and beneficial construction

4.3 Taxing statutes

4.4 Penal statutes

4.2 Principle of constitutional Interpretation

4.2.1 Harmonious construction

4.2.2 Doctrine of pith and substance

4.2.3 Doctrine of Repugnancy

4.2.4 Prospective overruling

4.2.5 doctrine of eclipse

Suggested Books :

- G.P.Singh, Principle of statutory interpretation, wadhwa, Nagpur.
- P.st.langan(Ed.),Maxwell on the interpretation of statutes ,
- N.M.Tripathi, Bombay
- K.Shanmukham,N.S.Binclras interpretation of statutes, the law book compay Allahabad
- V.Shastrri interpretation of Statutes ,Eastern, Luchnow
- M.P.Jain, Constitution law of india, wadhva and co.
- M.P.Singh (Ed.)V.N.Shukla constitution of india, Eastern, Luchnow
- U.Baxi , Introduction to justice K.K. Mathew Democracy Equality and freedom.

