

N.R. Madhava Menon, (ed) A Handbook of Clinical Legal Education, (1998)  
 Eastern Book Company, Lucknow.

M.O. Price, H. Bitner and Bysiewicz, Effective Legal Research (1978)

Pauline V. Young, Scientific Social Survey and Research, (1962)

William J. Grade and Paul K. Hatt, Methods in Social Research, Mc Graw-Hill  
 Book Company, London

H.M. Hyman, Interviewing in Social Research (1965)

Payne, The Art of Asking Questions (1965)

Erwin C. Surrency, B. Fieff and J. Crea, A Guide to Legal Research (1959)

Morris L. Cohan, Legal Research in Nutshell, (1996), West Publishing Co.

Havard Law Review Association, Uniform System of Citations.

ILI Publication, Legal Research and Methodology.

www.aals.org

**PAPER – III : INDIAN CONSTITUTIONAL LAW : THE NEW CHALLENGES.**

- 1. Federalism**
  - 1.1. Creation of new states
  - 1.2. Allocation and share of resources - distribution of grants in aid
    - 1.2.1. The inter-state disputes on resources
  - 1.3. Rehabilitation of internally displaced persons.
  - 1.4. Centre's responsibility and internal disturbance within States.
  - 1.5. Directions of the Centre to the State under Article 356 and 365
  - 1.6. Federal Comity : Relationship of trust and faith between Centre and State.
  - 1.7. Special status of certain States.
    - 1.7.1. Tribal Areas, Scheduled Areas
- 2. "State" : Need for widening the definition in the wake of liberalisation.**
- 3. Right to equality: privatisation and its impact on affirmative action.**
- 4. Empowerment of women.**

- 5. Freedom of press and challenges of new scientific development**
  - 5.1. Freedom of speech and right to broadcast and telecast.
  - 5.2. Right to strikes, hartal and bandh.
- 6. Emerging regime of new rights and remedies**
  - 6.1. Reading Directive Principles and Fundamental Duties into Fundamental Rights
    - 6.1.1. Compensation jurisprudence
    - 6.1.2. Right to education
      - 6.1.2.1. Commercialisation of education and its impact.
      - 6.1.2.2. Brain drain by foreign education market.
- 7. Right of minorities to establish and administer educational institutions and state control.**
- 8. Secularism and religious fanaticism.**
- 9. Separation of powers: stresses and strain**
  - 9.1. Judicial activism and judicial restraint.
  - 9.2. PIL: implementation.
  - 9.3. Judicial independence.
    - 9.3.1. Appointment, transfer and removal of judges.
  - 9.4. Accountability: executive and judiciary.
  - 9.5. Tribunals
- 10. Democratic process**
  - 10.1. Nexus of politics with criminals and the business.
  - 10.2. Election
  - 10.3. Election commission: status.
  - 10.4. Electoral Reforms
  - 10.5. Coalition government, 'stability, durability, corrupt practice'
  - 10.6. Grass root democracy.

### **Select Bibliography**

No specific bibliography is suggested for this course since the course materials obviously depends upon the latest developments. These

developments in the areas specified in the course can be gathered from the recent materials such as case law, changes and amendments of laws, critical comments, studies and reports, articles and research papers and lastly contemporary emerging ethos impacting on constitutional values.

#### **PAPER - IV : JUDICIAL PROCESS**

##### **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 Dimensions 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 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.

- 8.4. Traditional knowledge - protection- biodiversity convention- right of indigenous people.

### **Select Bibliography**

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

### **PAPER – III : LEGAL REGULATION OF ECONOMIC ENTERPRISES**

#### **1. The Rationale of Government Regulation**

- 1.1. Constitutional perspectives
- 1.2. The new economic policy - Industrial policy resolutions, declarations and statements
- 1.3. The place of public, 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**
6. **Deregulation of essential commodities: developmental sign or a social mishap?**
7. **Financial Services : Changing Techniques of Regulation**
8. **Critical Issues Regarding the Capital Issues**
  - 8.1. Equity and debt finance
  - 8.2. Global depositories
  - 8.3. De-materialised securities
9. **Problems of Control and Accountability: Regulation of Hazardous Activity**
  - 9.1. Mass disaster and environmental degradation : legal liability and legal remedies
  - 9.2. Public Liability Insurance : adequacy
  - 9.3. Issues in zoning and location of industrial units
10. **Special Aspects of Legal Regulation of Select Public Enterprises**
  - 10.1. Telecom Regulatory Authority
  - 10.2. Insurance Regulatory Authority
  - 10.3. Broadcasting Regulatory Authority
11. **Legal Regulation of Multi-Nationals**
  - 11.1. Collaboration agreements for technology transfer
  - 11.2. Development and regulation of foreign investments
    - 11.2.1. Investment in India : FDIs and NRIs
    - 11.2.2. Investment abroad

### **Select Bibliography**

- 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 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)

### **PAPER – IV : LAW OF EXPORT IMPORT REGULATION**

#### **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. Permissible 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
- 4.2. Legislative control
  - 4.2.1. Power of control : Central government and RBI
  - 4.2.2. Foreign Trade Development and Regulation Act 1992
  - 4.2.3. Restrictions under customs law
    - 4.2.3.1. Prohibition and penalties
- 4.3. Export-Import formulation : guiding features
  - 4.3.1. Control under FEMA
  - 4.3.2. Foreign exchange and currency
    - 4.3.2.1. Import of goods
    - 4.3.2.2. Export promotion councils
    - 4.3.2.3. Export oriented units and export processing zones

#### **5. Control of Exports**

- 5.1. Quality control
- 5.2. Regulation on goods
- 5.3. Conservation of foreign exchange
  - 5.3.1. Foreign exchange management
  - 5.3.2. Currency transfer
  - 5.3.3. Investment in foreign countries

#### **6. Exim Policy : Changing Dimensions**

- 6.1. Investment policy : NRIs, FIIs (foreign institutional investors), FDIs
- 6.2. Joint venture
- 6.3. Promotion of foreign trade
- 6.4. Agricultural products

6.5. Textile and cloths

6.6. Jewellery

6.7. Service sector

**7. Law Relating to Customs**

7.1. Prohibition on importation and exportation of goods

7.2. Control of smuggling activities in export-import trade

7.3. Levy of, and exemption from, customs duties

7.4. Clearance of imported goods and export goods

7.5. Conveyance and warehousing of goods

**8. Regulation on Investment**

8.1. Borrowing and lending of money and foreign currency

8.2. Securities abroad - issue of

8.3. Immovable property - purchase abroad

8.4. Establishment of business outside

8.5. Issue of derivatives and foreign securities – GDR (global depositories receipts), ADR (American depository receipts) and Uro

8.6. Investment in Indian banks

8.7. Repatriation and surrender of foreign securities

**9. Technology transfer**

9.1. Restrictive terms in technology transfer agreements

9.2. Automatic approval schemes

**Select Bibliography**

- ✓ 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, Published 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)
- ✓ Final Treaty of GATT, 1994.

## **PAPER – V : INSURANCE LAW**

### **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

## **LL.M. I Year (II Semester)**

### **Paper VIII- Practical Paper**

There shall be a Practical Examination of 100 marks. Of these 100 marks, 25 marks shall be assigned to Class Room Teaching, 25 marks to Doctrinal Research, 25 marks to Non-Doctrinal Research, 15 marks for Class Room Seminars and 10 marks for attendance.