
C.U. Shah University

Syllabus

Semester Three

No.	Course Code	Course Name	Marks	Credit
1	4LW03FOL2	Law Of Family – I	100	5
2	4LW03ADM2	Administrative Law	100	5
3	4LW03LIL2	Labour and Industrial Law - I	100	5
4	4LW03TAX2	Principles of Taxation Laws	100	5
5	4LW03IOS2	Interpretation of Statutes.	100	5

FAMILY LAW-I

OBJECTIVE OF THE COURSE:

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 with large variations 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.

SYLLABUS:

UNIT – 1

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

UNIT – 2

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

UNIT – 3

3. MATRIMONIAL DISPUTES AND REMEDIES:

- 3.1 Non-judicial resolution of marital conflicts.

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- 3.2 Matrimonial Remedies: Restitution of Conjugal Rights, Judicial Separation and Dissolution of Marriage
 - 3.3 Modes of 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 breakdown 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.

UNIT – 4

4. GUARDIANSHIP, 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 READING:

1. Paras Diwan, Law of Intersate and Testamentary Succession, Universal
2. Banu, N. D. Law of Succession, Universal
3. Kuser, Marriage and Divice Law Manual, Universal
4. Machanda S. C Law and Practice of Divorce in India, Universal
5. P.V. Kane, History of Dharmasatras vol.2 Pl.1 at 624-632
6. Kuppuswami (ed) Mayne's Hindu Law and Usage ch.4
7. B. Sivaramayys, Inequalities and the Law
8. K. C. Dioiya "Population control through Family planning in India" Indian Journal of Legal Studies,
9. J.D.M. Derrett, Hindu Law
10. A.A.A Fyzee, Outline of Muhammadan Law, Law, Alladi Kuppuswami,
11. Mayne's Hindu Law and Usage
12. J.D.M. Derret, A Critique of Modern Hindu Law
13. Paras Diwan, Hindu Law.

ADMINISTRATIVE LAW

OBJECTIVE OF THE COURSE:

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 India, 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 cannot 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 not 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.

SYLLABUS:

UNIT – 1

1. INTRODUCTION AND BASIC CONSTITUTIONAL 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

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- 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.

UNIT – 2

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

UNIT – 3

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 Writ remedies, Kinds of writ, jurisdiction, powers, against whom writ 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.

UNIT – 4

4. MISCELLANEOUS:

4.1 Liability of the Government

4.1.1 Contractual Liability

4.1.2 Tortious 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 READING:

1. U.P.D.kesri, Administrative Law ,20 Edn.2008,CPL ,Allahabad.
2. S.P.Santhe , Administrative Law ,ALAP ,Allahabad.
3. Kailash Rai ,ALAP ,Allahabad.
4. Dr.G.S.Sharma ,Administrative Law ,UBH ,Jaipur
5. Molan,Text Book Administrative Law ,3rdEdn.
6. Barett ,Constitutional and Administrative Law ,4 Edn.

LABOUR AND INDUSTRIAL LAW-I

OBJECTIVE OF THE COURSE:

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 in 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.

SYLLABUS:

UNIT – 1

1. THE INDUSTRIAL DISPUTES ACT, 1947

- 1.1 Scope, objective and main features of the Act, Definition: Industry, Industrial Dispute (Individual and collective), Workmen etc. and judicial pronouncement.
- 1.2 Authorities under the Act : Works committee, conciliation, courts of inquiry, labour court, Tribunal
- 1.3 Procedure, powers and duties of the Authorities
- 1.4 Strikes and Lock- outs, lay-off and Retrenchment
- 1.5 Unfair labour practices

UNIT – 2

2. THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946

- 2.1 Application of the Act
- 2.2 Standing orders. Model standing orders,

2.3 Certification and cancellation of standing orders

2.4 Provisions of Appeal

2.5 Disciplinary procedures: Departmental enquiries

UNIT – 3

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

UNIT – 4

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 READING:

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

PRINCIPLES OF TAXATION LAWS

OBJECTIVE OF THE COURSE:

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.

SYLLABUS:

UNIT - 1

1. BASIC CONCEPTS EXTENT AND COMMENCEMENT

- 1.1 Person-Residential status and tax planning
- 1.2 Computation of total income
- 1.3 Income which do not form part of total income
- 1.4 Deduction to be mad in computing total income
- 1.5 Income forming part of total income on which no income tax is payable.

UNIT - 2

2. HEADS OF INCOME TAX

- 2.1 Salary
- 2.2 Income from House Property
- 2.3 Profits and gains of business or profession-Depreciation allowance and development –rebate
- 2.4 Capital gains
- 2.5 Agricultural and non-agricultural Income.

UNIT - 3

3. MISCELLANEOUS

- 3.1 Income From Other Sources
- 3.2 Set off and carry forward of losses
- 3.3 Procedure for assessment-Rebate and relief-Collection recovery and refund of tax

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- 3.4 Income Tax Authorities
 - 3.5 Appellate tribunal reference to high court
 - 3.6 Penalty and prosecution.

UNIT - 4

4. GOODS AND SERVICE TAX

- 4.1 GST in India : Concept, Nature and Features of GST
- 4.2 Need & Benefits of GST
- 4.3 Relevant Definitions
- 4.4 Constitutional Validity of GST
- 4.5 Taxes subsumed in GST
- 4.6 Incidence of Tax
- 4.7 Basic Concepts – Supply, Composite and Mixed supplies, Charge of tax
- 4.8 GST Council

SUGGESTED READING:

1. Law of Taxation –Taxman
2. Law of Taxation - Dr. Myneni
3. Law of income tax -V.K.Sushakumari
4. Income Tax Law –Dutta
5. Income Tax Act -O.C.Tandon
6. Law of Income Tax -Kailash Rai
7. PoddarAvinashS : Glimpses of GST , CCH India – A Wolter Kluwer Business
8. Batra Ashok, GST Law and Practice, CCH India– A Wolter Kluwer Business
9. Datey V S, GST Ready Reckoner, Taxmann
10. Mohan Rajat Illustrative Guide to GST, Bharat Law House
11. PoddarAvinash S., Desai Mehul P., GST Saral Samjhuti, SBD Publication, Ahmadabad

INTERPRETATION OF STATUTES

OBJECTIVE OF THE COURSE:

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 are they successful in their strategy?

SYLLABUS

UNIT - 1

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 Heydon's case)
 - 1.5.5 Rules of harmonious construction.
 - 1.5.6 Secondary rules
 - Noscitur a social
 - Ejusdem generis
 - Redden do singular singles

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, provision 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 pair materials

2.2.5 Contemporanea Exposito

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

4.5 Principle of constitutional Interpretation

4.5.1 Harmonious construction

4.5.2 Doctrine of pith and substance

4.5.3 Doctrine of Repugnancy

4.5.4 Prospective overruling

4.5.5 doctrine of eclipse

SUGGESTED READING

1. G.P.Singh, Principle of statutory interpretation, wadhwa, Nagpur.
2. P.st.langan(Ed.),Maxwell on the interpretation of statutes, N.M.Tripathi, Bombay
3. K.Shanmukham,N.S.Binclras interpretation of statutes, the law book compay Allahabad
4. V.Shastrri interpretation of Statutes ,Eastern, Luchnow

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5. M.P.Jain, Constitution law of india, wadhva and co.
 6. M.P.Singh (Ed.)V.N.Shukla constitution of india, Eastern, Luchnow
 7. U.Baxi , Introduction to justice K.K. Mathew Democracy Equality and freedom.