
C.U. Shah University

Syllabus

Semester Four

No.	Course Code	Course Name	Marks	Credit
1	4LW04JUR2	Jurisprudence	100	5
2	4LW04FOL2	Family Law – II	100	5
3	4LW04LIL2	Labour and Industrial Laws - II	100	5
4	4LW04CMP2	Company Law	100	5
5	4LW04HMR2	Human Rights Law and Practice	100	5

JURISPRUDENCE

OBJECTIVE OF THE COURSE:

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.

SYLLABUS :

UNIT -1

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.

UNIT - 2

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

UNIT - 3

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

UNIT - 4

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 READING:

1. Bodenheim Jurisprudence – The Philosophy and Method of Law (1996), Delhi. Fitrgersld, (ed) Salmond on Jurisprudence, Tripathi, Bombay.
2. W.Friedranann, Legal Thorry, Universal, Delhi,
3. V.D. Mahajan Jurisprudence and Legal Theory, Eastern, Lucccknow M.D.A Freeman (ed).
4. Lloy's Introduction to Jurispridence, Sweer& Maxwell Paton G.W. Jurispridence Ox ford, ELBS
5. H.L.A Hart The concept of law, Oxford ELBS

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6. Roscoe Pound introduction to the philosophy of Law, Universal Delhi
 7. Dias, Jurisprudence, Adithaya Books New Delhi
 8. Dhyani S.N., Jurisprudence A Study of Indian Legal Theory, Metropolitan, New Delhi.

FAMILY LAW–II

OBJECTIVE OF THE COURSE:

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 with 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.

SYLLABUS:

UNIT - 1

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 Dayabhagacoparacenary–
 - 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 Institution and Impact of Hindus Gains of Learning Act and Various tax laws on it.

UNIT - 2

2 INHERITANCE:

- 2.1 Hindus
 - 2.1.1 Historical Perspective of Traditional Hindu Law as a background to the study of the Hindu Succession Act; 1956

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- 2.1.2 Succession to property of a Hindu male dying intestate under the provisions of the Hindu Succession Act, 1956.
 - 2.1.3 Devolution of interest in Mitakshara coparcenary with reference to the provisions: of the Hindu Succession Act, 1956.
 - 2.1.4 Succession to property of Hindu Female dying intestate 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 Heirs under Hanafi and Ithana Ashria school and their share and distribution of property
 - 2.3 Christians, Parsis and Jews
 - 2.3.1 Heirs and their shares and distribution of property under Indian Succession Act of 1925
 - 2.3.2 Testamentary Succession under the Indian Succession Act : Rules for distribution of property of Christians, Parsis and Jews
 - 2.3.3 Distribution of property of Christians, Parsis and Jews dying intestate.

UNIT - 3

3. GIFTS:

- 3.1 Essentials of valid Gift under Different Family Laws:
- 3.2 Kinds of Gift: Competency of Donor and Donee, 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.

UNIT - 4

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 READING:

1. Paras Diwan, Family Law
2. Paras Diwan, Law of Intestate and Testamentary Succession (1 PPS), Universal Law Books.
3. Basu, N.D., Law of Succession, Universal
4. Kusem, Marriage and Divorce Law Manual, Universal
5. Machanda S.C., Law and Practice of Divorce in India, Universal
6. P.V. Kane History of Dharamansasstras Vo;2 Ptl at 624-632
7. A.Kuppsuwami (ed.) Mayne's Hindu Law and Usage Ch.4
8. B.Sivramayys, Inequalities and the Law
9. K.C.Daiya, "Population control through family planning n India, " Indian Journal of Legal Studies.
10. J.D.M Derrett, Hindu Law
11. Fyzee Outlines of Muhammadan law
12. Alladi Kappuswami (ed.) Mayne's Hindu Law and Used J.D.M Derret a Critique of Modern Hindu Law.

LABOUR & INDUSTRIAL LAW –II

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 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. 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

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- 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.

UNIT - 2

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 for adult workers, woman and
adolescent
- 2.2 Provisions relating to Health of Workers
- 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

UNIT - 3

3. EMPLOYEES' STATE INSURANCE ACT:

- 3.1 Application and coverage of Act
- 3.2 Important Definitions: Workmen, Benefit Period, Contribution Period, Wages,
Employer.

UNIT - 4

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 READING

1. John Bowers and Simon Honey ball, Text Book on Law, Blackstone, London.
2. Srivastava K.D., Commentaries on payment of Wages Act, 1936Eastern Lucknow.
3. Srivastava K.D., Commentaries on Minimum Wages Act, 1948, Easternon, Lucknow.
4. Rao S.B., Law and Practice on Minimum Wages, Law Publishing House, Allahabad.

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5. Sheth D.D., Commentaries on industrial Disputes Act, 1947, Law Publishing House, Allahabad.
 6. Srivastava K.D., Disciplinary action against Industrial Employees and its remedies, Eastern, Lucknow.
 7. R.C.Saxena, Labour Problems and Social Welfare
 8. V. V.Giri, Labour Problems in Industry Ch. 1 and 15
 9. India Law Institute, Labour Law and Labour Relation, Cochin University law Review, Vol. 6 app. 153-210
 10. Report of the National Commission Labour Ch. 14-17, 22-23, and 24
 11. O. P. Malhotra, The Law of Industrial Dipure, Universal Delhi
 12. S. C. Srivastva , Social Seciurity and Labour Laws Pts. 5 and 6, Universal Delhi
 13. S. C. Srivastva , Commentary on the Factories Act, 1948, Universal, Delhi

COMPANY LAW

OBJECTIVE OF THE COURSE:

Industrialisation plays a very vital role in the economic development of India. In the post-Independence era, industrial regulation is employed as a principal means in the strategy for attaining constitutional values. Companies are no doubt powerful instruments for development. Besides bringing returns and financial benefits to the capital and labour they help amelioration of the living conditions of masses. In a developing society like India, best varieties of consumer goods are manufactured or produced and different kinds of public utility services are generated both for general welfare and consumption purposes. Obviously, it is beyond the capacity of one or a few entrepreneurs to engage into such activities. Because the problem of raising large capital needed for such enterprises, there is a looming danger of market risks. Hence, taking recourse to the device of incorporation is the only efficacious way to surmount all such hurdles.

SYLLABUS:

UNIT - 1

1. INTRODUCTION, MEMORANDUM & ARTICLE OF ASSOCIATION:

- 1.1 Company: Definition, Theories of Corporate personality
- 1.2 Kinds of Companies: Private Companies – nature and advantages – Government Companies – holding and subsidiary companies
- 1.3 Registration and Incorporation of company
- 1.4 Memorandum of association, Various clauses, Alteration therein, Doctrine of ultra-virus, Consequences of ultra-virus transaction
- 1.5 Article of Association: binding force , alteration with Memorandum, doctrine of constructive notice and indoor management.

UNIT -2

2. PROSPECTUS, PROMOTERS, SHAREHOLDER& MEMBERS, SHARE CAPITAL ETC.:

- 2.1 Prospectus: contents, Shelf Prospectus, Misrepresentation in prospectus, Remedies for misrepresentation and liabilities thereof
- 2.2 Promoters, Shares, General Principles for allotment, statutory restrictions, share certificates, Transfer of shares, dematerialized shares (DEMAT)
- 2.3 Shareholder and members of company: Distinction, Modes of becoming members of company

2.4 Share Capital: Kinds, alteration and reduction of share capital, Buy back of shares.

UNIT - 3

3. DIRECTORS, DIVIDENDS, AUDIT, ACCOUNTS, OPPRESSION & MISMANAGEMENT ETC.:

3.1 Directors: Position appointment, qualifications, vacation of office, removal, resignation. Powers and duties of directors, Managing Director

3.2 Dividends, Audits and accounts, Debentures, Fixed and floating charges, kinds of debentures, protection of minority rights

3.3 Prevention of Oppression and Mismanagement.

UNIT - 4

4. PROVISIONS FOR RECONSTRUCTION, AMALGAMATION & WINDING UP OF COMPANY:

4.1 Reconstruction and Amalgamation of Company

4.2 Types of winding up: winding up by court; Reasons, grounds, who can apply? Procedure, powers of liquidator, powers of court

4.3 Voluntary Winding Up

4.4 Corporate liability : Civil and Criminal

SUGGESTED READING:

1. Introduction to Company Law : Avtar Singh
2. Company Law : Avtar Singh
3. Principles of Modern Company Law : L.C.B. Gower
4. Company Law : Palmer, Palmer's
5. Guide to the Company Act : Pennington, Company LawA, Ramaiya
6. Lectures on Company Law :S.M.Shah
7. Company Law : Kailas Rai
8. Company Law :N.D.Kapoor&G.K.Kappor

HUMAN RIGHTS LAW & PRACTICE

OBJECTIVE OF THE COURSE:

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 are 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.

SYLLABUS:

UNIT - 1

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

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- 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

UNIT - 2

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.

UNIT - 3

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

UNIT - 4

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 READING

1. S. K. Avesti and R. P. Kataria, Law Relating Human Rights ,Chh IV,V,VIII,XIV,XXIX, and XXXIX Orient, New Delhi.
2. Human Rights Watch Women’s Rights Project. The Human Rights Watch Global Report on Women’s Human Rights Oxford
3. Limacora, Network and Tretter, International Human Rights, Sweet & Maxwell
4. Wallace, International Human Rights, Text & Materials, Sweet & Maxwell
5. Muntarbhom. The Status of Refugees in Asia. Oxford
6. Human Rights and Global Diversity, Frank Cass, London
7. Niraml C.J. (ed) Human Rights in India, Oxford
8. P.R. Gandhin, International Human Right Documents, Universal, Delhi.
9. K.C. joshi : Internal Law & Human Rights, Eastern Book Company
10. Dr.VijayChitnis : Human Right and Law : National & Global Perspectives, Snow White Publication Pvt. Ltd.
11. Khwaja Abdul Muntaquim : Protection Of Humna Rights : Law Publisher (India) Pvt. Ltd.
12. Law Realting to Human Rights : Asia Law House

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13. Dr. S.K.Kapoort : Human Rights Under International law Indian Law : Central Law Agency
 14. Dr.Vijay S Chitnis : Human Rights & Princes of Poverty : Snow White Publication Ltd.
 15. Dr. N. Subramanya : Human Rights nd Refugees : A.P.H Publishing Corportation, New Delhi.
 16. MangariRajender : The Protection of Human Rights Act and Relationg Law : Law Book Agency