

Barkatullah University, Bhopal

Syllabus for Colleges

LL.B. (Three Years Course)

LL.B. Part—I (Semester—I)

2018-19

Proposed semester Pattern

	Max	Min	Aggregate
Paper - I Constitutional Law—I	100	40	50%
Paper - II Law of Contract—I	100	40	50%
Paper - III Jurisrudence	100	40	50%
Paper- IV Law of Torts, Consumer Protection Law, and Motor Vehicle Act, 1988	100	40	50%
Paper- V Family Law I (Hindu Law)	100	40	50%

Paper - I CONSTITUTIONAL LAW-I

Objective of the Course

India is a democracy and her Constitution embodies the main principles of the democratic government- how it comes into being what are its powers, functions, responsibilities and obligations- how power is limited and distributed. Whatever might have been the original power base of the Constitution, today it seems to have acquired legitimacy as highest norms of public law. A good understanding of the Constitutional law, judicial decisions, constitutional practice and conventions is, therefore, absolutely necessary for a student of law. He must also know the genesis, nature and special features and be aware of the social, political and economic influence of the Constitution.

1. Preamble
2. Nature of Indian Constitution
3. Characteristic of federalism
4. Indian federalism
5. Unitary form of Government
6. Citizenship
7. State
8. Fundamental Rights—Equality, Freedom and social Control, Personal Liberty, Changing Dimensions of personal Liberty, Cultural and Educational rights.
9. Directive Principles of State Policy
10. inter relationship between fundamental rights and directive principles
11. Fundamental duties.
12. Union Executive- the President, Vice President
13. Union Legislature-Council of ministers
14. Union Judiciary- Supreme Court
15. State Executive- Governor
16. State Legislature- *Vidhan Sabha, Vidhan Parishad*
17. State Judiciary- High Court

Book Recommended

- | | |
|-----------------|---|
| 1. V.N. Shukla | Constitution of India |
| 2. J.N. Paney | Constitution Law of India |
| 3. D.D. Basu | Constitution of India |
| 4. M.P. Jain | Indian Constitution of India |
| 5. H.M. Seervai | Constitution law of India |
| 6. Lippman | Constitution law |
| 7. Kauper | Constitution law Cases and Materials |
| 8. Woll | Constitution law Cases and Comments |
| 9. Basu | Select constitutions of the world |
| 10. Corwin | Constitution of U.S. |
| 11. Lane | An Introduction to the Constitution Law |

Paper - II CONTRACT - I (GENERAL PRINCIPLES OF CONTRACT AND SPECIFIC RELIEF)

Objective of the Course

Every man in his day-to-day life from dawn to dusk makes a variety of contracts. Man's contract making activities increase with the increasing trade, commerce, and industry. In a way living in a modern society would be impossible if the law did not recognize this contract making power of a person. This prompted Roscoe Pound to make his celebrated observation: "Wealth in a commercial age, is made up largely of promises" In this sense India is also a "Promissory" society.

The conferment and protection by the Law of this contract making power of persons gives them a considerable leeway to strike best bargain for the contract making persons. In a way they are permitted to regulate and define their relations in a best possible manner they chose. However, the contours of contractual relations in a feudal, colonial and capitalist society of pre-independence India cannot necessarily be the same in an independent and developing Indian society. Whatever may be the nature of a given society, the contractual relations as are obtained in that society, are governed by certain principles, which are more or less general and basic nature. In India these general principles are statuted in the form of the Indian Contract Act 1972.

This course designed to acquaint a student with the conceptual and operational parameters of these various general principles of contractual relations.

Specific enforcement of contract is an important aspect of the law of contracts. Analysis of the kinds of contracts that can be specifically enforced and the method of enforcement from a significant segment of this study.

Syllabus

1. General Principles of Law of Contract

1. History and nature of contractual obligations
2. Agreement and contract: definitions, element and kinds

18. Injurious to person or property
19. Immoral
20. Against public policy
21. Void Agreements:
22. Agreements without consideration
23. Agreements in restraint of marriage
24. Agreements in restraint of trade – its exceptions – sale of goodwill, section 1 restrictions, under the partnership Act, trade combinations, exclusive dealing agreements, and restraints on employees under Agreements of service.
25. Agreements in restraint of legal proceeding – its exceptions
26. Uncertain agreements

27. Wagering agreement – its exception
28. Discharge of a contract and its various modes
29. By performance- conditions of valid tender of performance- How? By whom? Where? When? In what manner? Performance of reciprocal promises- time as essence contract
30. By breach- anticipatory breach and present breach
31. Impossibility of performance- specific grounds of frustration – application to lease theories of frustration – effect of frustration – frustration and restitution
32. By period of limitation
33. By agreement – rescission and alteration – their effect – remission and waiver performance – extension of time – accord and satisfaction
34. Quasi – contracts or certain relations resembling those created by contract
35. Remedies in contractual relations
36. Damages kinds – remoteness of damage – ascertainment of damages
37. Injunction- when granted and when refused – Why?
38. Refund and restitution
39. Specific performance- when? Why?

2. Government as a Contracting Party

Constitutional provisions- government powers to contract- procedural requirements – kinds of government contracts- their usual clauses – performance of such contracts- settlements of disputes and remedies.

3. Standard form Contracts

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Nature, advantages, unilateral character, principles of protection against the possibility of exploitation - judicial approach to such contracts - exemption clauses- clash between two standard form contracts- Law Commission of India's views

4. Multi - National Agreement

5. Strategies and constraints to enforce contractual obligations

1. Judicial methods- redressal forum, remedies
2. Other methods like arbitration, Lok Adalat, Nayay Panchayat and other such non-formal methods
3. Systematic constraints in setting contractual disputes
4. Court fees, service of summons, injunctions, delay

6. Specific relief

1. Specific performance of contract
2. Contract that can be specifically enforced
3. Persons against whom specific enforcement can be ordered
4. Rescission and cancellation
5. Injunction
6. Temporary
7. Perpetual
8. Declaratory orders
9. Discretion and powers of court

Selected bibliography

1. Beales (ed.), Anson's Law of Contract (27th ed. 1998)
2. P.S. Atiya, Introduction of the Law of Contract 1992 reprint (Clarendon Law Series)
3. Avtar Singh, Law of Contract (2000) Eastern, Lucknow
4. G.C. Cheshire, and H.S. Fifoot and M.P. Furmston, Law of contract (1992) ELBS with Butterworths
5. M. Krishan Nair, Law of Contracts, (1998)
6. G.H. Treitle Law of Contract, Sweet & Maxwell (1997 reprint)
7. R.K. Abhichandani, (ed.) Pollock and Mulla on the Indian Contract and the specific Relief Act (1999) Tripathi
8. Banerjee. S.C. Law of specific Relief (1998), Universal
9. Anson, Law of Contract (1998), Universal
10. Dutt on Contract (2000), Universal
11. Anand and Aiyer, Law of Specific Relief (1999), Universal



Paper III JURISPRUDENCE

Objective of the Course

At the heart of the legal enterprise is the concept of law. Without a deep understanding of this concept neither legal education nor legal practice can be purposive activity oriented towards attainment of justice in society. Moreover, without a comprehension of the cognitive and teleological foundations of the discipline, pedagogy becomes a mere teaching of the rules. It is 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 or complexity and is driven to seek out answers for himself.

It may not be possible that a none year jurisprudence course can impact knowledge of doctrine about law and justice, developed over the years, in various nations and historical situations. At best an undergraduate course should impact 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 designing of this course is to bring jurisprudence closer to our reality, in the selection of cases and reading materials the teacher should try to make use of the Indian material as far as possible.

Introduction -

1. Meaning of the term 'Jurisprudence'
2. Norms and the normative system
3. Different types of normative systems, such as of games, languages, religious orders, unions, clubs and customary practice
4. Legal system as a normative order: similarities and differences of the legal system with other normative systems
5. Nature and definition of law

Schools of Jurisprudence

1. Analytical positivism
2. Natural law

- 3. Historical school
- 4. Sociological school
- 5. Economic interpretation of law
- 6. The Indian jurisprudence
- 7. The Ancient: the concept of 'Dharma'
- 8. The modern: PIL, social justice, compensatory jurisprudence

Purpose of Law

- 1. Justice
- 2. Meaning and kinds
- 3. Justice and law
- 4. Approaches of different schools
- 5. Power of the Supreme Court of India to do complete justice in a case: Article 142
- 6. Critical studies
- 7. Feminist jurisprudence

Source of Law

- 1. Legislation
- 2. Precedents: concept of stare decises
- 3. Customs
- 4. Justice writings

Legal Rights: the Concept

- 1. Rights: kinds
- 2. Right duty correlation

Persons

- 1. Nature of personality
- 2. Status of the unborn, minor, lunatic, drunken and dead persons
- 3. Corporate personality
- 4. Dimension of the modern legal personality: Legal personality of non-human beings

Unit - V

Possession: the Concept

- 1. Kinds of possession

Ownership: the Concept

- 1. Kinds of ownership.
- 2. Difference between possession and ownership

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Property: the concept

I. Kinds of property

Liability

1. Condition of imposing liability
2. Wrongful act
3. Damnum sine injuria
4. Causation
5. Mens rea
6. Intention
7. Malice
8. Negligence and recklessness
9. Strict liability
10. Vicarious liability

Obligation: Nature and kind

1. Source of obligation

Procedures

1. Substantive and procedural laws: difference
2. Evidence: nature and kinds

Selected Bibliography

1. Bodenheimer Jurisprudence – The Philosophy and Method of Law (1996), Universal, Delhi
2. Fitzgerald, (ed) Salmond on Jurisprudence (1999) Tripathi, Bombay
3. W. Friedmann, Legal Theory (1999) Universal, Delhi
4. V.D. Mahajan, Jurisprudence and Legal Theory (1996 reprint), Eastern Lucknow
5. M.D.A. Freeman(ed.), Lloyd's introduction to Jurisprudence, (1994), Sweet and Maxwell
6. Paton G.W. Jurisprudence (1972) Oxford, ELBS
7. H.L.A. Hart, The concepts of Law (1970) oxford, ELBS .
8. Roscoe pond, Introduction to the philosophy of Law (1998 reprint) Universal Delhi
9. Dias, S.N. Jurisprudence: A Study of Indian Legal Theory (1985), Metropolitan, New Delhi
10. Dhyani S.N. Jurisprudence: A study of Indian Legal Theory (1985), Metropolitan, New Delhi

Paper - IV LAW OF TORTS , CONSUMER PROTECTION
LAWS AND MOTOR VEHICLE ACT, 1988

Objectives of the Course

With rapid industrialization, tort action came to be used against manufactures and industrial units for products injurious to human beings. Presently, the emphasis is on extending the principles not only to acts, which are harmful, but also to failure to comply with standards that are continuously changing due to advancement in science and technology, product liability is now assuming a new dimension in developed economics.

In the modern Era of consumer concern of goods and services, the law of torts has an added significance with this forage into the emerging law of consumer protection. It operates in disputes relating to the quality of goods supplied and service rendered and in those areas relating to damage suffered consumers. The Law relating to consumer protection, lying scattered in myriad provisions of various legislation and judicial decisions in India. So connected with the human rights for a healthy life and environment, has now a core subject to be taught as an indispensable part of a society relevant curriculum.

Syllabus

1. Evolution of Law of Torts
 1. England - forms of action - specific remedies from case to case
 2. India Principles of justice equity and good conscience unmodified character advantages and disadvantages
2. Definition, Nature, Scope and Objects
 1. A wonderful act - violation of duty imposed by law, duty which is owed to people generally (in rem) - *damnum sine injuria* and *injuria sine damnum*
 2. Tort distinguished from crime and breach of contract
 3. The concept of unliquidated damages
 4. Changing Scope of law of torts: expanding character of duties owed to people generally due to complexities of modern society

- 5. Objects - prescribing standards of human conduct, redressal of wrong by payment of compensation, proscribing unlawful conduct by injunctions

3. Principles of Liability in Torts

1. Fault
2. Wrongful intent
3. Negligence
4. Liability without fault
5. Violation of ethical codes
6. Statutory liability
7. Place of motive in torts

4. Justification in Tort

1. Volenti non fit injuria
2. Necessity, private and public
3. Plaintiff's default
4. Act of god
5. Inevitable accident
6. Private defense
7. Statutory authority
8. Judicial and quasi-judicial acts
9. Parental and quasi-parental authority

5. Extinguishments of liability in certain situations

1. Actio personalis moritur cum persona - exceptions
2. Waiver and acquiescence
3. Release
4. Accord and satisfaction
5. Limitation

6. Standing

1. Who may sue- aggrieved - individual- class action - social action group
2. Statutes granting standing to certain persons or groups
3. Who may not be sued?

7. Doctrine of sovereign immunity and its relevance in India

3. Vicarious Liability



1. Basis, scope and justification
 2. Express authorization
 3. Ratification
 4. Abetment
 5. Special relationships
 6. Master and servant- arising out of and in the course of employment - who master?- the control test- who is servant? - borrowed servant - independent contractor and servant, distinguished
 7. Principal and agent
 8. Corporation and principal officer
9. **Torts against persons and personal relations**
1. Assault, battery, mayhem
 2. False imprisonment
 3. Defamation- libel, slander including law to privileges
 4. Marital relations, domestic relations, parental relations, master and servant relations
 5. Malicious prosecution
 6. Shortened expectation of life
 7. Nervous shock
10. **Wrongs affecting property**
1. Trespass to land, trespass ab initio, dispossession
 2. Movable property - trespass to goods, detinue, conservation
 3. Torts against business interests - injurious falsehood, misstatements, passing-off
11. **Negligence**
1. Basic concepts
 2. Theories of negligence
 3. Standards of care, duty to take care, carelessness, inadvertence
 4. Doctrine of contributory negligence
 5. Res ipsa loquitur and its importance in contemporary law
 6. Liability due to negligence: different professionals
 7. Liability of common carriers for negligence
 8. Products liability due to negligence: liability of manufactures and business houses for their products

12. Nuisance

- 1. Definition, essentials and types
- 2. Acts which constitute nuisance- obstructions of highways, pollution of air, water, noise and interference with light and air

13. Absolute /Strict liability

- 1. The rule in rylands v. fletcher
- 2. Liability for harm caused by inherently dangerous industries

14. Legal remedies

- 1. Legal remedies
- 2. Award of damages- simple, special, punitive
- 3. Remoteness of damages- foresee ability and directness
- 4. Injunction
- 5. Specific restitution of property
- 6. Extra- legal remedies self help, re-entry on land, re-capture of goods, distress damages feasant and abatement of nuisance

15. Consumer movements: historical perspective

- 1. Common law protection: contract and torts
- 2. Consumerism in India: food adulteration, drugs and cosmetics- essential Commodities
- 3. Criminal sanction: sale of noxious and adulterated substances, false weights and measures. Use of unfalse carriers

16. Consumers, the concept

- 1. General perspectives
- 2. Statutory and government services: to be included or not?
- 3. Definition and scope: the consumer protection Act 1986 (CPA)
- 4. Who is not a consumer?

17. Unfair Trade Practices

- 1. Misleading and false advertising
- 2. Unsafe and hazardous products
- 3. Disparaging competitors
- 4. Business ethics and business self regulation
- 5. Falsification of trademarks



18. Consumers of goods

1. Meaning of defects in goods
2. Standards of purity, quality, quantity and potency
3. Statutes: food and drugs, engineering and electrical goods
4. Common law: decision of courts
5. Price control
6. Administrative fixation
7. Competitive market
8. Supply and distribution of goods

19. Supply of essential commodities

1. Quality control
2. Sale of goods and hire purchase law
3. Prescribing standards of quality- BIS and Agmark, essential commodities law

20. Consumer safety

1. Starting, distribution and handling of unsafe and hazardous products
2. Insecticides and pesticides and other poisonous substances

21. Service

1. Deficiency - meaning
2. Professional services
3. Medical services
4. How to determine negligence
5. Violation of statute
6. Denial of medical services: violation of human rights
7. Lawyering services: duty- towards - court and duty- to - client dilemma, break confidentiality- negligence and misconduct
8. Public utilities
9. Supply of electricity
10. Telecommunication and postal services
11. Housing
12. Banking

22. Commercial services

1. Hiring
2. Financing
3. Agency services

23. Enforcement of consumer rights

1. Consumer for a under CPA: jurisdiction, powers and functions
2. Execution of orders
3. Judicial review
4. PIL
5. Class action
6. Remedies
7. Administrative remedies

24 - Motor Vehicle Act - 1988
Selected bibliography

1. Salmond and Heuston - on the Law of Torts (2000) Universal, Delhi
2. D.D. Basu, The Law of Torts (1982), Kamal, Calcutta
3. D.M. Gardhi, The Law of Torts (1987), Eastern, Lucknow
4. P.S. Achuthan Pillai, The Law of Torts (1994) Eastern, Lucknow
5. Ratanlal & Dhirajlal, The Law of Torts (1997), Universal. Delhi

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