

Barkatullah University, Bhopal

Syllabus for Colleges

LL.B. (Three Years Course)

LL.B. Part—I (Semester—II)

2018-19

Proposed semester Pattern

	Max	Min	Aggregate
Paper - I Constitutional Law—II	100	40	50%
Paper - II Law of Contract—II (Special Contract)	100	40	50%
Paper - III Law of Crimes	100	40	50%
Paper- IV Administrative Law	100	40	50%
Paper- V Family Law II ( <del>Muslim</del> Law) Mohammedan	100	40	50%

## Paper — I CONSTITUTIONAL LAW-II

The Purpose of teaching constitutional law is to highlight its never- ending growth. Constitutional interpretation is bound to be influenced by one's social economic or political predilections. A student must, therefore learn how various interpretations of the constitution are possible and why a significant interpretation was adopted in a particular situation. Such a critical approaches is necessary requirement in the study of constitutional law.

1. Administration of Union Territories
2. The *Panchayat* and Municipalities
3. The schedule and tribal areas
4. Relation between the Union and the State
5. Distribution of legislative power
6. Administrative relations
7. Disputes relating to water, trade, commerce and intercourse within territory of India
8. Financial provisions: property, contracts, rights, liabilities obligation and suit
9. Public service commissions, service under the Union and the States
10. Tribunals, election, special provisions, relating to certain classes, official language
11. Emergency provision: Proclamation of emergency, effect of emergency, financial emergency
12. Amendment in the Constitution

### Books Recommended:

1. D.D. Basu, Shorter Constitution of India, (1996), Prentic Hall of India, Delhi
2. H.M. Seervai, Constitution of India, Vol.1-3 (1992), Tripathi, Bombay
3. M.P. Singh (ed.), V.N. Shukla Constitutional Law of India (2000), Oxford
4. Indian Constitution, V.N. Shukla
5. Constitution of India, V.P. Mahajan
6. भारत का संविधान- जय नारायण पाण्डे
7. Bakshi P.M. Constitution of India
8. Constituent Assembly Debates Vol. 1 to 12 (1989)
9. G. Austin, Indian Constitution: Cornerstone of a Nation (1972)
10. M. Galanter, Competing Equalities- Law and the backward classes in India (1984) Oxford
11. B. Shivramayan, Inequalities and the Law (1984) Eastern, Lucknow

Paper- II CONTRACT - II (INDIAN CONTRACT ACT,  
INDIAN PARTNERSHIP ACT, SALE OF GOODS  
ACT AND OTHER SPECIFIC CONTRACTS)

**Objectives of the Course**

This course is to be taught after the students have been made familiar with the general principles of contract in which the emphasis is on understanding and appreciating the basic essential of a valid contract and on the existence of contractual relationship in various instances. Obviously a course on special contracts should initiate the students to different kinds of contracts with emphasis on the intricacies therein. This course also should provide an insight into the justification for special statutory provisions for certain kinds of contracts

**Syllabus**

**1. Indemnity**

1. The concept
2. Need for indemnity to facilitate commercial transactions
3. Methods of creating indemnity obligations
4. Definition of indemnity
5. Nature and extent of liability of the indemnifier
6. Commencement of liability of the indemnifier
7. Situations of various types of indemnity creations
8. Documents/ agreements of indemnity
9. Nature of indemnity clauses
10. Indemnity in cases of international transactions
11. Indemnity by governments during interstate transactions
12. Duties of Bailor and Bailee towards each other
13. Rights of bailor and bailee
14. Finder of goods as a bailee
15. Liability towards the true owner
16. Obligation to keep the goods safe
17. Right to dispose of the goods

**2. Pledge**

1. Pledge: comparison with bailment
2. Commercial utility to pledge transactions

4. Definition of pledge under the Indian Contract Act
4. Other statutory regulations (state & Centre) regarding pledge, reasons for the same
5. Rights of the pawner and pawnee
6. Pawnee's right of sale as compared to that of an ordinary bailee
7. Pledge by certain specified persons mentioned in the Indian Contract Act

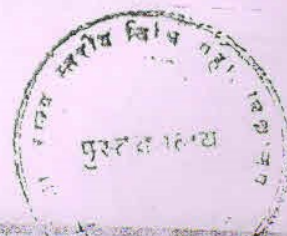
### 3. Agency

1. Identification of different kinds of agency transactions in day to day life in the commercial world
2. Kinds of agents and agencies
3. Distinction between agent and servant
4. Essentials of agency transaction
5. Various methods of creation of agency
6. Delegation
7. Duties and rights of agent
8. Scope and extent of agent's authority
9. Liability of the principal for acts of the agent including misconduct and tort of the agent
10. Liability of the agent towards the principal
11. Personal liability towards the parties
12. Methods of termination of agency contract
13. Liability of the principal and agent before and after such termination

### 4. Sale of goods

1. Concept of sale as a contract
2. Illustrative instances of sale of goods and the nature of such contracts
3. Essential of contracts of sale
4. Essential conditions in every contract of sale
5. Implied terms in contracts of sale
6. The rule of caveat emptor and the exceptions there to under the sale of goods Act
7. Changing the concept of caveat emptor
8. Effect and meaning of implied warranties in a sale
9. Transfer of title and passing of risk
10. Delivery of goods: various rules regarding delivery of goods
11. Unpaid seller and his rights
12. Remedies for breach of contract

(2)



## 5. Partnership

1. Nature of partnership: definition
2. Distinct advantages and disadvantages vis-a vis partnership and private limited company
3. Mutual relationship between partners
4. Authority of partners
5. Admission of partners
6. Outgoing of partners
7. Registration of partnership
8. Dissolution of partnership

### Select bibliography

1. R.K. Abhichandani (ed), Pollock and Mulla on contracts and specific Relief Acts (1999) Tripathi Bombay
2. Avtar Singh, Contract Act (2000) Eastern, Lucknow
3. Krishna Nair, Law of Contract, (1999) Orient
4. Avter Singh, Principal of the Law of Sale of Goods and hire purchase (1998), Eastern Lucknow
5. J.P. Verma (ed), Singh & Gupta, The Law of Partnership in India (1999) Orient Law House New Delhi
6. A.G. Guest (ed), Benjamin's Sale of goods (1992), Sweet and Maxwell
7. Betason (ed), Ansons, Law of Contracts, (1998), Oxford , London
8. Saharay, H.K. Indian Partnership and sale of Goods Act (2000), Universal
9. Ramanainga, The sale of goods Act (1998), Universal

PAPER - III LAW OF CRIMES

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Objectives of the course

The Indian society has changed very rapidly since Independence. A proper understanding of crime methods of controlling them and the socio-economic and political reasons for their existence now extremely important in the larger context of India's development, if students are to use the knowledge and skills to build a just and humane society. The curriculum outline here attempts bring in these new perspectives

Syllabus

1. General

1. Conception of crime
2. Pre-colonial notions of crime as reflected in Hindu, Muslim and tribal law
3. Macaulay's drafts based essential on British notions
4. State's power to determine acts or omissions as crimes
5. State's responsibility to detect control and punish crime
6. Distinction between crime and other wrongs
7. IPC: a reflection of different social and moral values
8. Applicability of I.P.C.
9. Territorial
10. Personal
11. Salient features of the I.P.C.

2. Elements of criminal liability

1. Author of crime- nature and legal person
- ✓ 2. Men rea - evil intention
3. Importance of mens rea
4. Recent trends to fix liability without mens rea in certain socio-economic offences
5. Act in furtherance of guilty intent
6. Omission
7. Injury to another

3. Group liability

1. Stringent provision in case of combination of persons attempting to disturb peace

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2. Common intention     Sec 34
3. Abetment                 107
4. Instigation, aiding and conspiracy     108, 109, 110
5. Mere act of abetment punishable
6. Unlawful assembly     (4)
7. Basis of liability
8. Criminal conspiracy     120
9. Rioting as a specific offence     (59)

4. Stages of a crime

1. Guilty intention- mere intention not punishable
2. Preparation
3. Preparation not punishable
4. Exception in respect of certain offences of grave nature or of peculiar kind such as possession of counterfeit coins, false weights and measures
5. Attempt
6. Attempt when punishable – specific provisions of IPC
7. Tests for determining what constitutes attempt – proximity equivocally and social danger
8. Impossible attempt
- 9.

5. Factors negating guilty intention     (10 to 105)

1. Mental incapacity
2. Minority
3. Insanity- important of cognitive faculties, emotional imbalance
4. Medical and legal insanity
5. Intoxication - involuntary
6. Private defence – justification and limits
7. When private defence extends to causing of death to protect body and property
8. Necessity
9. Mistake to fact

6. Types of punishment     § 3 to 75

1. Death
2. Social relevance of capital punishment
3. Alternatives to capital punishment
4. Imprisonment for life, with hard labour, simple imprisonment

2. Common intention     Sec 34
3. Abetment                 107
4. Instigation, aiding and conspiracy     108, 109, 110
5. Mere act of abetment punishable
6. Unlawful assembly     (u)
7. Basis of liability
8. Criminal conspiracy     120
9. Rioting as a specific offence     159

#### 4. Stages of a crime

1. Guilty intention- mere intention not punishable
2. Preparation
3. Preparation not punishable
4. Exception in respect of certain offences of grave nature or of peculiar kind such as possession of counterfeit coins, false weights and measures
5. Attempt
6. Attempt when punishable – specific provisions of IPC
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#### 5. Factors negating guilty intention     (reference)

1. Mental incapacity
2. Minority
3. Insanity- important of cognitive faculties, emotional imbalance
4. Medical and legal insanity
5. Intoxication - involuntary
6. Private defence – justification and limits
7. When private defence extends to causing of death to protect body and property
8. Necessity
9. Mistake to fact

#### 6. Types of punishment     53 to 75

1. Death
2. Social relevance of capital punishment
3. Alternatives to capital punishment
4. Imprisonment for life, with hard labour, simple imprisonment



11. Cruelty by husband or his relatives  
12. Prevention of sati  
13. Prohibition of indecent representation of women

#### 9. Offences against property

1. Theft
2. Cheating
3. Extortion
4. Robbery and dacoity
5. Mischief
6. Criminal misrepresentation and criminal breach of trust

10. New kinds of crimes such as terrorism, pollution and adulteration

#### 11. Law reforms

#### Select bibliography

1. K.D. Gaur, Criminal Law: Cases and Materials (1999), Butterworths, India
2. Ratanlal- Dhirajlal's Indian penal code (1994 reprint)
3. K.D. Gaur, A Text Book on the Indian penal code (1998), universal Delhi
4. P.S. Achuthan Pillai, Criminal Law (1995) Eastern, Lucknow
5. Hidyathullaw, M. et.al., Ratanlal and Dhirajlal, 's The Indian Penal Code (1994reprint), wadhwa & Co. Nagpur
6. B.M. Gandhi, Indian Penal code (1996), eastern Nagpur

Paper - ~~III~~<sup>IV</sup> ADMINISTRATIVE LAW

Objective of the Course

The modern state governs in the traditional sense, that is, it maintains law and order, adjudicates upon disputes and regulates economic and social life of individuals and groups in the state. In the event of need occasioned by unforeseen hazards 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 aggregate 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 matter as excess or abuse of power, mal 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 vires or in violation of procedural norms; however, not much has so far been achieved in compelling the administration to 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 development perspectives and attainment of social welfare objectives through bureaucratic process. It should go into matters, which facilitate or hinder the attainment of these objectives.

Though in the matter of protection of rights of individuals against administration the role of courts can not be minimized, it is no less important to know the advantages of informal methods of settlement. Many new methods of grievance redressal have been devised 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.

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## Evolutions, Nature and Scope of Administrative Law

1. From a laissez-faire to a social welfare state
2. State as regulator of private interest
3. State as provider of services
4. Other functions of modern state: relief, welfare
5. Evolution of administration as the fourth branch of government- necessity for delegation of powers on administration
6. Evolution of agencies and procedures for settlement of disputes between individual and administration
7. Regulatory agencies on the United States
8. Conseil d'Etat
9. Administrative tribunals in England and India
10. Definition and scope of administrative law
11. Relationship between constitutional law and administrative law
12. Separation of powers
13. Rule of law

## Civil Service in India

1. Nature and organization of civil service: from colonial relics to democratic aspiration
2. Powers and functions
3. Accountability and responsiveness: problems and perspectives
4. Administrative deviance – corruption, nepotism, mal administration

## Legislative powers of Administration

1. Necessity for delegation of legislative power
2. Constitutionality of delegated legislation – powers of exclusion and inclusion and power to modify statute
3. Requirements for the validity of delegated legislation
4. Consultation of affected interests and public participation in rule making
5. Publication of delegated legislation
6. Administrative directions, circulars and policy statements
7. Legislative control of delegated legislation
8. Laying procedures and their efficacy
9. Committee on delegated legislation – their constitution, function and effectiveness
10. Hearings before legislative committees
11. Judicial control of delegated legislation
12. Sub-delegation of legislative powers



## Judicial Powers of Administration

1. Need for devolution of adjudicatory authority on administration
2. Administrative tribunals and other adjudicating authorities: their ad-hoc character
3. Tribunals – need, nature, constitution, jurisdiction and procedure
4. Jurisdiction of administrative tribunals and other authorities
5. Distinction between quasi-judicial and administrative functions
6. The right of hearing – essentials of hearing process
7. No man shall be judge in his own cause
8. No man shall be condemned unheard
9. Rules of evidence – no evidence, some evidence and substantial evidence rules
10. Reasoned decisions
11. The right to counsel
12. Institutional decisions
13. Administrative appeals

## Judicial Control of Administrative Action

1. Exhaustion of administrative remedies
2. Standing: standing for Public Interest Litigation (social action litigation) collusion bias
3. Laches
4. Res judicata
5. Grounds
6. Jurisdictional error/ultra vires
7. Abuse and non-exercise of jurisdiction
8. Error apparent on the face of the record
9. Violation of principles of natural justice
10. Violation of public policy
11. Unreasonableness
12. Legitimate expectation
13. Remedies in judicial review
14. Statutory appeals
15. Mandamus
16. Certiorari
17. Prohibition
18. Quo-warranto
19. Habeas corpus
20. Declaratory judgments and injunctions
21. Specific performance and civil suits for compensation

Administrative Discretion

- 1. Need for administrative discretion
- 2. Administrative discretion and rule of law
- 3. Limitations on exercise of discretion
- 4. Malafide exercise of discretion
- 5. Constitutional imperative and use of discretionary authority
- 6. Irrelevant considerations
- 7. Non-exercise of discretionary power

Liability for Wrongs (Tortious and Contractual)

- 1. Tortious liability: sovereign and non-sovereign functions
- 2. Statutory immunity
- 3. Act of state
- 4. Contractual liability of government
- 5. Government privilege in legal proceedings- state secrets public interest
- 6. Transparency and right to information
- 7. Estoppel and waiver

Corporations and Public Undertakings

- 1. State monopoly- remedies against arbitrary action or for acting against public policy
- 2. Liability of public and private corporations - departmental undertakings
- 3. Legislative and government control
- 4. Legal remedies
- 5. Accountability - Committee on public undertakings, Estimates Committee etc

Informal Methods of Settlement of Disputes and Grievance Redressal

Procedures

- 1. Conciliation and mediation through social action groups
- 2. Use of media, lobbying and public participation
- 3. Public inquiries and commissions of inquiry
- 4. Ombudsman: Lok pal, Lok Ayukata
- 5. Vigilance commission
- 6. Congressional and Parliamentary Committee

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### Selected Bibliography

1. C.K. Allen, Law and Orders (1985)
2. D.D. Basu, Comparative Administrative Law (1985)
3. M.A. Fazal, Judicial Control of Administrative Action in India, Pakistan and Bangladesh (2000), Butterworths - India
4. Franks, Report of the Committee on Administrative Tribunals and Inquiries, HMS, 1959
5. Peter Cane, An Introduction to Administrative Law (1996) Oxford
6. Wade, Administrative Law (Seventh Edition, Indian print 1997), Universal, Delhi
7. J.C. Garner, Administrative Law (1989), Butterworths (ed. B.L. Jones)
8. M.P. Jain, Case and Materials on Indian Administrative Law, Vol. I and II (1996), Universal, Delhi
9. Jain and Jain, Principles of Administrative Law (1997), Universal Delhi
10. S.P. Sathe, Administrative Law (1998) Butterworths - India, Delhi
11. De Smith, Judicial Review Administrative Action (1995), Sweet and Maxwell with supplement
12. B. Schwartz, An introduction to American Administrative Law
13. Indian Law Institute, Cases and Materials on Administrative Law in India. Vol. I (1996), Delhi

PAPER- IV FAMILY LAW (MOHAMMEDAN LAW)

1. Nature of Mohammedan Law (Mohammedan, origin and Development, School and Source)

Gift wills, Marriage, succession Divorce Meher  
Guardianship and Wakf, Dissolution of Marriage Act, 1939  
Law Relating to Christians, Marriage, Divorce and succession

Book recommended:

अकील अहमद	:	मुस्लिम विधि ✓
Mulla	:	Mohammedan Law
Dr. Paras Diwan	:	Muslim Law in Modern India
Aquil Ahmad	:	Mohammedan Law
पारस दीवान	:	आधुनिक मुस्लिम विधि ✓
शुक्ला	:	भारतीय उत्तराधिकार अधिनियम
शुक्ला	:	Indian Divorce Act, 1869
Fyzee AAA	:	Introduction to Jurisprudence
Schat	:	Mohammedan Jurisprudence
Coulson	:	Principles of Mohammedan
मौर्य	:	मुस्लिम विधि ✓
Jhabvala	:	Principles of Mohammedan

