

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.

4. The Concepts of Justice

- 4.1. The concept of justice or Dharma in Indian thought
- 4.2. Dharma as the foundation of legal ordering in Indian thought.
- 4.3. The concept and various theories of justice in the western thought.
- 4.4. Various theoretical bases of justice: the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

5. Relation between Law and Justice

- 5.1. Equivalence Theories - Justice as nothing more than the positive law of the stronger class
- 5.2. Dependency theories - For its realisation justice depends on law, but justice is not the same as law.
- 5.3. The independence of justice theories - means to end relationship of law and justice - The relationship in the context of the Indian constitutional ordering.
- 5.4. Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

Select Bibliography

- Julius Stone, *The Province and Function of Law*, Part II, Chs. 1. 8-16 (2000), Universal, New Delhi.
- Cardozo, *The Nature of Judicial Process* (1995) Universal, New Delhi
- Henry J. Abraham, *The Judicial Process* (1998), Oxford.
- J. Stone, *Precedent and the Law: Dynamics of Common Law Growth* (1985) Butterworths.
- W. Friedmann, *Legal Theory* (1960), Stevens, London.
- Bodenheimer, *Jurisprudence - the Philosophy and Method of the Law* (1997), Universal, Delhi.
- J. Stone, *Legal System and Lawyers' Reasonings* (1999), Universal, Delhi
- U. Baxi, *The Indian Supreme Court and Politics* (1980), Eastern, Lucknow.
- Rajeev Dhavan, *The Supreme Court of India - A Socio -Legal Critique of its Juristic Techniques* (1977), Tripathi, Bombay.

John Rawls, A Theory of Justice (2000), Universal, Delhi

Edward H. Levi, An Introduction to Legal Reasoning (1970), University of Chicago.

PAPER – V : DISSERTATION

The Dissertation shall be a mini research project and shall be in the form of a Research Thesis. (It must have Introduction, Statement of Aims and Objects of Research, Hypothesis, Methodology, Conclusion, Bibliography and Table of Cases. It must be properly footnoted). Thesis shall be of approximately 200 to 250 printed pages of A4 size with single space.

OPTIONAL GROUPS

GROUP (A) : CRIMINAL LAW AND CRIMINAL ADMINISTRATION

PAPER – I : COMPARATIVE CRIMINAL PROCEDURE

1. Organisation of Courts and Prosecuting Agencies

1.1. Hierarchy of criminal courts and their jurisdiction

1.1.1. Nyaya Panchayats in India

1.1.1.1. Panchayats in tribal areas

1.2. Organisation of prosecuting agencies for prosecuting criminals

1.2.1. Prosecutors and the police

1.3. Withdrawal of prosecution.

2. Pre-trial Procedures

2.1. Arrest and questioning of the accused

2.2. The rights of the accused

2.3. The evidentiary value of statements / articles seized / collected by the police

2.4. Right to counsel

2.5. Roles of the prosecutor and the judicial officer in investigation.

- ✓ 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

5. Marine Insurance

- 5.1. Nature and Scope
- 5.2. Classification of marine policies
 - 5.2.1. The Marine Insurance Act, 1963
 - 5.2.2. Marine insurance
 - 5.2.3. Insurable interest, insurable value
 - 5.2.4. Marine insurance policy- condition - express warranties construction of terms of policy
 - 5.2.5. Voyage-deviation
 - 5.2.6. Perils of the sea
 - 5.2.7. Assignment of policy
 - 5.2.8. Partial laws of ship and of freight, salvage, general average, particular charges
 - 5.2.9. Return of premium

6. Insurance Against Accidents

- 6.1. The Fatal Accidents Act, 1855
 - 6.1.1. Objects and reasons
 - 6.1.2. Assessment of compensation
 - 6.1.3. Contributory negligence,
 - 6.1.4 Appportionment of compensation and liability
- 6.2. The Personal Injuries (Compensation insurance) Act 1963
 - 6.2.1. Compensation payable under the Act
 - 6.2.2. Compensation insurance scheme under the Act-Compulsory insurance

7. Property Insurance

- 7.1. Fire insurance
- 7.2. The Emergency Risks (Factories) Insurance
- 7.3. The Emergency Risks (Goods) Insurance
- 7.4. Policies covering risk of explosion
- 7.5. Policies covering accidental loss, damage to property
- 7.6. Policies covering risk of storm and tempest

- 7.7. Glass-plate policies
- 7.8. Burglary and theft policies
- 7.9. Live stock policies
- 7.10. Goods in transit insurance
- 7.11. Agricultural insurance

8. Insurance Against Third Party Risks

- 8.1 The Motor Vehicles Act, 1988
 - 8.1.1 Nature and scope
 - 8.1.2 Effect of insolvency or death on claims of insolvency and death of parties, certificate of insurance
 - 8.1.3 Claims tribunal: constitution, functions, application for compensation, procedure, powers and award
- 8.2 Liability Insurance
 - 8.2.1 Nature and kinds of such insurance
 - 8.2.2 Public liability insurance
 - 8.2.3 Professional negligence insurance

9. Miscellaneous Insurance Schemes: New Dimensions

- 9.1 Group life insurance
- 9.2 Mediclaim, sickness insurance

10. ULIP

11. Role of IRDA

Select Bibliography

- ✓ John Hanson and Christophals Henly, All Risks Property Insurance (1999), LLP Asia, Hongkong.
- ✓ Peter Mac Donald Eggers and Patric Foss, Good Faith and Insurance Contracts (1998) LLP Asia, Hongkong
- ✓ Banerjee, Law of Insurance (1994), Asia Law House, Hyderabad.
- ✓ Mitra B.C, Law Relating to Marine Insurance (1997) Asia Law House, Hyderabad

- ✓ JCB Gilmar and Mustill, Arnold on the Law of Marine Insurance, (1981), Sweet & Maxwell
- ✓ Birds, Modern Insurance Law (1997) Sweet & Maxwell
- ✓ Colinaux's Law of Insurance (1997), Sweet & Maxwell
- ✓ O'Mary on Marine Insurance (1993), Sweet & Maxwell.
- ✓ International Labour Office, Administration Practice of social Insurance (1985)
- ✓ E.R. Hardy Ivamy, General Principles of insurance Law (1979)
- ✓ Edwin W. Patterson, Cases and Materials on Law of insurance (1955)
- ✓ M. N. Sreenivasan Law and the Life Insurance Contract (1914)

PAPER – VI : CORPORATE FINANCE

1. Introduction

- 1.1. Meaning, importance and scope of corporation finance
- 1.4. Capital needs - capitalisation - working capital - securities-borrowings-deposits debentures
- 1.5. Objectives of corporation finance - profit maximisation and wealth maximisation
- 1.6. Constitutional perspectives - the entries 37, 38, 43, 44, 45, 46, 47, 52, 82, 85, and 86 of List 1 - Union List; entry 24 of List 11 - State List.

2. Equity Finance

- 2.1. Share capital
 - 2.1.1. Prospectus - information disclosure
 - 2.1.2. Issue and allotment
 - 2.1.3. Shares without monetary consideration
 - 2.1.4. Non-opting equity shares

3. Debt Finance

- 3.1. Debentures
 - 3.1.2. Nature, issue and class
 - 3.1.3. Deposits and acceptance
 - 3.1.4. Creation of charges
 - 3.1.4.5. Fixed and floating charges

3.1.5. Mortgages

3.1.6. Convertible debentures

4. Conservation of Corporate Finance

4.1. Regulation by disclosure

4.2. Control on payment of dividends

4.3. Managerial remuneration

4.4. Payment of commissions and brokerage

4.5. Inter-corporate loans and investments

4.6. Pay-back of shares

4.7. Other corporate spending

5. Protection of creditors

5.1. Need for creditor protection

5.1.1. Preference in payment

5.2. Rights in making company decisions affecting creditor interests

5.3. Creditor self-protection

5.3.1. Incorporation of favourable terms in lending contracts

5.3.2. Right to nominate directors

5.4. Control over corporate spending

6. Protection of Investors

6.1. Individual shareholder right

6.2. Corporate membership right

6.3. Derivative actions

6.4. Qualified membership right

6.5. Conversion, consolidation and re-organisation of shares

6.6. Transfer and transmission of securities

6.7. Dematerialisation of securities

7. Corporate Fund Raising

7.1. Depositories – IDR (Indian depository receipts), ADR (American depository receipts), GDR (Global depository receipts)

7.2. Public financing institutions - IDBI, ICICI, IFC and SFC

7.3. Mutual fund and other collective investment schemes

- 7.4. Institutional investments - LIC, UTI and banks
- 7.5. FDI and NRI investment - Foreign institutional investments (IMF and World bank)

8. Administrative Regulation on Corporate Finance

- 8.1. Inspection of accounts
- 8.2. Role of SEBI and Tribunal
- 8.3. Central government control
- 8.4. Control by registrar of companies
- 8.5. RBI control

Select Bibliography

- Alastair Hundson, The Law on Financial Derivatives (1998), Sweet & Maxwell
- Eil's Ferran, Company Law and Corporate Finance (1999), Oxford.
- Jonathan Charkham, Fair shares: the Future of Shareholder Power and Responsibility (1999), Oxford.
- Ramaiya A, Guide to the Companies Act (1998), Vol. I, II and III.
- H.A.J. Ford and A.P. Austen, Fords' principle of Corporations Law (1999) Butterworths.
- J.H. Farrar and B.M. Hanniyan, Farrar's company Law (1998) Butterworths
- Austen R.P., The Law of Public Company Finance (1986) LBC
- R.M. Goode, Legal Problems of Credit and Security (1988) Sweet and Maxwell
- Altman and Subrahmanyam, Recent Advnces in Corporate Finance (1985) LBC
- Gilbert Harold, Corporation Finance (1956)
- Henry E. Hoagland, Corporation Finance (1947)
- Maryin M. Kristein, Corporate Finance (1975)
- R.C. Osborn, Corporation Finance (1959)
- S.C. Kuchhal Corporation finance : Principles and Problems (6th ed. 1966)
- V.G. Kulkami, Corporate Finance (1961)
- Y.D. Kulshreshta, Government Regulation of Financial management of Private Corporate Sector in India (1986)

Journals - Journal of Indian Law Institute, Journal of Business Law, Chartered Secretary, Company Law Journal, Law and Contemporary Problems.

Statutory Materials - Companies Act and laws relating SEBI, depositories, industrial financing and information technology.

GROUP (C) - ENVIRONMENT AND LEGAL ORDER
(ENVIRONMENTAL LAW)

PAPER – I : ENVIRONMENT AND DEVELOPMENT: LAW
AND POLICY

1. The Idea of Environment

- 1.1. Ancient and medieval writings
- 1.2. Traditions
- 1.3. Natural and biological sciences: perspectives
- 1.4. Modern concept: Conflicting dimension

2. Development

- 2.1. Theories of development
- 2.2. Right to development
- 2.3. Sustainable development - national and international perspectives
- 2.4. Developing economies

3. Policy and Law

- 3.1. From Stockholm to Rio and after
- 3.2. Post - Independence India
- 3.3. Role of government
 - 3.3.1. Five Year Plans
 - 3.3.2. Forest Policy
 - 3.3.3. Conservation strategy
 - 3.3.4. Water policy

4. Population, Environment and Development

- 4.1. Population explosion and environmental impact
- 4.2. Population and development