

Chanakya National Law University, Patna
B.A.LL. B (H) / B.B.A., LL.B. (H) A.Y. 2024-25; SEMESTER- VII

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| Course Title: Corporate Governance |
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Course Overview

This is a Corporate Honours Course paper. The Company's value is contingent upon the implementation of effective corporate governance practices, which serve to protect investors. By safeguarding shareholders, these practices contribute to better risk management, subsequently leading to a reduction in the cost of capital. As a result, the set of governance practices, rules, and regulations that foster private sector investment and job creation also enhance firm value. Corporate governance encompasses the systems and processes designed to address two distinct principal-agent (PA) challenges that arise within large corporations. These challenges emerge due to the separation of ownership of residual cash flow and control. The first PA problem arises between capital owners (shareholders) and managers, while the second occurs between dispersed shareholders and concentrated block holders of the company. The primary goal of the course is to explore and provide insights into the fundamental inquiries and solutions pertaining to corporate governance, including the relevant theories and empirical research that shed light on these matters. The course syllabus covers various aspects within the legal framework, including the roles and responsibilities of shareholders (the individuals who own the company), boards of directors (who act as representatives of the shareholders), and executive management (who act as agents). Additionally, the syllabus encompasses topics such as executive compensation policies, boardroom structure and procedures, corporate transparency and disclosure, as well as the significance of shareholder voting. The course delves into corporate pyramid structures, hostile takeovers, and the deficiencies of the corporate control market. It also explores the involvement of financial institutions and credit rating agencies in promoting corporate governance, emphasizing how transparency, accountability, responsibility, and equitable treatment of shareholders contribute to improved corporate governance and mitigate conflicts between shareholders, management, and the board of directors.

Learning Outcomes

The course aims to give students Ability to understand the key mechanisms of corporate governance, the policies influencing them and the empirical methods used in this subject.

On completion of the course, students will be able to:

1. Understand the core principles of Corporate Governance
2. develop their analytical faculties by identifying and resolving legal issues relating to the operation of companies in terms of the relationship between the board of directors and the General Meeting
3. develop their critical faculties by evaluating the rules, policies, and principles of Indian company law
4. evaluate legal materials and effectively apply them to practical corporate problems.

Detailed Syllabus

| Module | Topics | Hours |
|--|---|----------------|
| Module-1 Corporate Governance | 1.1 Introduction 1.2 Corporate Governance in India- An Overview 1.3 Code of Corporate Governance Initiatives in India 1.4 Concept and Definition 1.5 Perspectives on Corporate Governance 1.6 Stakeholders Role 1.7 Separation of Ownership and Control 1.8 Corporate Governance Pillars 1.9 Corporate Governance Framework 1.10 System of Good Corporate Governance 1.11 Elements of Good Corporate Governance 1.12 Disclosure and Transparency 1.13 Management Vs Governance | 7 Hours |
| Module-2 Principles of Corporate Governance | 2. G20/OECD Corporate Governance Principles | 4 Hours |

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| Module- 3 Board of Directors | 3.1 Role of the Board 3.2 Composition and Structure 3.3 A Balanced Board 3.4 Role of the Chairman 3.5 Role separation of Chairman & CEO 3.6 Duties & Responsibilities 3.7 Board Meetings 3.8 Board Effectiveness | 7 Hours |
| | 3.9 Dysfunctional Board 3.10 Information to be placed before the Board 3.11 Role and Functions of Independent Directors 3.12 Guidelines for Professional Conduct of Independent Directors | |
| Module-4 Board Committees | 4.1 Overview of Board Committees 4.2 Audit Committee 4.3 Nomination & Remuneration Committee 4.4 Stakeholders Relationship Committee 4.5 Strategy Planning Committee 4.6 Risk Management Committee | 6 Hours |
| Module-5 Corporate Governance Procedures | 5.1 General Meetings 5.2 Corporate Finance 5.2.1 Financial Controls 5.2.2 Role of CFO 5.2.3 International Financial Reporting Standards (IFRS) 5.2.4 Goods and Services Tax (GST) 5.2.5 Financial stewardship and accountability 5.3 Establishment of Vigil Mechanism (Whistle Blower Policy) 5.4 Protection of Minority Shareholders 5.5 Class Action Suits 5.6 Secretarial Audit for Bigger Companies 5.7 Corporate Governance requirements with respect to subsidiary of Listed Entity 5.8 Related Party 5.8.1 Related Party Transactions 5.8.2 Disclosures – Related Party Transactions 5.8.3 Contract or Arrangement with a Related Party 5.9 Prohibition on Insider Trading of Securities 5.10 Prohibition & Restrictions regarding Political Contribution 5.11 Loan and Investments 5.12 Internal Audit | 8 Hours |

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| Module-6: Strategic Leadership | 6.1 The Governance of Strategy 6.2 Evaluating strategy delivery 6.3 The governance of risk: Cyber Security & Enterprise Risk Management 6.4 Corporate Responsibility 6.5 Corporate Social Responsibility | 6 Hours |
| Module-7: Business Ethics and Integrity | 7.1 Corporate Governance and Business Ethics 7.2 Integrity 7.3 What a board can do? | 6 Hours |
| | 7.4 Ethics Committee 7.5 Creation of Ethical climate- Role of Directors 7.6 Disclosure of Interest by Directors | |
| Module-8: Board and Directors' Performance Evaluation | 8.1 Purpose of Evaluation 8.2 Key elements 8.3 Evaluation Process 8.4 Individual Performance Evaluation 8.5 Evaluation of Non-Executive Directors 8.6 Evaluation of Chairperson 8.7 Evaluation of Independent Directors 8.8 Evaluation of the Committees 8.9 Evaluation of CEO | 8 Hours |
| Module-9: Global Trends | 9.1 Introduction 9.2 Corporate Governance in Emerging markets 9.3 Global Corporate Governance Practices: Japan, Australia, UK, South Africa 9.4 Challenges in Global trends of Corporate Governance 9.5 Reforms to address Challenges | 7 Hours |

ESSENTIAL READINGS

| S.No | Citations |
|-------------|--|
| 1. | Murthy, Narayana N.R. "Corporate Governance and Its Relevance to India." <i>India International Centre Quarterly</i> 38, no. 3/4 (2011): 280–88. http://www.jstor.org/stable/41803985 . |
| 2. | Morrison, Janet. "Legislating for Good Corporate Governance: Do We Expect Too Much?" <i>The Journal of Corporate Citizenship</i> , no. 15 (2004): 121–33. http://www.jstor.org/stable/jcorpciti.15.121 . |
| 3. | Tirole, Jean. "Corporate Governance." <i>Econometrica</i> 69, no. 1 (2001): 1–35. http://www.jstor.org/stable/2692184 . |
| 4. | Jacoby, Sanford. "Corporate Governance and Society." <i>Challenge</i> 48, no. 4 (2005): 69–87. http://www.jstor.org/stable/40722316 . |

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| 5. | Kling, Blair B. "The Origin of the Managing Agency System in India." <i>The Journal of Asian Studies</i> 26, no. 1 (1966): 37–47. https://doi.org/10.2307/2051830 . |
| 6. | The Managing Agency System: A Case for Its Abolition Author: R.K. Hazar https://www.epw.in/system/files/pdf/1964_16/5-6-7/the_managing_agency_systema_case_for_its_abolition.pdf |
| 7. | Corporate Law in Colonial India: Rise and Demise of the Managing Agency System, NUS Working Paper 2015/016 NUS Centre for Law & Business Working Paper 15/06 NUS Centre for Asian Legal Studies Working Paper 15/11, https://law.nus.edu.sg/wp-content/uploads/2020/04/016_2015_Umakanth-Varottil.pdf |
| 8. | G20/OECD Principles available at https://www.oecd.org/daf/ca/CorporateGovernance-Principles-ENG.pdf |
| 9. | "The Role and Composition of the Board of Directors of the Large Publicly Owned Corporation—STATEMENT OF THE BUSINESS ROUNDTABLE." |
| | <i>The Business Lawyer</i> 33, no. 4 (1978): 2083–2113. http://www.jstor.org/stable/40685901 . |
| 10. | Williamson, Oliver E. "Corporate Boards of Directors: In Principle and in Practice." <i>Journal of Law, Economics, & Organization</i> 24, no. 2 (2008): 247–72. http://www.jstor.org/stable/40058166 . |
| 11. | Bhattacharya, S. K. "Managing the Board." <i>Economic and Political Weekly</i> 16, no. 35 (1981): M103–12. http://www.jstor.org/stable/4370164 . |
| 12. | Kang, Lakhwinder Singh, and Payal. "Independence of Remuneration Committee & Executive Remuneration in India." <i>Indian Journal of Industrial Relations</i> 52, no. 1 (2016): 17–36. http://www.jstor.org/stable/43974595 . |
| 13. | Varottil, Umakanth. "India's Corporate Governance Voluntary Guidelines 2009: Rhetoric or Reality?" <i>National Law School of India Review</i> 22, no. 2 (2010): 1–28. http://www.jstor.org/stable/44283789 . |
| 14. | "The Role and Composition of the Board of Directors of the Large Publicly Owned Corporation—STATEMENT OF THE BUSINESS ROUNDTABLE." <i>The Business Lawyer</i> 33, no. 4 (1978): 2083–2113. http://www.jstor.org/stable/40685901 . |
| 15. | Baysinger, Barry D., and Henry N. Butler. "Corporate Governance and the Board of Directors: Performance Effects of Changes in Board Composition." <i>Journal of Law, Economics, & Organization</i> 1, no. 1 (1985): 101–24. http://www.jstor.org/stable/764908 . |
| 16. | Dharmapala, Dhammika, and Vikramaditya Khanna. "Corporate Governance, Enforcement, and Firm Value: Evidence from India." <i>Journal of Law, Economics, & Organization</i> 29, no. 5 (2013): 1056–84. http://www.jstor.org/stable/43774383 . |
| 17. | Maheshwari, Sunil Kumar, and Ramesh Bhat. "Functioning of Boards in PSBs in India." <i>Indian Journal of Industrial Relations</i> 54, no. 1 (2018): 193–98. https://www.jstor.org/stable/26536522 . |

CORPORATE GOVERNANCE ASSESSMENT PROJECT AND PRESENTATION

The instructor will distribute a corporate governance Questionnaire to all students at the beginning of the session. The survey instrument was prepared by the instructor for the purpose of corporate governance rating of listed companies and it is currently in use in a number of locations.

Each student will be identify minimum 2 publicly traded company (preferably a BSE 500 firm) at the beginning of the session. This is the company the student will analyse and assess the corporate governance compliance and identify any weaknesses.

You will conduct research on recent corporate governance related articles about the S&P 500 company you have been assigned.

These sources may include the corporate website, SEBI, the BSE/NSE, or the Wall Street Journal or other business periodicals (FT, Fortune, Forbes, Bloomberg, CNBC, etc.).

a- About the Corporate Governance Survey and Scoring project:

- This is **an individual** project.
- You may work as a group or individually as this will facilitate your understanding of the topic. The paper is individually graded.
- Individuals or teams may request meetings with the instructor as required to clarify any issues.
- The final project will be submitted via MS Teams and Hard Copy by each individual student on due date.

The goal of this assignment is to conduct a corporate governance scoring survey, and provide the corporate governance assessment of a listed company based on the OECD principles of corporate governance.

The learning objective of this exercise is to understand how the CG Principles are operationalized.

Students will write a corporate governance assessment paper and provide recommendations. Papers will be individual.

b- Guidance on structural details of the project:

Write your paper in MEMO format to the investment committee at your company.

The paper should not exceed the maximum of 6–8 pages, excluding appendices.

There is no limit on the number of appendices you may provide.

Try to be concise in your report. Avoid using language directly from any website; make sure you properly reference all statements from any sources.

Summarize the information in your own words, and provide references when necessary.

Please use the following structure for your Corporate Governance Assessment paper:

- i) **Executive Summary/Introduction :** (1–2 pages maximum) Using the data you have collected from the company website and other publicly available information, prepare the executive summary that should clearly state the objectives, background and the main findings of your corporate governance assessment paper on the selected company.
- ii) **Company Background :** (1 page maximum) Prepare a brief, one page maximum review of the company background, important issues reported in its US SEC filings, and other information you have collected. You may provide the following information in an attached exhibit, with proper references provided.
- (1) The company organization, its values, vision, mission, products (keep it very short);
 - (2) Corporate financial information, revenues, capitalization, stock price, ROE, ROI, PE ratio, Book/Market ratio, its management team and corporate governance practices. Using a table in the appendix, discuss some of the highlights. (prepare a short table of information and attach it to the end in an appendix);
 - (3) Do not simply copy and paste from company web site. Summarize the information in your own words.
 - (4) Make sure you provide references properly. Provide the list of references at the end of the report.
- iii) **The Written Report on CG Questionnaire:** Using the 100-question CG survey instrument you are provided, determine your survey findings and calculate the CG score. Using the guidance in the provided survey instrument, rank this company (from 1–5) based on your survey score (if any). A suggested structure is as follows:
- (1) Process the questions in the Excel spreadsheet survey, summarize your findings, and provide charts and exhibits. Try to keep it short.
 - (2) If and when appropriate, explain why some of the survey questions may or may not be applicable.
 - (3) Discuss your CG Scoring findings. Copy and paste the summary table and the chart into your report (from the top of the spreadsheet that automatically populates the results). **(DO NOT INCLUDE THE COMPLETED EXCELSREADSHEET SURVEY WITH YOUR REPORT)**
 - (4) Discuss specifically the corporate governance Strengths, Weaknesses, Opportunities and Threats (SWOT), and how some of the observations you have made relate to pertinent topics covered in the course.
 - If you source any data from the company web site, provide reference.
 - For any such information, you may paraphrase and write it in your own words.

- iv) **Findings and conclusions:** (2 pages maximum) provide a small summary table of findings and discuss the SWOT. Discuss any of the available corporate governance mechanisms that are relevant to the chosen firm and the advantages and disadvantages of those mechanisms. While discussing your findings, try to bring in academic literature and/or provide practical evidence to support your argument.
- Discuss the main CG issues that you identified given the theoretical background.
 - The conclusions should summarize the main findings and discuss their implications for the particular firm, investors, regulators and the economy.
 - Your recommendations should have three to five specific points the company board could do to improve a situation you have determined in the company.
- v) **Attachments:** Include references, charts figures and/or tables as evidence to support your report.
- vi) **Class Presentation/Discussion:** This is part of Project Viva- participation, in addition to the written report.

Evaluation Criteria

| Components | Description | Weightage in % |
|--------------------------|---|----------------|
| Attendance | Maximum of Five (5) marks, in each course, shall be assigned to regularity in attendance. | 5% |
| Project Report | Maximum of Twenty (20) marks shall be assigned for Project Work in Each Course, out of which a maximum of Sixteen (16) marks for | 16% |
| | written project The assignment on a problem shall be allotted by the teacher concerned at the beginning of the Semester and students are expected to write the same within the prescribed time frame. The modalities of the assignment including evaluation shall be decided by the teacher. The project assignment is intended to develop skills of inquiry, analysis, interpretation, legal writing and critiquing. | |
| Presentation | Four (4) marks, in each course, will be allotted to oral presentation. | 4% |
| Mid-Semester Examination | Fifteen (15) marks shall be assigned for the Mid Semester Examination. No repeat Mid Semester Examination will be conducted. | 15% |

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| End-Semester Examination | Sixty (60) marks shall be assigned for the End Semester Examination of a comprehensive nature conducted by the end of the Semester | 60% |
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Recommended/Reference Text Books and Resources:

Text Books

One or any of the following books:

1. Dignam, A. and J. Lowry Company law. (Oxford: Oxford University Press, 2022) 12th edition [ISBN 9780192865359].
2. A. Ramaiya Guide to Companies Act, Lexis NexisButterworths, Wadhwa, Nagpur
3. Dr.Avtar Singh Company Law, EBC, Latest edition.
4. Pettet's Company Law and Corporate Finance J. Lowry and A. Reisberg (Harlow, Longman, latest ed)
5. Gower and Davies' Principles of Modern Company Law (latest ed)
6. Hannigan's Company Law (Oxford: OUP, latest ed)
7. L.S. Sealy and S. Worthington Cases and Materials in Company Law (Oxford, OUP latest edition)

Web Resources

<https://www.mca.gov.in/content/mca/global/en/acts-rules/ebooks.html>

Instructor Details

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| Name of the Instructor: | Nandita S Jha |
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Signature

Chanakya National Law University, Patna
B.A., LL.B (Hons.) & B.B.A., LL.B. (Hons.)
SEMESTER- VII
Academic Year (2024-2025)

Course Title: Criminology, Penology and Victimology

Course Overview

Criminology is the scientific study of the processes of the making of laws, breaking of laws and the reactions towards the breaking of laws. The scope of Criminology includes etiology of crime, prevention of crime, treatment of offenders, victimology and related areas. Criminology is an interdisciplinary subject that cannot be taught as an isolated branch of knowledge. Studying crime and criminal behaviour is complemented by comprehensive understanding of subjects such as criminal justice, juvenile delinquency, victimology, theories of crime, contemporary crimes, penology, research methods and security management. The understanding and acquaintance of criminology, penology and victimology is significant with regard to its repute and relevance, general in legal fraternity and specific in criminal administration of justice. Substantial knowledge of this subject is equally relevant and significant for the legal professionals in their specific field of practice.

This course is designed to provide the students; pursuing five year LL.B. program, with the conceptual and operational parameters, of criminology, penology & victimology & equip students with the appropriate tools of analysis to tackle problems in the field.

- Module one deals with introduction: theoretical foundation of crime and criminology.
- Module two deals with Schools of Criminology and Different Theories of Criminology.
- Module three deals with White-Collar Crime & Organized Crime
- Module four covers with Juvenile Delinquency.
- Module five focuses on emerging issues of Penology
- Module six analyses the Prison System and Probation & Parole
- Module seven analyses the Police and prison.
- Module eight analyses the victimology.

Learning Outcomes

The course aims to give a comprehensive and critical understanding of criminology, penology and victimology. laws.

On completion of the course, students will be able to:

1. Understand the theoretical foundation of criminology.
2. Analyse the various criminological schools.
3. Develop understanding of the penal system and criminal justice system.

4. Understand the philosophy of punishment.
5. Analyse the Police and Probation.
6. Know the various dimensions of victimology.

| Topic/ Module | Contents/ Concepts | Sessions / Lectures |
|----------------------|--|----------------------------|
| Module I: | INTRODUCTION: THEORETICAL FOUNDATION OF CRIME AND CRIMINOLOGY | 7 Lectures |
| | <p>A. Meaning and definition of crime –legal and social definitions , Elements of crime, Fundamental characteristics of criminal law, Concept of Criminal-Who is criminal</p> <p>B. Meaning, definitions and origin of Criminology, Types of Criminology,Nature- Whether criminology is Science, Scope, Relationship between Criminal Policy, Criminal Law and Criminology</p> | |
| Module II: | SCHOOLS OF CRIMINOLOGY AND DIFFERENT THEORIES OF CRIMINOLOGY | 15 Lecture |
| | Concept of school and its significance, Pre- Classical, Classical, Neo-Classical Schools, Positivist / Positive School, Cartographic School, Psychodynamic Theory - Sigmund Freud , Sociological School (Social Disorganization Theories – Durkheim, Merton, Learning Theories of Causation – Differential Association Theory of Sutherland), Socialist school (Marx & Bonger’s theory of crime), Multi-Factor Approach Feminist school of criminology | |
| Module III: | WHITE-COLLAR CRIME &ORGANIZED CRIME | 5 lectures |

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| | <p>A. WHITE-COLLAR CRIME</p> <p>Definitional evolution of white-collar crime, Types of White collar crimes, Components of white collar crimes, Characteristics and activities of white collar crimes, NN Vohra Committee report, Socioeconomic offences in India & law.</p> <p>B. ORGANIZED CRIME</p> <p>Organized crime, Hierarchical organizational structures, Characteristics of organized crimes, Types of organised crimes.</p> | |
| Module IV: | JUVENILE DELINQUENCY | 3 Lectures |
| | <p>Concept, Nature and Extent of Juvenile Delinquency in India, Major Factors, Legal Provision and Juvenile Justice System, Programme for Control and Prevention of Delinquency.</p> | |
| Module V: | PENOLOGY | 15 Lectures |
| | <p>Penology – definition, nature and scope. Punishment: Significance, Concept, Aims and Types, forms & methods, Punishment-in ancient, medieval and modern times, Theories of Punishment. Sentencing, Principles, Policies and Procedures. Capital Punishment. Recent approaches to Punishment, Restorative Justice, Restitution and Victim-offender Mediation.</p> | |
| Module VI: | PRISON SYSTEM AND PROBATION & PAROLE | 3 Lecture |

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| | <p>A. Prison System</p> <p>Prison: Meaning and purpose History and evolution of Prison legislations , Prison Manuals and rule, Various Prison Reforms Committees and Commission, Open prison, Role of judiciary in improvisation of prison system in India , Individualization of treatment, Premature release and remission, Prison Adalat.</p> <p>B. Probation & Parole</p> <p>Definitions, Nature of probation and parole, Law relating to Probation, Duties of Probation Officers, Difference between Parole and Probation, Distinction between Parole and Furlough, Authority for granting Parole, Supervisor of Parole, Problems of the released offender, Attitude of the community towards released offender</p> | |
| MODULE- VII | POLICE SYSTEM | Lectures 2 |
| | Historical development of police system, Organisation of police system, Objectives and functions of policing, Police & Public, Interface with the community, executive, prosecution and judiciary; committees on police reforms. | |
| MODULE- VIII | VICTIMOLOGY | Lectures 10 |
| | <p>The Concept of Victimology, Constituent Elements of Crime and Victimology & Nature and Scope of Victimology, Historical development of victimology, Causes of victimization, Classification of victims, Forms of victimization, Key concepts: Victim precipitation, facilitation, provocation, proneness, victim blaming, Fear of crime, Legal protection to Victim & Compensation under various laws, National and International</p> | |

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| | Organizations relating to victim protection. | |
| | Contemporary Developments in Victimology: Mass Victims and Mass Victimization, Clinical Victimology, Therapeutic Jurisprudence, Cyber Victimology, Positive Victimology. | |

Evaluation Criteria

| Components | Marks Allotted |
|--------------------------|----------------|
| Attendance | 05 |
| Project Report | 16 |
| Presentation | 4 |
| Mid-Semester Examination | 15 |
| End-Semester Examination | 60 |
| Total Marks | 100 |

SUGGESTED READINGS:

1. Siddique Ahmad, 2018, Criminology & Penology with Victimology, EBC, Lucknow
2. Paranjape NV, 2014, Criminology and Penology, 2nd edition, Central Law Publication, Allahabad, U.P.
3. Sirohi, JPS, (2014), Criminology and Penology, Allahabad law agency
4. Sutherland, E. H., & Cressey, D. R. (1974). Principles of Criminology. Philadelphia, PA: Lippincott.
5. Ph.D. Schmallegger, Frank (Author) Criminology Today: An Integrative Introduction, 9th edition, Pearson, 2014
6. Siegel, L. (2017). Criminology: Theories, patterns and typologies (13th ed.). Sydney: Cengage Learning.
7. Vibhuti K.I. 2008, PSA Pillai's Criminal Law 10th Edition, Lexis Nexis, Butter Worth Publishers.
8. Ratanlal and Dhiraj Lal: Indian Penal Code, Wadhwa & Co.

9. Gour K.D.: Criminal Law - Cases and Materials, Butterworth Co.
10. Kenny's: Outlines of Criminal Law, Cambridge University Press.
11. Maguire Mike, Morgan Rod and Reiner Robert, 2007. The Oxford Handbook of Criminology, Oxford University Press.
12. Ahuja Ram, 2000, Criminology, Rawat Publication, New Delhi.
13. Brien, Martin O, 2008, Criminology, Routledge Publishers.
14. Chaturvedi J.C, 2006, Penology and Correctional Administration, Isha Books Delhi.
15. Kumari, V. (2017). The Juvenile Justice (Care and Protection of Children) Act 2015: Critical analyses. Gurgaon, Haryana, India: Universal Law Publishing, an imprint of LexisNexis.
16. Whitehead, J. T., & Lab, S. P. (2013). Juvenile justice: An introduction. Waltham, MA: Lexis Nexis Matthew Bender.
17. Stephen G. Tibbetts, Criminological Theory, Third Edition, 2018
18. Siegel, Larry, Criminology: Theories, Patterns and Typologies, 10th Edition, 2010

LEGISLATIONS:

- The Identification of Prisoners Act, 1920
- Constitution of India, 1950
- The Transfer of Prisoners Act, 1950
- The Representation of Peoples Act, 1951
- The Prisoners (Attendance in Courts) Act, 1955
- The Probation of Offenders Act, 1958
- The Code of Criminal Procedure, 1973
- The Mental Health Act, 1987
- Juvenile Justice (Care and Protection) Act, 2015
- The Repatriation of Prisoners Act, 2003

- Model Prison Manual (2003)

REPORTS:

- Law Commission of India 262nd Report on Death Penalty
- NLUD Report on Death Penalty, 2016
- 47th Law Commission Report on "The Trial and Punishment of Social and Economic Offences" (1972)
- Malimath Committee Report
- Justice J. S. Verma Committee Report Amendments to the Criminal Law

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| Name of the Instructors: | Dr. Kumar Gaurav |
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CHANAKYA NATIONAL LAW UNIVERSITY, PATNA

Course Title: ENVIRONMENTAL LAW

B.A., LL.B. (H) & B.B.A., LL.B. (H) (Semester VII)

(Academic Year 2024 - 25)

Course Overview

Over the past few decades, there has been a growing recognition among people worldwide about the deteriorating state of the environment. The uncontrolled and thoughtless pursuit of economic growth has begun to manifest harmful consequences on Earth. Environmental law encompasses legal measures aimed at safeguarding the environment, covering issues such as climate change, the preservation of natural resources, and the evaluation of environmental impacts.

The course will take into consideration the socio-political circumstance that environmental law operates in and it will also explore the complex and ever-expanding case law and legislation on the subject. Students will examine how law can be used to develop a cleaner, safer and more stable economy to protect the health and the natural resources of present and future generations. By the end of this course, students will be able to understand the various aspects of environmental law and determine whether and how to use legal tools to resolve environmental issues.

Learning Outcomes

- To understand the evolution and relevance of current environmental law and policy.
- In this course students will examine and develop an understanding of major environmental challenges facing India and the international community.
- This course will provide students with an understanding of the major environmental statutes and the constitutional law and common law principles that are relevant to environmental protection.
- Understanding the theory and concept of sustainable development, including its applicability to many disciplines and its many definitions.
- Explore the tools and approaches necessary to identify, analyze, and apply the theory of sustainability to real world legal situations.
- Understanding of the Constitutional powers, roles, and responsibilities of the Central and State governments in the field of environmental law.
- Acquiring the skills needed for interpreting laws, policies and judicial decisions.

Module – I

Introduction to Environmental Laws

[5 Lectures]

- a) Environment – Meaning and Scope
- b) Pollution – Air, Water, Environmental - Meaning, Causes and Effects
- c) Dimensions and Magnitude of the Problem of Environmental Degradation and the need for Legal Control of Pollution
- d) International and National Efforts for Environmental Protection
- e) Constitution of India and Environment
- f) Environmental Policy Resolution, Objects and Schemes

Module – II

Judicial Remedies and Procedures

[6 Lectures]

- a) Law of Tort and Environment
- b) Law of Crimes and Environment
- c) Public Interest Litigation and Environmental Protection
- d) The Bhopal Gas Leak Case
- e) National Green Tribunal

Module – III

Sustainable Development and Basic Environmental Principles

[8 Lectures]

- a) Concept and Scope
- b) Precautionary Principle
- c) Polluter Pays Principle
- d) Intergenerational Equity
- e) Intragenerational Equity
- f) Public Trust Doctrine
- g) Public Participation in Environmental Decision Making

Module – IV

International Concern for Environment Protection

[10 Lectures]

- a) Stockholm Declaration of 1972
- b) Earth Summit: The Rio-Declaration on Environment and Development, 1992
- c) Convention on Biological Diversity, 1992
- d) Aarhus Convention, 1998
- e) Cartagena Protocol on Biosafety, 2000
- f) World Summit on Sustainable Development, 2002
- g) Nagoya Protocol on Access and Benefit Sharing, 2010
- h) United Nations Conference on Sustainable Development (UNCSD), Rio 2012 (Rio+20)

Module– V

The Water (Prevention and Control of Pollution) Act, 1974

[5 Lectures]

- a) Salient Features of the Act
- b) Pollution Control Boards and their Functions
- c) Mechanism to Control the Pollution with reference to Sampling, Consent Mechanism and power to give directions
- d) Procedure and Penalties

Module– VI

The Air (Prevention and Control of Pollution) Act, 1981

[5 Lectures]

- a) Salient Features of the Act
- b) Pollution Control Boards and their Functions
- c) Mechanism to Control the Pollution with reference to Sampling, Consent Mechanism and Power to give directions
- d) Procedure and Penalties

Module– VII

The Environment Protection Act, 1986

[5 Lectures]

- (a) Salient Features of the Act
- (b) Definitions
- (c) Central Government's powers to take Environmental Measures.
- (d) Mechanism to Control the Pollution
- (e) Procedure and Penalties
- (f) Environmental Impact Assessment
- (g) Regulation of Hazardous Substances

Module– VIII

Control of Noise Pollution

[3 Lectures]

- a) Effects of Noise on Human Health
- b) Legal Measures to Control Noise Pollution

Module–IX

Forests, Wildlife and Biodiversity Conservation

[6 Lectures]

- a) Indian Forest Act, 1927
- b) Wildlife Protection Act, 1972
- c) The Forest (Conservation) Act, 1980
- d) The Biological Diversity Act, 2002

- e) The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Module–X

Climate Change Law

[5 Lectures]

- a) Evolution of International Regime of Climate Change
- b) UN Framework Convention on Climate Change, 1992
- c) Kyoto Protocol 1997
- d) United Nations Conference on Climate Change, Paris 2015
- e) Mitigation and Adaptation under the Climate Change Regime
- f) National Action Plan on Climate Change (NAPCC)
- g) Human Rights Approaches to Climate Change
- h) Climate Change Litigation
- i) Sixth Assessment Report of Intergovernmental Panel on Climate Change (IPCC)

Module–XI

Contemporary Issues Pertaining to Environment

[5 Lectures]

- a) Urbanisation
- b) Waste Management
- c) Disaster Management
- d) Wetland Conservation
- e) Groundwater and Law in India
- f) Protection of Coastal Zones
- g) Trade, Investment and Challenges to Sustainable Development
- h) Energy Law and Policy

Essential Case Law:

- *Indian Council for Enviro-Legal Action v. Union of India*, AIR 1996 SC 1446 (Bichhri Village case)
- *Vellore Citizens' Welfare Forum v. Union of India*, AIR 1996 SC 2715
- *A.P. Pollution Control Board v. M.V. Nayudu*, AIR 1999 SC 812
- *Narmada Bachao Andolan v. Union of India*, AIR 2000 SC 3751
- *T.N. Godavarman Thirumulkpad v. Union of India*, AIR 2005 SC 4256
- *Subash Kumar v. State of Bihar*, AIR 1991 SC 420
- *Rural Litigation and Entitlement Kendra v. State of U.P.*, AIR 1982 SC 652 (Dehradun Mussorie Hills quarrying case)
- *M.C. Mehta v. Union of India*, AIR 1997 SC 734 (Taj Trapezium case)
- *M.C. Mehta v. Kamal Nath* (1997) 1 SCC 388
- *Sachidanand Pandey v. State of West Bengal*, AIR 1987 SC 1109
- *Tarun Bharat Sangh v. Union of India*, AIR 1992 SC 514 (Sariska Case)
- *M/s. Abhilash Textiles v. Rajkot Municipal Corpn*, AIR 1988 Guj. 57

- *M.C. Mehta v. Union of India*, AIR 1988 SC 1037 (Kanpur Tanneries case)
- *M.C. Mehta v. Union of India*, AIR 1988 SC 1115 (Municipalities case)
- *M/s. Delhi Bottling Co. Pvt. Ltd. v. Central Board for the Prevention and Control of Water Pollution*, AIR 1986 Del. 152
- *Municipal Council, Ratlam v. Vardichand*, AIR 1980 SC 1622
- *M.C. Mehta v. Union of India*, AIR 2002 SC 1696 (CNG Vehicles case)
- *Orissa State Prevention and Control of Pollution Board v. M/s. Orient Paper Mills*, AIR 2003 SC 1966
- *Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Association*, AIR 2000 SC 2773
- *S. Jagannath v. Union of India*, AIR 1997 SC 811 (Shrimp Culture case)
- *M.C. Mehta v. Union of India*, AIR 1987 SC 965 (Oleum Gas Leakage)
- *Union of India v. Union Carbide Corporation*, AIR 1990 SC 273; AIR 1992 SC 248
- *Charan Lal Sahu v. Union of India*, AIR 1991 SC 1480
- *Moulana Mufti Syed Md. Noorur Rehman Barkati v. State of W.B.*, AIR 1999 Cal 15 □
Vijayanagar Educational Trust v. KSPCB, AIR 2002 Kar 123
- *Trail Smelter Arbitration (United State/Canada)*, 3 U.N. Rep. Int'l Arb Awards 1905 (1941)
- *Sansar Chand v State of Rajasthan*, 2010 (10) SCC 604
- *Case Concerning Pulp Mills on the River Uruguay (Argentina/Uruguay)*, International Court of Justice, Judgment of 20 April 2010
- *Jitendra Singh v. Ministry of Environment & Ors.*, Supreme Court, Civil Appeal No. 5109/2019, decided on 25 November 2019
- *Perumatty Grama Panchayat v. State of Kerala*, C.A. No. 4033 of 2009

Prescribed Legislations:

- The Water (Prevention and Control of Pollution) Act, 1974
- The Air (Prevention and Control of Pollution) Act, 1981
- The Environment (Protection) Act, 1986
- The Public Liability Insurance Act, 1991
- The Biological Diversity Act, 2002
- The Wildlife (Protection) Act, 1972
- The Indian Forest Act, 1927
- The Forest (Conservation) Act, 1980
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
- National Green Tribunal Act, 2010
- The Energy Conservation Act, 2001

Suggested Readings:

- Shyam Divan & Armin Rosencranz: *Environmental Law and Policy in India*
- Stuart Bell & Donald McGillivray: *Environmental Law*
- Gurdip Singh: *Environmental Law*

- Sukanta K Nanda: *Environmental Law*
- S C Shastri: *Environmental Law*
- P. Leelakrishnan: *Environmental Law in India*
- P. Leelakrishnan: *Environmental Law Case Book*
- Daniel Bodansky, Jutta Brunnee, and Lavanya Rajamani: *International Climate Change Law*

Important Note:

- The topics, legislations and cases mentioned above are not exhaustive. The teacher teaching the course shall be at liberty to add new topics/legislations/cases.
- The students are required to study the legislations as amended up-to-date and consult the latest editions of books.

Evaluation Criteria

Total Marks: 100

| Components | Marks |
|--------------------------|--------------|
| Attendance | 05 |
| Project Report | 16 |
| Presentation | 04 |
| Mid-Semester Examination | 15 |
| End-Semester Examination | 60 |

Instructor Details

| | |
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| Name of the Instructor: | Dr. Hrishikesh Manu & Dr. P.P. Rao |
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Chanakya National Law University, Patna
B.A., LL.B (Hons.) / B.B.A., LL.B. (Hons.) A.Y. 2024-25; SEMESTER- VII

Course Title: Indian Federalism

Course Overview

A federation often has two levels of governance. One is the national government, which oversees a few issues of general importance to the entire nation. The others are provincial or state governments that handle much of the day-to-day management of their respective states. These two tiers of government each enjoy their own independence in authority. Thus, the federal system aims to preserve and advance national unity while also considering regional variety. Therefore, two factors are essential for the federalist institutions and system of government. Power-sharing guidelines should be agreed upon by all levels of government. This paper, aims at developing deep understanding in students of fundamental aspects of Constitutional Law, federalism and underlying principles/theories. The course focuses on governance system and structure of the Indian constitution in a comparative setting. The topics of the syllabus are set with the aim to develop in-depth insights into three functions/powers of the state, their bases and practice. Constitutions often go through adaptations and transformations. Reasons and causes of changes may originate in different fields of national and constitutional life: economy, politics etc.

Course objective

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| 1. To familiarize the students with the concept of Federalism. |
| 2. To make the students understand about the pattern of Federalism in other Federal Structure. |
| 3. To familiarize the students about the dynamics and trend of federalism. |
| 4. To make the students understand the Centre State Relation in Federal Structure. |
| 5. To make the students understand the functioning of federal structure during the emergency. |

Module -1

(16 Hours)

Introduction to Federalism

- Introduction to Federalism: Meaning and Concept;

- Theories of Federalism;
- Federalism in India and Characteristics of Indian Federalism;
- Sources of Indian Federalism;
- Comparative and Cooperative Federalism.

Module- 2

(16 Hours)

Federalism under Indian Constitution

- Democracy and Federalism;
- Challenges of Indian Federalism;
- State Autonomy and Centre Dominance;
- Administrative Relations;
- Financial Relations.

Module- 3

(16 Hours)

Federalism and Centre-State Relation

- Doctrine of Territorial Nexus;
- Scheme for Distribution of Legislative Powers;
- Commissions and Committees on Centre-State Relation;
- Constitutional Doctrines on Interpreting Centre-State Disputes;
- Repugnancy and Residuary Power and its impact on Federalism.

Module- 4

(16 Hours)

Federalism under Constitutional Dynamism

- Role of Judiciary in Safeguarding Federal Features of Indian Constitution;
- Local Governance and Federal Character;
- Trade-Commerce Relation with Federalism ;
- Emergency Provisions and Federal Character of Constitution;
- Amendment Power and Federalism.

Suggested Readings:

- 1 M.P. Jain, Constitutional Law of India (2016) pp.1-16.
2. H.M. Seervai, Constitutional Law of India (4th edn. Vol ,1 2015) pp. 172-259. 3. Geoffrey R. Stone, at. el., Constitutional Law (7th edn. 2013)pp. 1-7.
4. K .C. Wheare, Federal Governments (1963) pp. 1-52.
- 5 Douglas V. Verney, Federalism, Federative Systems, and Federation: The United States, Canada, and India, 25 Publius, The Journal of Federalism 81-97 (1995).
6. K.L. Bhatia, Federalism and Frictions in Centre-State Relations: A Comparative Review of Indian and German Constitution (2001).

7. Report of The Sarkaria Commission, (1987) Chap ,I pp. 1-20, Chap I, pp. 22-92, Ch. VI. Pp. 172-189.
8. Report of the National Commission to Review the Working of the Constitution. (2003) Vol I, Chap. 2, Vol ,I Chap. 8.
9. Gopal Subramaniam, Emergency Provisions under the Indian Constitution in B N Kripal ed. Supreme, but not infallible (2000). Pp. 134-158.
10. Report of the National Commission to Review the Working of the Constitution (2002) and Consultation Papers. Vol ,2 Book 2, pp. 891- 903, pp 927- 946

Prescribed Readings:

- 1 D.D. Basu, Comparative Federalism (Lexis Nexis, 2007).
2. D.D.Basu, Introduction to the Constitution of India (Lexis-Nexis-Butterworth-Wadhwa, 2008).
3. M.P. Jain, Indian Federalism: A Background Paper in Alice Jacob ed., Constitutional Development since Independence 205-54 (1975).
- 4 Granville Austin, The Indian Constitution: Cornerstone of a Nation (OUP, 2008).
5. Petr Hogg, Constitutional Law of Canada (Student Edition, 2010).
6. Geoffrey R. Stone, a.t el., Constitutional LawTM7(edn. 2013).
7. M.P. Jain, Indian Constitutional Law 6(m ed., Wadhwa, Nagaur).
8. Vikram David Amar, Mark Tushnet, Global Perspectives on Constitutional Law) OUP, 2009).
9. Zachery Elkins, Tom Ginsburg, James Melton, The Endurance of National Constitutions (Cambridge University Press, 2009).
10. Erwin Chemerinsky, Constitutional Law, Principles a n d Policies (3ed., Aspen, 2006).

Instructor Details

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Chanakya National Law University, Patna
B.A., LL.B. (Hons.) & B.B.A., LL.B. (Hons) 2024-25; SEMESTER- VII

| |
|---|
| Course Title: Interpretation of Statutes and Principles of Legislation |
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Course Overview

Legislation is the major source of law of the modern era. Legislatures enact laws after much deliberation. No doubt in this process they have to take into account the present and future needs of the people. What are the matters to be reckoned with by legislature while enacting laws? The two basic reasons for the need of interpretation of statutes are to understand in the true spirit the Legislative Language and the Legislative Intent. While the legislative language may be complicated for a layman, legislative intents assimilates the concept of meaning and the concept of purpose and object or the reason or the spirit pervading through the statute.

With the emergence of legislation, interpretation of statutes has become 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 and existing statutes contextually relevant, courts used to develop certain rules, doctrines and principles of interpretation. Judiciary plays a highly creative role in this respect. What are the techniques adopted by courts in construing statutes? How far are they successful in their strategy? With the above problems and perspectives in view, this subject has been arranged in the following modules.

Module one is an introduction to the principles of legislation and it explains the legislative process. It also explains the supreme and subordinate legislations in which how one should look into the text and the context; content and intent of the law.

Module two elaborates Interpretation of Statutes; meaning of the term 'statutes'; commencement, operation and repeal of statutes. It also explains the purpose of interpretation of statutes.

Module three discusses the internal and external aids of interpretation. This module spells out various parts of legislation and other sources which can assist in interpreting the provisions.

Module four discusses the primary and secondary rules of interpretation. These are the principles based on which every interpretation takes place.

Module five describes the presumptions in the interpretation of statutes. These are the statutory presumptions.

Module six is a set of legal maxims which help to understand the jurisprudence of statutory interpretation. These maxims make the understanding of the provisions clear.

Module seven deals with the rules of interpretation relating to the penal statutes and taxing statutes; in both of these interpretations strict construction is preferred to the beneficial construction.

Eight modules are the principles of Constitutional interpretation. It sheds light to various doctrines enshrined in the Constitution or emerged from the Constitution.

Learning Outcomes

1. The course aims to inculcate the students with the skills of interpretation of statutes by knowing the principles of interpretation as accepted by the legal fraternity.
2. On completion of the course, students will be able to identify the problems as to what techniques adopted by courts in construing statutes. They will also be able to evaluate how far they would be successful in their strategy.

List of Topics/ Modules

| Topic/ Module | Content | Sessions / Lectures |
|--------------------|---|------------------------|
| Module I: | Meaning and Object of Interpretation, and Principles of Legislation 1.1. Law-making: the legislature, executive and the judiciary 1.2. Supreme and subordinate legislations | 4 |
| Module II: | Interpretation of Statutes 2.1. Meaning of the term 'statutes' 2.2. Commencement, operation and repeal of statutes 2.3. Purpose of interpretation of statutes. | 4 |
| Module III: | Aids to Interpretation 3.1. Internal aids 3.1.1. Title 3.1.2. Preamble 3.1.3. Headings and marginal notes. 3.1.4. Sections and sub-sections 3.1.5. Punctuation marks. 3.1.6. Illustrations, exceptions, explanation, provisos and saving clauses 3.1.7. Schedules 3.1.8. Non-obstante clause. 3.2. External aids 3.2.1. Dictionaries | 12 |

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| | 3.2.2. Translations 3.2.3. <i>TravauxPreparatoires</i> 3.2.4. Statutes <i>in parimateria</i> 3.2.5. <i>ContemporaneaExposito</i> 3.2.6. Debates, inquiry commission reports and Law Commission reports | |
| Module IV: | Rules of Statutory Interpretation 4.1 Primary Rules 4.1.1. Literal rule or Grammatical rule 4.1.2. Golden rule 4.1.3. Mischief rule (rule in the Heydon's case) 4.1.4. Rule of harmonious construction 4.1.5. Principles of liberal or beneficial construction 4.2. Secondary Rules 4.2.1. <i>Noscitur a sociis</i> 4.2.2. <i>Ejusdem generis</i> 4.2.3. <i>Reddendosingulasingulis</i> | 14 |
| Module V: | Presumptions in statutory interpretation 5.1. Statutes are valid 5.2. Statutes are territorial in operation 5.3. Presumption as to jurisdiction 5.4. Presumption against what is inconvenient or absurd 5.5. Presumption against intending injustice 5.6. Presumption against impairing obligations or permitting advantage from one's own wrong 5.7. Prospective operation of statutes | 3 |
| Module VI: | Maxims of Statutory Interpretation 6.1. <i>Delegatus non potestdelegare</i> 6.2. <i>Expressiouniusexclusioalterius</i> 6.3. <i>Generaliaspecialibus non derogant</i> 6.4. <i>In pari delicto potioresetconditiopossidentis</i> 6.5. <i>Utres valet potior quam pareat</i> 6.6. <i>Expressumfacitcessaretacitum</i> 6.7. <i>In bonam partem</i> | 5 |
| Module VII: | Interpretation with reference to the subject matter and purpose 7.1. Restrictive and beneficial construction 7.1.1. Taxing statutes 7.1.2. Penal statutes 7.1.3. Welfare legislation 7.2. Interpretation of substantive and adjunctival statutes | 14 |

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| | 7.3. Interpretation of directory and mandatory provisions 7.4. Interpretation of enabling statutes 7.5. Interpretation of codifying and consolidating statutes 7.6. Interpretation of statutes conferring rights 7.7. Interpretation of statutes conferring powers. | |
| Module VIII: | Principles of Constitutional Interpretation 8.1. Harmonious construction 8.2. Doctrine of pith and substance 8.3. Colourable legislation 8.4. Ancillary powers 8.5. “Occupied field” 8.6. Residuary power 8.7. Doctrine of repugnancy | 8 |

Recommended/Reference /Text Books and Resources:

1. G.P.Singh, Principles of Statutory Interpretation, (15h Edition) 2021, Wadhwa, Nagpur.
2. M.P. Tandon, Interpretation of Statutes, (12th Edition) 2021, Allahabad Law Agency, Faridabad.
3. M.P.Jain, Constitutional Law of India, (8th Edition), 2018 Wadhwa& Co.
4. K.Shanmukham, N.S.Bindras’s Interpretation of Statutes, (12th Edition), 2016 The Law Book Co. Allahabad.
5. Narotam Singh Bindra, N.S. Bindra's Interpretation of Statutes, 2007, LexisNexis Butterworths.
6. Rupert Cross, Statutory Interpretation, 1995, LexisNexis, London Butterworth’s.
7. Sandeep Bhalla, Principles of Interpretation in India: (with Legal Maxims), IEbooks Inc., 2015.
8. U.Baxi, Introduction to Justice K.K.Mathew’s, Democracy Equality and Freedom (1978) Eastern, Lucknow.
9. Avtar Singh and Harpreet Kaur, Introduction to Interpretation of Statutes, (4th Edition), 2018, LexisNexis.

Other references and web resources will be provided during the course of lectures

Instructor Details

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| Name of the Instructor: | Mrs. Sugandha Sinha |
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Chanakya National Law University, Patna
B.A., LL.B. (H) & B.B.A., LL.B. (H) 2024-25

Course Title: Land Laws

SEMESTER VII

Course Overview

The curriculum is designed to focus on the laws related to land reform, Land Acquisition, Real Estate Regulations, and local land laws as well as the forums for speedy disposal of cases relating to land disputes.

Module one deals with Right to Fair Compensation; Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 and Bihar Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 (Relevant Provisions)

Module two deals with Real Estate (Regulation and Development) Act, 2016 and Bihar Real Estate (Regulation and Development) Rules, 2017 (Relevant Provisions)

Module three focuses on Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Relevant Provisions)

Module four deals with Bihar Public Land Encroachment Act, Bihar Land Mutation Act, 2011, Bihar Land Disputes Resolution Act, 2009 and Bihar Land Tribunal Act, 2009 (Relevant Provisions)

Module Five – PROJECT REPORT

| Sl No. | Particulars | Number |
|---------------|--|------------------|
| 1. | Right to Fair Compensation; Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (Only Relevant Sections relating to acquisition and compensation and case law) | <u>25</u> |
| 2. | Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (Only Relevant Sections relating to Ceiling Proceeding and Case Law) | <u>25</u> |

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|-------------------------|--|--|
| 3. | Bihar Public Land Encroachment Act, Bihar Land Mutation Act, 2011, Bihar Land Disputes Resolution Act, 2009 and Bihar Land Tribunal Act, 2009(Only Relevant Provisions and Case Law) | <u>25</u> |
| 4. | Project | <u>20</u> |
| 5. | Attendance | <u>5 Number</u> |
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Dr. Ranjeet Kumar

Dr. Vijay Kumar Vimal

Chanakya National Law University, Patna
B.A., LL.B. (Hons.) / B.B.A., LL.B. (Hons) 2024-25; SEMESTER- VII

| |
|--------------------------------------|
| Course Title: Taxation Laws-I |
|--------------------------------------|

Course Overview

The taxation laws syllabus is designed in such a way so as to expose the students to general principles of laws applicable to different circumstances. The basic idea is to equip the students with necessary knowledge and tools to understand the concepts and application of those concepts through leading case laws. The importance of taxation laws cannot be overemphasized. Suffice is to say that the knowledge of taxation laws is a must for any student of law. This helps them understanding the constitutional principles and relate them to the State's power to levy tax on residents and non-residents within the powers provided under the Constitution. With this objective in mind, the syllabus has been designed so that at the end of the course, the students will be able to understand the nuances of tax laws and have a better perspective about the relation of tax laws and Constitution.

Module 1 deals with Constitutional and Legislative Provisions

Module 2 deals with Basic concepts of income.

Module 3 deals with Agricultural Income

Module 4 deals with Residence and Scope of Total Income

Module 5 deals with Heads of Income while Module 6 deals Capital Gains

Module 7 is about concepts related to Clubbing of income while

Module 8 deals with Income Assessment .

The last module i.e Module 9 deals with Taxation of international transactions:

Learning Outcomes .

Though the emphasis of this course would be on understanding the basic principles related to taxation laws but the syllabus and course would broadly cover the Constitutional aspects too.

1. On completion of the course, students will be able to understand in a better way the State's power to impose taxation and the Constitutional limitations on such powers.
2. Would be in a position to analyse crucial aspects relating to taxation and the principles related to taxation.
3. Critically analyse various aspects of taxation laws and its relation with other laws.

List of Topics/ Modules

| Topic/ Module | | Sessions / Lectures |
|----------------------|--|----------------------------|
| Module I: | <u>Introduction</u> . <u>Constitutional and</u> <u>Legislative Provisions:</u> (a) Distribution of Legislative Powers with special reference to Taxing Powers. (b) Lists under VIIth Schedule. | 1-5 |
| Module 2: | <u>Module 2: Basic concepts</u> <u>of income.</u> (a) General Scheme of Income Tax Act, 1961 (b) Definition of Income [Section 2(24)] (c) Application of Income or diversion by overriding title (d) Capital Receipt v. Revenue Receipt . | 6-10 |

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|------------------|--|-------|
| Module 3: | <p><u>Module-3 : Agricultural Income –</u></p> <p>Concept and definition of agriculture income, persons who are entitled to claim exemption , rationale for exemption from tax etc. will be discussed.</p> | 11-16 |
| Module 4: | <p><u>Module-4 : Residence and Scope of Total Income</u></p> <p>(a) Tests for the determination of residential status of Assessee (section 6);</p> <p>(b) Total income of assessee (sections 4 and 5);</p> <p>(c) Income deemed to accrue or arise in India (section 9);</p> <p>Provisions relating to concept and scope of total income, residence in India in context of HUF, Individuals and Companies and concept of notional income deemed to accrue or arise in India under provisions of Section 9 will be discussed.</p> | 12-25 |

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| Module 5: | <p><u>Module5 : Heads of Income (Sections 14-59)</u></p> <p>I. (b) Salaries – Chargeability . (c) Meaning of Salary; (d) Perquisites;</p> <p>II : Income from House Property (Sections 22 to 27) – (a)Ingredients of section 22 – (b)Annual Value how to be determined – (c) Deductions under section 24 – (d) Deemed owner (section</p> <p>III : Profits and Gains of Business and Profession (Sections 28 to 44) – (a)Applicability (b) Deductions (c) Business Expenditure – Allowability (d) - Tests of distinctions between Business expenditure and Capital expenditure [section 37(1)] .</p> <p>15 Lectures. Heads of income will be discussed in detail. Income pertaining to salary, income from house property, income from profession, business income and income from other sources will be broad topics of discussion. Allowable deduction from</p> | 26 -35 |
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| | <p>various heads of income and particularly concept of revenue expenditure and capital expenditure will be discussed in detail .</p> | |
| <p>Module 6:</p> | <p><u>Module 6: Capital Gains (Sections 45 to 55) .</u> (a) Definition of capital assets [section 2(14)]; (b) Short term capital assets [section 2(42A)]; (c) Short term capital gains [section 2(42B)]; (d) Long term capital assets and Long term capital gain [section 2(29A) and 2(29B)]; (e) Meaning of ‘Transfer’ [section 2(47)]; (f) Computation (section 45); (g) Transactions not amounting to transfer (sections 46 and 47); (h) Mode of computation (section 48);</p> | <p>36-40</p> |
| <p>Module 7:</p> | <p><u>Module 7. Clubbing of income .</u> Concept of clubbing of income, what are the circumstances under which income can be clubbed for assessment so</p> | <p>41-46</p> |

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| | as to claim exemption , persons who are entitled for benefits will be broad topics of discussion. | |
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| Module 8: | <p><u>Module 10 : Assessment .</u> <u>(Sections 139, 142, 143, 144, 145(2), 147, 148, 149, 150, 151 and 153)</u></p> <p>(a) Best Judgment Assessment; (b) Income escaping assessment .</p> <p>Provisions relating to assessment, income escaping assessment, provision for re assessment and other related issues will be discussed.</p> | 46-50 |
| Module 9. | <p><u>Module11. Taxation of international transactions:</u></p> <p>(a)Non resident and foreign companies. (b) Transfer Pricing</p> <p>Provisions relating to taxation of foreign companies will be broad topic of discussion. Double taxation , Tax Residency Certificate , General Anti Avoidance Rules, Judicial</p> | 51-60 |

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| | Anti Avoidance Rules , Transfer Pricing and other issues related to taxation of Trans National Companies operating in India will be discussed. Issues related to tax evasion by MNC's and Indian Legal response along with latest developments will be discussed in detail. | |
|--|--|--|

Recommended/Reference Text Books and Resources:

Text Books .

1. Income Tax. Palkiwala and Kanga. Matthew Lippman. Sage Publication.
2. The Income Tax Act. Taxmann Publications..

References

- Constitution of India. Readings on Tx Lawsj
-

Web Resources

www.itat.org

Instructor Details

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