



SHIVAJI UNIVERSITY, KOLHAPUR

REVISED SYLLABUS OF THE

3rd YEAR OF THE THREE YEAR LAW COURSE

SEMESTER 5th AND 6th

AND

5th YEAR OF THE FIVE YEAR LAW COURSE

SEMESTER 9th AND 10th



Shivaji University, Kolhapur
3rd year of the Three Year Law Course Semester V and 5th
Year of the Five Year Law Course Semester IX
Paper I
CRIMINAL PROCEDURE CODE, JUVENILE JUSTICE
ACT AND PROBATION OF OFFENDERS ACT

Objective of the course

The criminal process involves increasing expenditure of government resources. At the same time it confronts a crisis of intrusion into individual rights in order to protect the common weal. Obviously, criminal procedure has to be just, fair and reasonable to the accused as well as to the victims. Undoubtedly the process is to be carried out in an objective manner. Criminal procedure, thus, makes a balance of conflicting interests. This imposes a duty upon those connected with the working of the criminal process to abide by the law and to exercise discretion conferred on them in the best manner. Code of Criminal Procedure, originally enacted years ago, had undergone many trials and experiments, to enormous to be placed within a class room discussion. However, the students should obtain a fair idea how the code works as the main spring of the criminal justice delivery system and should be exposed to the significant riddles of the procedure.

Juvenile justice and probation of offenders are combined with the study of criminal procedure. These topics also do have their roots in criminal procedure. The rubrics under their head are intended to render as essential grasp of the areas.

1. Introductory

- 1.1 The rationale of criminal procedure: the importance of fair trial.
- 1.2 Constitutional perspectives: Articles 14, 20 & 21.
- 1.3 The variety of criminal procedures (the class should examine, in particular the procedure for trial of special offences, especially, offences under the Prevention of Corruption Act and Narcotic Drugs and Psychotropic Substance Act)
- 1.4 The organisation of police, prosecutor, defence counsel and prison authorities and their duties, functions and powers.

2. Pre-trial process: arrest

- 2.1 The distinction between cognisable and non-cognisable offences: relevance and adequacy problems.
- 2.2 Steps to ensure accused's presence at trial: warrant and summons.
- 2.3 Arrest with and without warrant (Section 70-73 and 41)
- 2.4 The absconder status (Section 82,83,84 and 85)

- 2.5 Right of the arrested person
- 2.6 Right to know grounds of arrest (Section 50(1), 55,75)
- 2.7 Right to be taken to magistrate without delay (Section 56,57)
- 2.8 Right of non being detained for more than twenty-four hours (section 57): 2.9 Article 22(2) of the Constitution of India.
- 2.9 Right to consult legal practitioner, legal aid and the right to be told of rights to bail.
- 2.10 Right to be examined by a medical practitioner (Section 54).
- 3. Pre-trial Process: Search and Seizure**
 - 3.1 Search warrant (Section 83,94,97, 98) and searches without warrant (Section 103)
 - 3.2 Police search during investigation (Section 165,166,153)
 - 3.3 General principles of search (section 100)
 - 3.4 Seizure (Section 102)
 - 3.5 Constitutional aspects of validity of search and seizure proceedings.
- 4. Pre-trial Process: FIR**
 - 4.1 F.I.R. (Section 154)
 - 4.2 Evidentiary value of F.I.R. (See Sections 145 and 157 of Evidence Act)
- 5. Pre-trial Process: Magisterial Powers to Take Cognizance**
- 6. Trial Process**
 - 1.1 Commencement of proceedings: (Section 200, 201, 202)
 - 1.2 Dismissal of complaints (Section 203, 204)
 - 1.3 Bail: concept, purpose: constitutional overtones
 - 1.3.1 Bailable and Non- Bailable offences (Section 436, 437, 439)
 - 1.3.2 Cancellation of bail (Section 437(5))
 - 1.3.3 Anticipatory bail (Section 438)
 - 1.3.4 Appellate bail powers (Section 389(1), 395(1), 437(5))
 - 1.3.5 General principles concerning bond (Sections 441-450)
- 7. Fair Trial**
 - 7.1 Conception of fair trial
 - 7.2 Presumption of innocence.
 - 7.3 Venue of trial.
 - 7.4 Right of the accused to know the accusation (Section 221-224)
 - 7.5 The right must generally be held in the accused's presence (Section 221-224)
 - 7.6 Right of cross-examination and offering evidence in defence: the accused's statement.
 - 7.7 Right to speedy trial.

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Five Year Law Course Semester X
Paper I**

**CRIMINAL PROCEDURE CODE, JUVENILE JUSTICE ACT AND
PROBATION OF OFFENDERS ACT**

- 8. Charge**
 - 8.1 Farming of charge
 - 8.2 Form and content of charge (Section 211, 212, 216)
 - 8.3 Separate charges for distinct offence (Section 218, 219, 220, 221, 223)
 - 8.4 Discharge-pre-charge evidence.
- 9. Preliminary pleas to bar the trial**
 - 9.1 Jurisdiction (Section 26, 177-188, 461, 462, 479)
 - 9.2 Time limitations: rationale and scope (Section 468-473)
 - 9.3 Pleas of autrefois acquit and autrefois convict (Section 300, 22D)
 - 9.4 Issue-Estoppel
 - 9.5 Compounding of offences
- 10. Trial Before a court of Sessions: Procedural Steps and Substantive Rights**
- 11. Judgement**
 - 11.1 Form and content (Section 354)
 - 11.2 Summary trial
 - 11.3 Post-conviction order in lieu of punishment: emerging penal policy (Section 360, 361, 31)
 - 11.4 Compensation and cost (Section 357,358)
 - 11.5 Modes of providing judgement (Section 353, 362, 363)
- 12. Appeal, Review, Revision**
 - 12.1 No appeal in certain cases (Section 372, 375, 376)
 - 12.2 The rationale of appeals, review revision.
 - 12.3 The multiple range of appellate remedies:
 - 12.3.1 Supreme Court of India (Section 374, 379, Articles 31, 132, 134, 136)
 - 12.3.2 High Court (Section 374)
 - 12.3.3 Sessions Court (Section 374)
 - 12.3.4 Special right to appeal (Section 380)
 - 12.3.5 Governmental appeal against sentencing (Section 377, 378)
 - 12.3.6 Judicial power in disposal of appeals (Section 368)
 - 12.3.7 Legal aid in appeals.
 - 12.4 Revisional jurisdiction (Sections 397-405)
 - 12.5 Transfer of cases(Section 406-407)
- 13. Juvenile delinquency**
 - 13.1 Nature and magnitude of the problem
 - 13.2 Causes
 - 13.3 Juvenile court system
 - 13.4 Treatment and rehabilitation of juveniles
 - 13.5 Juveniles and adult crime
 - 13.6 Legislative and judicial protection of juvenile offender
 - 13.7 Juvenile Justice Act 2000

14. Probation

- 14.1 Probation of offenders law
- 14.2 The judicial attitude
- 14.3 Mechanism of probation: standards of probation services.
- 14.4 Problems and prospects of probation
- 14.5 The suspended sentence

15. Reform of criminal procedure.

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**Paper II
LAW OF EVIDENCE**

Objectives of the course

The law of evidence, is an indispensable part of both substantive and procedural laws. It imparts credibility to the adjudicatory process by indicating the degree of veracity to be attributed to 'facts' before the forum. This paper enables the student to appreciate the concepts and principles underlying the law of evidence and identify the recognized form of evidence and its sources. The subject seeks to impart the student the skills of examination and appreciation of oral and documentary evidence in order to find out the truth. The art of examination and cross-examination, and the shifting nature of burden of proof are crucial topics. The concepts brought in by amendments to the law of evidence are significant parts of study in this course.

1. Introductory

- 1.1 The main features of the Indian Evidence Act 1861.
- 1.2 Other acts which deal with evidence (special reference to CPC, CrPC).

2. Central Conceptions in Law of Evidence

- 2.1 Facts: section 3 definition: distinction-relevant facts/facts in issue.
- 2.2 Evidence: oral and documentary.
- 2.3 Circumstantial evidence and direct evidence
- 2.4 Presumption (Section 4)

- 2.5 “Proving”, “Not providing” and “disproving”
- 2.6 Witness
- 2.7 Appreciation of evidence
- 3. **Facts: relevancy**
 - 3.1 The doctrine of res gestae (Section 6,7,8,10)
 - 3.2 Evidence of common intention (Section 10)
 - 3.3 The problems of relevancy of “Otherwise” irrelevant facts(Section 11)
 - 3.4 Relevant facts for proof of custom (Section 13)
 - 3.5 Facts concerning bodies & mental state (Section 14, 15)
- 4. **Admissions and confessions**
 - 4.1 General principles concerning admission (Section 17,23)
 - 4.2 Differences between “admission” and “confession”
 - 4.3 The problems of non-admissibility of confessions caused by “any inducement, threat or promise”(Section 24)
 - 4.4 Inadmissibility of confession made before a police officer (Section 25)
 - 4.5 Admissibility of custodial confessions (Section 26)
 - 4.6 Admissibility of “information” received from accused person in custody; with special reference to the problem of discovery based on “joint statement” (Section 27)
 - 4.7 Confession by co-accused (Section 30)
 - 4.8 The Problems with the judicial action based on a “retracted confession”
- 5. **Dying Declarations**
 - 5.1 The justification for relevance on dying declarations (Section 32)
 - 5.2 The judicial standards for appreciation of evidentiary value of dying declarations.
- 6. **Other Statements by Persons who cannot be called as Witnesses**
 - 6.1 General Principles.
 - 6.2 Special problems concerning violation of women’s rights in marriage in the law of evidence.
- 7. **Relevance of Judgments**
 - 7.1 General Principles
 - 7.2 Admissibility of judgments in civil and criminal matters (Section 43)
 - 7.3 “Fraud” and “Collusion” (Section 44)
- 8. **Expert Testimony**
 - 8.1 General Principles
 - 8.2 Who is an expert? : types of expert evidence
 - 8.3 Opinion on relationship especially proof of marriage (Section 50)
 - 8.4 The problems of judicial defense to expert testimony.

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- 9. Oral and Documentary Evidence**
 - 9.1 General principles concerning oral evidence (Sections 59-60)
 - 9.2 General principles concerning Documentary Evidence (Section 67-90)
 - 9.3 General principles Regarding Exclusion of Oral by Documentary Evidence
 - 9.4 Special problems: re-hearing evidence.
 - 9.5 Issue estoppel
 - 9.6 Tenancy estoppel (Section 116)
- 10. Witnesses, Examination and Cross Examination**
 - 10.1 Competency to testify (Section 118)
 - 10.2 State privilege (Section 123)
 - 10.3 Professional privilege (Section 126, 127, 128)
 - 10.4 Approval testimony (Section 133)
 - 10.5 General principles of examination and cross examination (Section 135-166)
 - 10.6 Leading questions (Section 141-143)
 - 10.7 Lawful questions in cross-examination (Section 146)
 - 10.8 Compulsion to answer questions put to witness
 - 10.9 Hostile witness (Section 154)
 - 10.10 Impeaching of the standing or credit of witness (Section 155)
- 11. Burden of Proof**
 - 11.1 The general conception of onus probandi (Section 101)
 - 11.2 General and special exceptions to onus probandi
 - 11.3 The justification of presumption and of the doctrine of judicial notice.
 - 11.4 Justification as to presumptions as to certain offences (Section 111A)
 - 11.5 Presumption as to dowry death (Section 113B)
 - 11.6 The scope of the doctrine of judicial notice (Section 114)
- 12. Estoppel**
 - 12.1 Why estoppel? The rationale (Section 115)
 - 12.2 Estoppel, res judicata and waiver and presumption
 - 12.3 Estoppel by deed
 - 12.4 Estoppel by conduct
 - 12.5 Equitable and promissory estoppel
 - 12.6 Questions of corroboration (Section 156-157)
 - 12.7 Improper admission and of witness in civil and criminal cases.

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Five Year Law Course Semester IX**

Paper III

CIVIL PROCEDURE AND LIMITATION ACT

Objective of the course

Civil Procedure Code is a subject of daily use by the courts and lawyers and a student cannot afford to have scant knowledge of civil procedure when he goes out to practice as a lawyer. True that it is through experience one gets expert knowledge of civil procedure. However, it is necessary to have good grounding in the subject before one enters the profession. While the substantive law determines the rights of parties, procedural law sets down the norms for enforcement. Whenever civil rights of persons are affected by action, judicial decisions will supply the omissions in the law.

The Code of Civil Procedure in India has a chequered history and lays down the details of procedure for redressal of civil rights. Many questions may prop up when one goes to indicate one's civil rights. The court where the suit is to be filed, the essential forms and procedure for institution of suit, the documents in support and against, evidence taking and trial, dimensions of an interim order, the peculiar nature of the suits, the complexities of executing a decree and provisions for appeal and revision are all matters which a lawyer for any side is to be familiar with.

A delay in filing the suit, besides indicating the negligence of the plaintiff in effectively agitating the matter on time, may place courts in a precarious situation. They may not be in a position to appreciate the evidence correctly. Evidence might have been obliterated. Hence, the statute of limitation fixes a period within which a case has to be filed.

1. Introduction

1.1 Concepts

1.1.1 Order, judgement, decree, plaint, restitution, execution, decree-holder, judgment-debter, mesne profits, written statement.

1.1.2 Distinction between decree and judgment and between decree and order.

2. Jurisdiction

2.1 Kinds

2.1.1 Hierarchy of courts

2.2 Suit of civil nature-scope and limits

2.3 Res-subjudice and Resjudicata

- 2.4 Foreign judgment-enforcement
- 2.5 Place of suing
- 2.6 Institution of suit
 - 2.6.1 Parties to suit: joinder, mis-joinder or non-joinder of parties: representative suit.
 - 2.6.1.1 Frame of suit: cause of action
 - 2.6.2 summons
- 3. Pleadings**
 - 3.1 Rules of pleading, signing and verification.
 - 3.1.1 Alternative pleadings
 - 3.1.2 Construction of pleadings
 - 3.2 Plaint: particulars
 - 3.2.1 Admission, return and rejection
 - 3.3 Written statement: particulars, rules of evidence
 - 3.3.1 Set off and counter claim: distinction
 - 3.4 Discovery, inspection and production of documents
 - 3.4.1 Interrogatories
 - 3.4.2 Privileged documents
 - 3.4.3 Affidavits
- 4. Appearance, examination and trial**
 - 4.1 appearance
 - 4.2 Ex-parte procedure
 - 4.3 Summary and attendance of witnesses
 - 4.4 Trial
 - 4.5 Adjournments
 - 4.6 Interim orders: commission, arrest or attachment before judgement, injunction and appointment of receiver.
 - 4.7 Interests and costs
- 5. Execution**
 - 5.1 The concept
 - 5.2 General principles
 - 5.3 Power for execution of decrees
 - 5.4 Procedure for execution(ss52.54)
 - 5.5 Enforcement, arrest and detection (ss. 55.59)
 - 5.6 Attachment (ss. 60-64)
 - 5.7 Sale (ss. 65-97)
 - 5.8 Delivery of property
 - 5.9 Stay of execution

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Five Year Law Course Semester X
Paper III**

CIVIL PROCEDURE AND LIMITATION ACT

- 6. Suits in particular cases**
 - 6.1 By or against government (ss. 79-82)
 - 6.2 By aliens and by or against foreign rulers or ambassadors (ss.83-87A)
 - 6.3 Public nuisance (ss. 91-93)
 - 6.4 Suits by or against firm
 - 6.5 Suits in forma pauperis
 - 6.6 Mortgages
 - 6.7 Interpleader suits
 - 6.8 Suits relating to public charities.
- 7. Appeals**
 - 7.1 Appeals form original decree
 - 7.2 Appeals form appellate decree
 - 7.3 Appeals from orders
 - 7.4 General provisions relating to appeal
 - 7.5 Appeal to the Supreme Court
- 8. Review, reference and revision**
- 9. Miscellaneous**
 - 9.1 Transfer of cases
 - 9.2 Restitution
 - 9.3 Caveat
 - 9.4 Inherent powers of courts
- 10. Law reform: Law Commission on Civil Procedure_ amendments**
- 11. Law of Limitation**
 - 11.1 The concept-the law assists the vigilant and not those who sleep over the rights.
 - 11.2 Object
 - 11.3 Distinction with laches, acquiescence, prescription
 - 11.4 Extension and suspension of limitation
 - 11.5 Sufficient cause for not filling the proceedings
 - 11.5.1 Illness
 - 11.5.2 Mistaken legal advise
 - 11.5.3 Mistaken view of law
 - 11.5.4 Poverty, minority and Purdha
 - 11.5.5 Imprisonment
 - 11.5.6 Defective vakalatnama
 - 11.6 Legal liabilities
 - 11.7 Foreign rule of limitation: Contract entered into under a foreign law
 - 11.8 Acknowledgement- essential requisites
 - 11.9 Continuing tort and continuing breach of contract.

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Paper IV

ARBITRATION, CONCILIATION AND ALTERNATE DISPUTE RESOLUTION SYSTEM

Objective of the course

The major concern of law is conflict resolution. Familiarization with the modalities and techniques of resolution of conflict is a necessary component in the endeavours of developing expertise in juridical exercise. The traditional justice delivery system through adjudication by courts had already given way to a large extent to many an alternative mode of dispute resolution in the common law countries. The advent of globalisation has enthused this transformation everywhere. The study of ADR is highly significant in molding the students of law to act as soldiers of justice in the ever changing socio-economic scenario. The course aims to give the students an insight into the processes of arbitration, conciliation and mediation in areas where the traditional judicial system had its sway in the past and in the new areas of conflicts that demand resolution by alternative methods. No doubt, the course has to be taught with comparative and international perspectives with a view to bringing out the essential awareness of the national and international systems emerging at the present context.

1. **Arbitration: meaning, scope and types**
 - 1.1 distinctions
 - 1.1.1 1940 law and 1996 law: UNCITRAL model law
 - 1.1.2 Arbitration and conciliation
 - 1.1.3 Arbitration and expert determination
 - 1.2 Extent of judicial intervention
 - 1.3 International commercial arbitration
2. **Arbitration agreement**
 - 2.1 Essentials
 - 2.2 Kinds
 - 2.3 Who can enter into arbitration agreement
 - 2.4 Validity
 - 2.5 Reference to arbitration
 - 2.6 Interim measures by court

- 3. Arbitration Tribunal**
 - 3.1 Appointment
 - 3.2 Challenge
 - 3.3 Jurisdiction of arbitral tribunal
 - 3.3.1 Powers
 - 3.3.2 Grounds of challenge
 - 3.4 Procedure
 - 3.5 Hearing and written proceedings
 - 3.6 Court assistance

**3rd year of the Three Year Law Course Semester VI and 5th Year of the
Five Year Law Course Semester X**

Paper IV

**ARBITRATION, CONCILIATION AND ALTERNATE DISPUTE
RESOLUTION SYSTEM**

- 4. Award**
 - 4.1 Rules of guidance
 - 4.2 Form and content
 - 4.3 Correction and interpretation
 - 4.4 Grounds of setting aside an award
 - 4.4.1 Can misconduct be a ground?
 - 4.4.2 Incapacity of a party, invalidity of arbitration agreement
 - 4.4.3 Want of proper notice and hearing
 - 4.4.4 Beyond the scope of reference
 - 4.4.5 Contravention of composition and procedure
 - 4.4.6 Breach of confidentiality
 - 4.4.7 Impartiality of the arbitrator
 - 4.4.8 Bar of limitation, res judicata
 - 4.4.9 Consent of parties
 - 4.5 Enforcement
- 5. Appeal and revision**
 - 5.1 Forum of appeal
 - 5.2 Power of appellate court
 - 5.3 Deposits
 - 5.4 Costs of arbitration proceeding
 - 5.5 Revision
- 6. Enforcement of foreign awards**
 - 6.1 New York convention awards
 - 6.2 Geneva convention awards
- 7. Conciliation**
 - 7.1 distinction between “Conciliation”, “negotiation”, “mediation”, and “arbitration”.
 - 7.2 Appointment
 - 7.3 Statements to conciliator

- 7.4 Interaction between conciliator and parties
 - 7.4.1 communication
 - 7.4.2 Duty of the parties to co-operate
 - 7.4.3 Suggestions by parties
 - 7.4.4 Confidentiality
- 7.5 Resort to judicial proceedings
- 7.6 Costs
- 8. Rule-making power**
 - 8.1 High Court
 - 8.2 Central Government

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Paper V LABOUR LAW

Objectives of the course

Protection of labour is a constitutional mandate. A constitution inspired by the vision of social justice is committed to the cause of upliftment of labour. Well balanced industrial development leads to increased productivity which in turn

is a factor of national progress. Labour makes significant contribution in this respect.

Is labour merely a commodity? Is it only a factor in production? There may be different approaches towards this question. One fact is certain. Today's labour is engaged in a battle for position of honor and status equal with management. The law and practice relating to labour is the story of this battle. In this context, the study of labour law is not to be confined to mastering of the rules and regulations relating to the employment of the work force. Its wings spread wider. It has its aim on the societal impulses on, and state reaction to the complex socio-economic, human and political problems arising out of the constant conflicts between different classes.

The student should get an insight into the mechanics of socio-legal control of labour relations and should be aware of the history, the present norms, the emerging areas and possible future techniques of labour jurisprudence.

1. Industrial Jurisprudence

- 1.1 Labour Policy in India
- 1.2 Industrial Revolution in India
- 1.3 Labour problems and role of trade union.
- 1.4 Industrial Peace and Industrial Harmony through collective bargaining.
- 1.5 Industrial Relations
- 1.6 Principles of Labour Legislation.
- 1.7 Social Justice
- 1.8 Social Equity
- 1.9 Social Security
- 1.10 Growth of Labour Legislation in India
- 1.11 Principles of Industrial Adjudication.

2. The Industrial Disputes Act, 1947

- 2.1 Scope and object
- 2.2 Definitions
 - 2.2.1 Appropriate Government
 - 2.2.2 Award-Workman-Wages
 - 2.2.3 Industry, Amended Definition of Industry
 - 2.2.4 Industrial Dispute
 - 2.2.5 Lay off
 - 2.2.6 Lock out
 - 2.2.7 Public Utility Service
 - 2.2.8 Retrenchment
 - 2.2.9 Strike
- 2.3 Dismissal etc. of an individual workman to be deemed to be an industrial dispute

3. Redressal Machinery

- 3.1 Works Committee
- 3.2 Conciliation officer
- 3.3 Labour Court
- 3.4 Tribunals

- 3.5 National Tribunals
- 3.6 Qualifications and Dis qualifications for the presiding officers of labour courts, tribunals and National Tribunals
- 4. **Notice of Change**
 - 4.1 Notice of change and Schedule IV
 - 4.2 Power of Government to exempt
- 5. **Reference of Disputes to courts or Tribunals**
 - 5.1 Reference of Disputes to Courts or Tribunals
 - 5.2 Scope of reference under section 10
 - 5.3 Tribunal Jurisdiction
- 6. **Procedure, Power and Duties of Authorities**
 - 6.1 Procedure in conciliation proceeding Labour Courts and Tribunals
 - 6.2 Powers of Labour courts, Tribunals and National Tribunals to give appropriate relief.
 - 6.3 Award and its publication
 - 6.4 Payment of full wages to workman for pending proceeding in Higher Courts
 - 6.5 Validity of Settlements
- 7. **Strikes and Lock-out**
 - 7.1 Prohibition of Strikes and Lock-outs in public utility services
 - 7.2 General prohibition of Strikes and Lock-outs
 - 7.3 Illegal strikes and Lock-outs
- 8. **Lay-off Retrenchment and Closure**
 - 8.1 Application of section 25C to 25 E
 - 8.2 Definition of continuous service
 - 8.3 Right of workman for Lay-off Compensation
 - 8.4 Workmen not entitled for compensation in certain cases
 - 8.5 Procedure for retrenchment
 - 8.6 Conditions precedent for retrenchment
 - 8.7 Re-employment of retrenchment workmen
 - 8.8 Transfer of undertaking
 - 8.9 Compensation in case of closure of undertaking
- 9. **Special Provisions relating to Lay-off Retrenchment and Closure**
 - 9.1 Application of Chapter V-B
 - 9.2 Penalties for Lay-off, retrenchment and closure without permission.
- 10. **Penalties**
 - 10.1 Penalty for Illegal strike and Lock-out
 - 10.2 Penalty for breach of Settlement or award
- 11. **Miscellaneous**
 - 11.1 Profited workman
 - 11.2 Recovery of money due from an employer
 - 11.3 Condition of service etc. to remain unchanged
- 12. **The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971**
 - 12.1 Authorities under the Act
 - 12.2 Recognition of Unions

- 12.3 Obligations and Rights of Recognised Unions
- 12.4 Rights of unrecognised unions
- 12.5 Illegal Strikes and Lock-outs
- 12.6 Unfair Labour Practices
- 12.7 Power of Court.

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Five Year Law Course, Semester X**

Paper V -Labour Law

- 13. Workmen's Compensation Act, 1923**
 - 13.1 Definitions
 - 13.1.1 Commissioner, Compensation, Dependent employer, Managing Agent, Partial disablement, Total disablement, Wages, workman.
 - 13.2 When Employer is liable to pay Compensation
 - 13.3 When Employer is not liable to pay Compensation
 - 13.4 Arising out of and in the course of employment
 - 13.5 Notional Extension of employers premises
 - 13.6 Amount of Compensation
 - 13.7 Method of calculating wages
 - 13.8 Distribution of compensation
 - 13.9 Notice and claims of the accidents
 - 13.10 Medical examination
 - 13.11 Contracting
 - 13.12 Contracting out
- 14. Minimum Wages Act, 1948**
 - 14.1 Object of the Act
 - 14.2 Constitutional Validity
 - 14.3 Definitions-Appropriate government, Employer, Scheduled employment, wages, employee
 - 14.4 Minimum wages, fair wages, living wages.
 - 14.5 Fixation of minimum rates of wages-procedure
 - 14.6 Advisory Board
 - 14.6.1 Central Advisory Board
 - 14.6.2 Composition of Committees
 - 14.7 Fixing hours of normal working days
 - 14.8 Overtime
 - 14.9 Minimum time rate wages of peace of work
 - 14.10 Maintenance of Registers and records
 - 14.11 Claims
 - 14.12 Single application in respect of number of employees
 - 14.13 Power of central government and appropriate to make rules
- 15. The Factories Act, 1948**
 - 15.1 Interpretation-Hazardous process, Manufacturing process, Worker, Factory, Occupier
 - 15.2 Powers of Inspectors
 - 15.3 Health
 - 15.3.1 Cleanliness
 - 15.3.2 Disposal of waste and effluents

- 15.3.3 Ventilation and temperature
- 15.3.4 Dust and Fume
- 15.3.5 Artificial humidification
- 15.3.6 Over crowding
- 15.3.7 Lighting
- 15.3.8 Drinking water
- 15.3.9 Latrines and Urinals
- 15.3.10 Spittoons
- 15.4 Safety**
 - 15.4.1 Fencing of Machinery
 - 15.4.2 Employment of Young persons on dangerous machines
 - 15.4.3 Prohibition of employment of women and children near cotton openers
 - 15.4.4 Excessive weights
 - 15.4.5 Protection to eye
 - 15.4.6 Precautions against dangerous fumes, gases, in case of fire
 - 15.4.7 Safety of Building and Machinery-Maintenance of Buildings
 - 15.4.8 Safety officers
- 15.5 Provisions relating to hazardous process**
 - 15.5.1 Specific responsibility of the occupier
 - 15.5.2 Workers participation in safety management
- 15.6 Welfare**
 - 15.6.1 Facilities for washing, storing and drying clothing, seating
 - 15.6.2 Canteens
 - 15.6.3 Rest rooms, Shelters and Lunch rooms
 - 15.6.4 Creches
- 15.7 Working hours of adults**
 - 15.7.1 Weekly hours, daily hours,
 - 15.7.2 Weekly holidays
 - 15.7.3 Compensatory holidays
 - 15.7.4 Intervals for rest
 - 15.7.5 Night Shifts
 - 15.7.6 Extra wages for over time and restriction on double employment
 - 15.7.7 Notice of period of work for adults
 - 15.7.8 Register of adult workers
- 15.8 Employment of Young persons**
 - 15.8.1 Prohibition of employment of young children
 - 15.8.2 Non-adult workers to carry tokens
 - 15.8.3 Certificate of fitness
 - 15.8.4 Working hours for children
 - 15.8.5 Notice of periods of work for children
 - 15.8.6 Register of Child workers
- 15.9 Annual leave with wages**
 - 15.9.1 Wages during leave period
 - 15.9.2 Mode of recovery of unpaid wages

- 16. The Employees State Insurance Act, 1948**
- 16.1 Definitions
 - 16.1.1 Dependent, employment injury, employee, employment, Factories, Immediate employer, Disablement (permanent, partial, permanent total disablement) Principal employer, Temporary disablement, wages.
 - 16.2 Contributions
 - 16.2.1 All employees to be insured
 - 16.2.2 Principal employer to pay contribution in the first instance recovery of contribution from immediate employer
 - 16.2.3 Method of payment of contribution
 - 16.2.4 function and duties of inspectors
 - 16.3 Benefits
 - 16.3.1 Sickness benefit
 - 16.3.2 Maternity Benefit
 - 16.3.3 Disablement Benefit
 - 16.3.4 Dependents Benefit
 - 16.3.5 Medical Benefit
 - 16.4 Occupational disease
 - 16.5 Determination of question of disablement
 - 16.6 Employer not to dismiss or punish employee during period of sickness
 - 16.7 Power of State and Central government to make rules

Select Bibliography

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Goswami V.G. *Labour and Industrial Laws*, Central Law Agency, Allahabad

3rd year of the Three Year Law Course Semester V and 5th Year of the Five Year Law Course Semester IX

**Paper VI
LAND LAWS**

Objectives :

The objectives of this course are to teach the law students:

- I) Law for the acquisition of land needed for public purposes;
 - II) Law relating to land and land revenue in the State of Maharashtra
 - III) Law in the State of Maharashtra relating to the control of rent and repairs of certain premises and of eviction of tenants.
1. Maharashtra Land Revenue Code of 1966 50 marks

3rd year of the Three Year Law Course Semester VI and 5th Year of the Five Year Law Course Semester X

**Paper VI
LAND LAWS**

1. Maharashtra Rent Control Act of 1999 36 marks
2. The Land Acquisition Act 1894 14 marks

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**Paper VII/VIII
TAXATION LAW**

Objectives of the course

Power to tax had been described as the power to destroy. This idea is being floated often whenever the state introduces a new tax. Is this true? Is it not necessary that in order to raise revenue and place the economy on solid foundation, the taxing power should be conferred on the state? The power to tax shall not go unregulated. In the context of a federal structure the distribution of the taxing powers assumes added significance. Obviously, a study of the constitutional framework on taxation becomes important. Along with this, an analysis of the different laws enacted in exercise of these powers with their safeguards and remedies sheds light on the mechanics of the taxation by the Union and the States.

- 1. General Perspective**
 - 1.1 History of tax law in India
 - 1.2 Fundamental principles relating to tax laws
 - 1.3 Governmental financial policy, tax structure and their role in the national economy.
 - 1.4 Concept of tax:
 - 1.4.1 Nature and characteristics of taxes
 - 1.4.2 Distinction between:
 - 1.4.2.1 Tax and fee
 - 1.4.2.2 Tax and cess
 - 1.4.2.3 Direct and indirect taxes
 - 1.4.2.4 Tax evasion and tax avoidance
 - 1.5 Scope of taxing powers of Parliament, state Legislature and local bodies.
- 2. Income Tax**
 - 2.1 Basic Concepts:
 - 2.1.1 Income
 - 2.1.2 Total income
 - 2.1.3 Income not included in total income
 - 2.1.4 Deemed income
 - 2.1.5 Clubbing of income
 - 2.2 Assessee
 - 2.3 Person
 - 2.4 Tax Planning
 - 2.5 Chargeable income
 - 2.5.1 Heads of income
 - 2.5.1.1 Salaries
 - 2.5.1.2 Income from house property
 - 2.5.1.3 Income from business or profession
 - 2.5.1.4 Capital gains
 - 2.5.1.5 Income from other sources
 - 2.5.2 Deductions, relief and exemptions
 - 2.5.3 Rate of income tax
 - 2.6 Income Tax Authorities:
 - 2.6.1 Power and functions
 - 2.7 Offences and penal sanctions:
 - 2.8 Settlement of grievances:
 - 2.8.1 Authorities, powers and functions

**3rd year of the Three Year Law Course Semester VI and 5th Year of the
Five Year Law Course Semester X**

**Paper VII and VIII
Taxation Law**

3. Other Tax Laws

- 3.1 Central sales Tax and State Sales Tax
 - 3.1.1 Sale or purchase of goods:
 - 3.1.1.1 Meaning of sale
 - 3.1.1.2 Sale in the course of inter-state trade and commerce
 - 3.1.1.3 Sale to take place outside a state
 - 3.1.1.4 Sale in the course of export or import
 - 3.1.2 Charge of tax
 - 3.1.3 Exemption and rebate
 - 3.1.4 Sales tax authorities
 - 3.1.5 Offences and penalties
- 3.2 Service Tax
 - 3.2.1 Taxable service
 - 3.2.1.1 Meaning and importance of service tax
 - 3.2.1.2 Constitutional perspective
 - 3.2.1.3 Salient provisions of the service tax law
 - 3.2.1.4 Valuation of taxable service
 - 3.2.1.5 Offence and penalties

Select Bibliography

- Remesh Sharma, *Supreme Court on Direct Taxes* (1998), Bharath law House, New Delhi
- Sampath Iyengar, *Law of income Tax* (1998), Bharath law House, New Delhi
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**3rd year of the Three Year Law Course Semester V and 5th Year of the
Five Year Law Course Semester IX**

**Paper VII and VIII
TRUSTS, EQUITY AND FIDUCIARY RELATIONSHIPS**

Objectives of the course

Trust being an obligation connected with property, the law has to play a key role in protecting interests of person for whose benefit trust is created and for balancing the rights and duties of persons connected with trust transactions. There are also instances where even in the absence of specific trust, law has to protect the beneficial interests of persons on equitable considerations. Trusts may also be created for public purposes of charitable and religions nature. The existing laws in respect of trusts, equitable and fiduciary relations connected with property are to be taught in detail. Students should also to be conscientized of the emerging public trust doctrine of common property resources.

1. Introduction

- 1.1 The concept of trust: distinction with agency and contract
- 1.2 Development of law: common law and equity
- 1.3 Trusts: classification

2. Definition and Nature of trusts under the Indian law

- 2.1 Creation of trusts: rules

3. Duties of trustees

- 3.1 Execution
- 3.2 Acquittance with the nature of property
- 3.3 Duties in respect of title
- 3.4 Duty of care
- 3.5 Conversion
- 3.6 Impartiality
- 3.7 Prevention of waste
- 3.8 Keeping of accounts and giving of information
- 3.9 Investment
- 3.10 Sale
- 3.11 Liability for breach of trust.

4. Rights of Trustees

- 4.1 Title deed
- 4.2 Reimbursement
- 4.3 Indemnity
- 4.4 Seeking direction from court
- 4.5 Settlement of accounts
- 4.6 General authority

5. Powers of trustees

- 5.1 Sale
- 5.2 Varying of investment
- 5.3 Property of Minors

- 5.4 Giving receipts
- 5.5 Power to compound, compromise and settle
- 5.6 Exercising authority on death or disclaimer of one of the trustees
- 5.7 Suspension of trustee's power
- 6. Disabilities of trustees**
- 7. Rights of beneficiaries**
 - 7.1 Rents and profits
 - 7.2 Specific execution
 - 7.3 Inspection and information
 - 7.4 Transfer
 - 7.5 Suit for execution
 - 7.6 To have proper trustees
 - 7.7 Right to compel the trustee to do the duties
 - 7.8 Rights on wrongful purchase or acquisition by trustees
 - 7.9 Follow up of trust properties in the hands of third parties
 - 7.10 Blending of property by trustee
 - 7.11 Wrongful application of trust property by partner trustee for partnership purposes.

**3rd year of the Three Year Law Course Semester VI and 5th Year of the
Five Year Law Course Semester X
Paper VII and VIII
Trust Equity and Fiduciary Relationships**

- 8. Liabilities of Beneficiaries
- 9. Discharge of Trustees
- 10. Appointment of New Trustees
- 11. Extinction of Trust
- 12. Constructive trusts: the equitable and fiduciary Relationship
 - 12.1 Transfer without intent to dispose beneficial interest
 - 12.2 Trust incapable of execution and trusts executed fully without exhausting property -the cypress doctrine
 - 12.3 Transfer and request for illegal purpose
 - 12.4 Transfer pursuant to rescindable contract
 - 12.5 Debtor becoming creditor's representative
 - 12.6 Advantage from undue influence
 - 12.7 Advantage by qualified owner
 - 12.8 Property acquired with notice of existing contract
 - 12.9 Purchase by person contracting to by property to be held on trust
 - 12.10 Possession of property without whole beneficial interest
 - 12.11 Duties of constructive trustees
 - 12.12 Rights of bonafide purchasers
- 13. Special legislation**
 - 13.1 Charitable and religious trust
 - 13.1.1 Registration of public trust
 - 13.1.2 Budget Accounts and Audit
 - 13.1.3 Public Trust Administration Fund
 - 13.1.4 Offences and penalties

14. Maxims of Equity

Select Bibliography

- S. Krishnamurthy Aiyar and Harbans Lal Swin, *Principles and Digest of Trusts Laws* (1998), University Book Agency, Allahabad.
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3rd year of the Three Year Law Course Semester V and 5th Year of the Five Year Law Course Semester IX

Paper VII & VIII

WOMEN AND LAW AND LAW RELATING TO CHILD

Objective of the course

The need to study gender and juvenile justice as special subjects are to be emphasised as the constitutional guarantees have not achieved the desired results. The fundamental rights did not preclude having special provisions. The planners and the policy makers therefore treated women only as beneficiaries of welfare measures. The hope was the benefits of development would percolate below to all including women and therefore there was no need for special efforts to bring them into the mainstream. This trickle down theory of development is still to be materialized in spite of the positive action of woman's representation in local bodies. Women are discriminated in almost all sectors.

Children constitute the weakest and most vulnerable, most helpless as well as the most precious segment of the human society. By law they are denied participation in decision making even indirectly and by nature they lack effective articulation and indication of their rights. Children are recognised as legal persons for many purposes if not for all legal rights are conferred by the legal system. The course should draw attention to the helpless condition of children and their exploitation and the sufferings of children in poverty. The legal limitation on their capacity and legal rights and protection provided in the constitution and in varieties of laws are to be studied critically with the understanding that either the parents or the society or state shall be held legally responsible for the survival, development of personality and happiness of the children.

- 1. International concerns and conventions**
- 2. Women in India**
 - 2.1 Pre-independence period
 - 2.1.1 Social and legal inequality
 - 2.1.2 Social Reform Movement in India
 - 2.1.3 Karachi Congress-Fundamental Rights Resolution, Equality of Sexes
- 3. Women in post independence India**
 - 3.1 Preamble of the Constitution: equality provisions in Fundamental Rights and Directive principles of State Policy
 - 3.2 Personal laws- unequal position of women
 - 3.3 Uniform Civil Code towards gender justice

- 4. Sex Inequality in Inheritance Rights**
 - 4.1 Feudal institution of joint family-women's inheritance position
 - 4.2 Hindu Law
 - 4.3 Muslim Law
 - 4.4 Matrimonial property
- 5. Guardianship**
 - 5.1 Right of women to adopt a child
 - 5.2 Problems of women guardianing
- 6. Divorce**
 - 6.1 Indian Divorce Act
 - 6.2 Christian Law
 - 6.3 Muslim Law
- 7. Criminal Law**
 - 7.1 Adultery
 - 7.2 Rape
- 8. Social Legislation**
 - 8.1 Dowry Prohibition
 - 8.2 Prevention of immoral traffic
- 9 Women and Employment**
 - 9.1 labour force
 - 9.2 Protective Laws
 - 9.3 Exploitation and harassment in workplaces
- 10 Protection and enforcement agencies**
 - 10.1 Courts
 - 10.2 Family courts
 - 10.3 Commission for women
 - 10.4 NGOs.

**3rd year of the Three Year Law Course Semester VI and 5th Year of the
Five Year Law Course Semester X**

Paper VII and VIII

WOMEN AND LAW AND LAW RELATING TO CHILD

- 11 Social Constitutional and International Legal Status of Child**
- 11.1 Magnitude of the problem
 - 11.2 Special Status of child- national policies
 - 11.3 Constitutional concern-Article 15(3), Article 24 and Article 45
 - 11.4 International concern and endeavour for the welfare of the children:
 - 11.4.1 Minimum Age conventions
 - 11.4.2 Child rights conventions
 - 11.4.3 U. N. Declaration of the rights of the child, 1924, 1959.
- 12 Problems of conception, birth and nourishment and health of the child**
- 12.1 Legal status of child in work
 - 12.2 Tortious liability against injuries to unborn children
 - 12.3 Coparcenary and property rights of the unborn children.
 - 12.4 Law relating to maternity benefit and relief
 - 12.5 Lack of legal protection of children of impoverished parentage.
- 13 State responsibility for the education of children**
- 13.1 Evaluation of the efforts of the State towards the provision of education to children.
 - 13.2 Pre-primary and nursery education-elementary education.
 - 13.3 Contributions by International Organization for elementary education-UNESCO, UNICEF.
- 14 Legal Control of Child Labour**
- 14.1 Regulation of the employment: protection of the health and well-being
 - 14.2 International conventions and recommendations of the ILO.
 - 14.3 Recommendations of the National Commission of Labour.
 - 14.4 Legislation relating to factories, plantation labour, mines, merchant shipping, motor transport workers, apprentices, shop & establishments and child labour.
- 15 Family Relations and Child.**
- 15.1 The status of a child in matters of marriage, legitimacy, guardianship, adoption, maintenance and custody.
 - 15.2 Provisions in the statutes relating to hindu marriages, restraint on child marriage, guardians and wards, hindu minority and guardianship, hindu adoptions and maintenance and in the Indian Evidence Act 1872;
- 16 Child and Contractual Liability**
- 16.1 Minors Agreements
 - 16.2 Testimony of children
 - 16.3 Suits by and against minors.

- 17 Child and Criminal Liability**
- 17.1 Crimes committed by child; crimes committed by others in relation to children;
 - 17.2 Implementation of social policy through criminal sanctions in relation to child;
 - 17.3 Variation of procedure in case of child offender
 - 17.4 Judicio proceedings in criminal cases relating to children
 - 17.5 Statutory provisions-Sections 82, 83, 299 Exp.3, 363A, 372 and 376 of IPC-Suppression of Immoral Traffic Act 1956 (SITA) – penal provisions contained in Child Marriage Restraint Act 1929 as amended in 1978- Young Persons Harmful Publication Act 1956
 - 17.6 27 of the Cr. P.C. Reformatory Schools Act 1897- Juvenile Justice Act 2000
- 18 Law and Offences Against Child**
- 18.1 Protection of neglected children
 - 18.2 Institutions for the protection of neglected children;
 - 18.3 Juvenile Justice Act
 - 18.4 Juvenile delinquency: law and offences against child
 - 18.5 Contribution by parents; licensing;
 - 18.6 Protection of girls from immoral traffic;
 - 18.7 Prevention of vagrancy and beggary;
- 19 Discrimination Against Female Children**
- 19.1 Amniocentesis
 - 19.2 Deferred infanticide through based nutritional discrimination
 - 19.3 Termination of pregnancy.

Select Bibliography

- Gandhi to the Women* (ed. Hingorani) 1941, *Position of Women*. 12 Tear Down the Purdahp 213, Young India 1918.
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Students should be encouraged to look at the distinctive legal problems of children in the area where instructions is imparted. The literature on children's plight is vast and varied. But it is important that the focus of the course be on understanding of the distinctively legal problems in the region and ways in which we can contribute to change.

**3rd year of the Three Year Law Course Semester V and VI and 5th Year of
the Five Year Law Course Semester IX and X
Paper IX
MOOT COURT, PRE-TRIAL PREPARATIONS AND
PARTICIPATION IN TRIAL PROCEEDINGS.**

The performance of the students for this paper will be assessed on annual basis for semester V & VI /IX& X and at the end of the academic year viva voce examination will be conducted.

This paper will have three components of 30 marks each and a viva for 10 marks.

(a) Moot court (30 Marks) :

Every student will do at least three moot courts in a year with 10 marks for each. The moot court work will be on assigned problems and it will be evaluated for 5 marks for written submissions and 5 marks for oral advocacy.

(b) Observance of Trial in Two cases, one civil and one criminal (30 marks).

Students will attend two trials in the course of the last 2 or 3 years of LL.B. studies. They will maintain a record and enter the various steps observed during their attendance on different days in the court assignment. This scheme will carry 30 marks.

(c) Interviewing techniques and pre-trial Preparations.

Each student will observe two interviewing sessions of clients at the lawyer's Office/Legal Aid Office and record the proceedings in a diary which will carry 15 marks. Each student will further observe the preparation of documents and court papers by the advocate and the procedure for the filing of the suit/petition. This will be recorded in the diary which will carry 15 marks.

(d) The fourth component of this paper will be Viva-voce examination on all the above three aspects.

This will carry 10 marks.

**3rd year of the Three Year Law Course Semester V and 5th Year of the
Five Year Law Course Semester IX
PAPER- X
DRAFTING, PLEADING AND CONVEYANCING**

This paper will be taught through class instructions and simulation exercises, preferably with assistance of practising lawyers/retired judges. Apart from teaching the relevant provisions of Law, the course will include 15 exercise in Drafting carrying a total of 45 marks and 15 exercises in Conveyancing carrying another 45 marks (3 marks for each exercise).

(a) DRAFTING:

General principles of drafting and relevant substantive rules shall be taught.

(b) PLEADINGS :

- (1) Civil : (I) Complaint, (ii) Written Statement, (iii) Interlocutory application, (iv) Original petition (v) Affidavit, (vi) execution petition and (vii) petition under Article 226 and 32 of the Constitution of India.
- (2) Criminal : (I) Complaints, (ii) Criminal Miscellaneous Petition (iii) Bail Application and (iv) Memorandum of Appeal and Revision.

**3rd year of the Three Year Law Course Semester VI and 5th Year of the
Five Year Law Course Semester X
Paper X
Drafting, Pleading and Conveyancing**

(c) CONVEYANCING :

- (I) Sale Deed
- (ii) Mortgage Deed
- (iii) Lease Deed
- (iv) Gift Deed
- (v) Promissory Note
- (vi) Power of Attorney
- (vii) Will

Ten marks will be given in a viva-voce examination which would be conducted at the end of academic year which will test the understanding of legal practice in relation to Drafting, Pleading and Conveyancing.

NOTE:

- (1) In respect of Paper No. IX and X individual college will evaluate the performance of each student as per the guidelines of the Bar Council of India and assign the marks out of 90 for each paper. However, oral examination for each individual paper (10 marks) will be conducted by a team of 3 examiners out of which 2 will be external. The team of external examiners shall verify the record maintained by each student in this regards as per the guidelines of the Bar Council of India.

Semester V/ IX and VI/X
RULE OF SCALING DOWN:

In respect of paper-IX and X Semester V/ IX and VI/X if the marks assigned by the concerned college exceed by more than 20 percent of the total percentage of the marks obtained by the student in all other subjects, the excess will be scaled down.

- (2) The record to be maintained by the student and the exercises to be written by the student at his discretion will be either in English or Marathi.

DHAVAN S. R.

BIRJE SR/ JC.

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