

CHANAKYA NATIONAL LAW UNIVERSITY, PATNA
B.A., LL.B. (H) / B.B.A., LL.B. (H)
(6th Semester)
Academic Session- January –June, 2025
ALTERNATIVE DISPUTE RESOLUTION (ADR)
Course Outline

Course Overview:

The resolution of disputes forms a large part of the justice delivery system. Every community, country, and culture have a lengthy history of using various methods of informal dispute resolution. India, in particular, has a longstanding tradition of resolving conflicts through Alternative Dispute Resolution (ADR) mechanisms, exemplified by the Nyaya Panchayat System.

The backlog of cases in Indian courts, which currently stands at over 5 crores, poses significant challenges to the formal litigation process. Recognizing this, the Parliament has enacted progressive laws like the Arbitration and Conciliation Act, 1996, and given statutory recognition to Lok Adalats. The Code of Civil Procedure, 1908, was amended to make it mandatory for courts to explore the settlement of disputes through ADR methods in pending suits, leading to an increased demand for trained arbitrators, conciliations, and mediators. Furthermore, court-annexed mediation and conciliation centres have been established at several courts in India, with cases being referred to these centres. These measures aim to address the large number of pending cases and promote efficient dispute resolution in the country.

Alternative Dispute Resolution mechanisms are now more relevant than ever at the local, national, and international levels. By their very nature, some disputes need to be resolved in a very particular manner. Each of these dispute resolution systems involves different style of planning and execution. The skills involved are also different as also preparation.

The course aims to give the students an insight into the processes of Arbitration, Mediation, Lok Adalat and other Alternative Dispute Resolution methods. The course addresses differences between court procedure and its alternatives, and explains when one should prefer one or another way of dispute resolution. The teaching methods include lectures, use of multi-media, simulation exercises, group discussion, role plays and field visits.

Learning Outcomes:

- Develop a thorough knowledge of various ADR methods, including Arbitration, Mediation, Lok Adalat, and others, focusing on their unique characteristics, procedures, legal frameworks, and application contexts.
- Understand the key differences between traditional court procedures and ADR mechanisms, enabling informed decision-making about choosing the most effective approach for specific disputes.

- Cultivate practical skills in conducting arbitration, mediation, and other ADR processes, including negotiation, communication, conflict resolution, and case analysis.
- Enhance critical thinking and problem-solving skills to apply legal principles and procedural knowledge to specific disputes and devise effective ADR solutions.

Details of the Course Outline

Unit I:

Alternate Dispute Resolution

[8 Lectures]

Concept, Need, Development and Advantages

Different Methods of Dispute Resolution

Section 89 of the Code of Civil Procedure, 1908

Unit II: The Arbitration and Conciliation Act, 1996

[18 Lectures]

Historical Background and Objectives of the Act

Common Forms of Arbitration

Arbitration Agreement

Composition of Arbitral Tribunal

Jurisdiction of Arbitral Tribunal

Conduct of Arbitral Proceeding

Making of Arbitral Award

Termination of Proceedings

Recourse against Arbitral Award

Finality and Enforcement of Arbitral Awards

Appeals

Unit III:

Enforcement of Certain Foreign Awards

[8 Lectures]

New York Convention Awards

Geneva Convention Awards

Unit IV:

The Mediation Act, 2023

[10 Lectures]

Concept and Meaning
Mediation Proceedings
Enforcement of Mediated Settlement Agreement
Online Mediation
Mediation Council of India
Mediation Service Providers and Mediation Institutes
Community Mediation

Unit V:

Other Alternative Dispute Resolution Systems

[16 Lectures]

Negotiation
Settlement of Matrimonial Disputes under the Family Courts Act, 1984
Voluntary reference of Industrial Dispute to Arbitration
Conciliation of Industrial Disputes
Tribunals- Lokpal and Lokayukta
Gram Nyayalayas Act, 2008
LokAdalats
Legal Aid
Online Dispute Resolution
Alternative approaches in Criminal Justice System

SUGGESTED READINGS:

1. O.P.Malhotra & Indu Malhotra, *The Law and Practice of Arbitration and Conciliation*, Thomson Reuters
2. Susan Blake, Julie Browne & Stuart Sime, *A Practical Approach to Alternative Dispute Resolution*, Oxford
3. Nigel Blackaby, *Redfern and Hunter on International Arbitration*, Oxford University Press
4. P.C. Markanda, *Law Relating to Arbitration and Conciliation*, LexisNexis

5. Dushyant Dave, Martin Hunter, Fali S. Nariman, Marike R. P. Paulsson, *Arbitration in India*, Kluwer Law International
6. P.C. Rao & William Sheffield, *Alternative Dispute Resolution*, Universal, Delhi
7. Saurabh Bindal, *Avatar Singh's Arbitration and Conciliation*, Eastern Law Books House, Lucknow
8. Madabhushi Sridhar, *Alternative Dispute Resolution -Negotiation and Mediation*, LexisNexis
9. Sukumar Ray, *Alternative Dispute Resolution*, Eastern Law House, Kolkata
10. The Arbitration and Conciliation Act 1996
11. The Mediation Act, 2023
12. Legal Services Authorities Act, 1987
13. 222nd Report of the Law Commission of India on *Need for Justice-Dispensation through ADR* (2009)
14. 246th Report of the Law Commission of India on *Amendments to the Arbitration and Conciliation Act, 1996* (2014)
15. Mediation Training Manual of India by Mediation and Conciliation Project Committee of Supreme Court of India.

EVALUATION

i)	Attendance	: 05
ii)	Research Project	: 20
iii)	Mid Semester Examination	: 15
iv)	End Semester Examination	: 60

TOTAL **100**

Note: The topics and materials mentioned above are not exhaustive. The faculty teaching the course shall be at liberty to add new topics/cases.

Instructors Details

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CHANAKYA NATIONAL LAW UNIVERSITY, PATNA

CONSTITUTIONAL LAW II

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

Academic Year 2024-25

COURSE PORTRAYAL¹:

The first course on Constitutional Law introduced the ideas of Liberal Constitutionalism with an emphasis on the adjudication and enforcement of fundamental rights in the Indian Constitution. This course examines the organization of the structures of governance in post-independence India which are meant to promote a democratic government that respects the rights of its citizens. This course will organize the discussion around the two principled ideas of federalism and separation of powers.

The Indian Constitution exhibits some distinctive federal features even though there is no explicit statement of it bearing a federal character. The course evaluates Indian federalism with reference to the specific needs of accommodating diverse groups based on language, religion, and other identities. Federalism in India serves other purposes as well, such as enhancing participation and representation while also providing for the distribution of powers. It is a hallmark of a pluralist society. Federalism is also stated to be an outcome of our historical experiences and ground realities. Federalism is a means for preventing the concentration of powers in a few hands, balancing the exercise of powers by different levels of government and providing autonomy for smaller political units. This discussion will proceed through several topics such as the (1) Formation and Reorganization of States, (2) Examples of Asymmetric Federalism in the Indian Constitution, (3) Distribution of Legislative Competence, (4) Emergency Powers and (5) Financial Federalism

The application of the 'separation of powers' doctrine in post- Independence India will be examined. We will begin with an overview of the structure of the Union and State Executive, Legislature and Judiciary. We will then turn to some illustrative judicial decisions that highlight the evolution of the 'separation of powers' doctrine in India. The unique mix of a parliamentary style of democracy with a President as the Head of the State has led to some interesting debates on the nature of government that we have. We will also touch on topics such as the use of parliamentary privileges and the contemporary debates on judicial appointments. The impact of comparative constitutional law is seen the most in understanding the evolution of the 'basic structure' doctrine, the use of presidential powers of a discretionary nature and the persistent debates about the limits of executive power in a democratic framework. Most of these topics will be discussed by taking the students through leading judicial decisions along with theoretical and analytical pieces which will aid students to understand the

¹ Prepared by Prof. N. Vasanthi and Sidharth Chauhan, (Assistant Professor) NALSAR University of Law, and revised by Prof. Faizan Mustafa, Hon'ble Vice Chancellor, and Shree Rahul (Assistant Professor), CNLU.

decision in the context of socio-political developments. The role of Constitutional bodies such as the Election Commission and the Public Service Commissions in enhancing democratic governance will also be examined.

Module – I Separation of Powers & Union and State

(Lectures 1-7)

Executive

- (a) Doctrine of Separation of Powers
- (b) President and Governor: Appointment, Tenure and Comparative Position
- (c) Appointment and Dismissal of the Council of Ministers at the Centre and in the states
- (d) Ministerial Responsibility
- (e) Relationship between President and Governor with their Council of Ministers

We will look at the unique nature of the Indian executive and the old debate of whether India should follow the 'Westminster Model' of parliamentary governance or the 'Strict Separation of Powers' associated with Presidential systems. The Indian Constitution does not define Executive power and the only provision to be referred to is Article 73 which states that executive power is co-extensive to legislative power. The Indian judiciary therefore has played a big part in defining the scope of executive powers, the manner in which they may be exercised and the limitations on them.

There are however several important powers conferred on the President and the Governors, which call for the exercise of personal discretion such as that of granting pardons (Articles 72 and 161) and deciding on which political formation is to be invited to form the government in cases of hung electoral verdicts. These powers have raised questions of whether it was the intention of the framers of the Indian Constitution to retain the president as a mere figurehead or to discharge important constitutional functions. Important aspects to be discussed will be the cabinet form along with the presidential form of government, the special powers of the President of India such as the legislative and executive powers (i.e. the ordinance making powers), and the pardoning powers, the difference between the powers of the President and the Governor, the scope of discretionary powers of both as well as the scope for judicial review over them.

- A) Definition of Executive power
- B) Executive power distinguished from constitutional powers
- C) Ordinance making power (Articles 123 and 213).
- D) Pardoning power (Articles 72 and 161).
- E) Special powers of the Indian President
- F) Special powers of the Governor of the State

G) Standards of Judicial review applicable for the various powers

Case Law:

- Ram Jawayya Kapur v State of Punjab, AIR 1955 SC 549.
- Sarat Chandra Rabha v. Khagendranath Nath, AIR 1961 SC 334.
- U.N.R. Rao v. Indira Gandhi, (1971) 2 SCC 63.
- Samsher Singh v. State of Punjab, AIR 1974 SC 2192.
- Maru Ram v. Union of India. (1981)1 SCC 107.
- M.P. Special Police Establishment v. State of Madhya Pradesh, (2004) 8 SCC 788.
- Epuru Sudhakar v. State of Andhra Pradesh, AIR 2006 SC 3385.
- State of Gujarat v. Justice R.A. Mehta, (2013) 3 SCC 1.
- Devinder Pal Singh Bhullar v. State (NCT of Delhi), (2013) 6 SCC 195.
- Shatrughan Chauhan v. Union of India, (2014) 3 SCC 1.
- Krishnakumar Singh v. State of Bihar, (2017) 3 SCC 1.
- Government of NCT of Delhi v. Union of India, 2023 SCCOnLine SC 606
- Government of NCT of Delhi v. Office of Lieutenant Governor of Delhi 2024 INSC 578

Readings:

- Bruce Ackerman, "The New Separation of Powers", 113 *Harvard Law Review* 633-729 (2000).
- Holmes, H.W., 1970. POWERS OF PRESIDENT: MYTH OR REALITY. *Journal of the Indian Law Institute*, 12(3), pp.367-399.
- Ruma Pal, "Separation of Powers" in Sujit Choudhry, Madhav Khosla et.al.(eds.),

The Oxford Handbook of the Indian Constitution 291 (Oxford, 2016)

- Guillermo O'Donnell, "Horizontal Accountability in New Democracies", 9.3 *Journal of Democracy* 112-126 (1998)
- D.C. Wadhwa, *Repromulgation of Ordinances: Fraud on the Constitution of India*, (Gokhale Institute of Politics and Economics, 1983).

- Upendra Baxi, 'Clemency, Erudition and Death: The Judicial Discourse in Kehar Singh', 30(4) *Journal of Indian Law Institute* 501-506 (1988).
- S. Muralidhar, 'Hang them now, Hang them not: India's travails with the Death penalty', 40 *Journal of Indian Law Institute* 143-173 (1998).
- Subhankar Dam, 'Making Motives Count: Judicial Review of Ordinances in India', 33(2) *Statute Law Review* (2012).

Module – II Union and State Legislatures

(Lectures 8-12)

- (a) Composition and Qualification and Disqualifications of the members of Parliament and state Legislature
- (b) Office of Profit
- (c) Anti-Defection Law
- (d) Legislative Procedure of Parliament and State Legislature
- (e) Privileges and Immunities of Parliament and State Legislature

Bicameralism as a feature of Indian Federalism and as a basic feature of the Indian Constitution has emerged as an important issue post the Aadhar decision. This module will examine the role of the second chamber at the Union and State level. The module will also examine parliamentary privileges (Articles 105 and 194), the provisions regarding the disqualifications of legislators in general and on the ground of defection (Tenth Schedule). The scope of protection available under the privileges doctrine was prominently raised in the JMM Bribery case (1998). Prior to this case, the issue of parliamentary privileges was raised in respect of the conflict between the enumerated fundamental rights (speech, personal liberty) and the constitutional provisions that enable the exercise of legislative privileges. In subsequent cases, the discussion has turned towards the propriety of exercising privileges in order to act against allegations of corruption by serving legislators. The provisions dealing with disqualification from the membership of a legislative chamber raise several questions related to the boundaries between electoral politics and institutional stability. For instance, the use of the anti-defection provisions has been described as inimical to the idea of inner-party democracy since they compel legislators to toe the party line.

Mandatory Reading:

- Gaurav Mukherjee and Malavika Prasad, 'Reinvigorating Bicameralism in India', 3(2) *University of Oxford Human Rights Hub Journal* 96 (May 21, 2021), Available at SSRN: <https://ssrn.com/abstract=3850755>

Recommended Reading:

Durga Das Basu, *Shorter Constitution of India Vol. 1*, 14th edn., pp.726-738. H.M.Seervai, *Constitutional Law of India*, 3rd edn.,

Legislative Power of the Union and the States pp.1892-2140 (particularly pp. 2056-57, pp. 2004-2008, pp. 1904-05).

Balwant Singh Malik, 'P.V. Narasimha Rao v. State: A Critique', (1998) 8 SCC (Jour) 1.

Shivraj V. Patil, 'Powers, Privileges and Duties of Parliamentarians', XXXV *Journal of Constitutional and Parliamentary Studies* (2001).

Shubhankar Dam, 'Parliamentary Privileges As Façade: Political Reforms And The Indian Supreme Court', *Singapore Journal of Legal Studies* 162-183 (2007).

Sidharth Chauhan, 'Bicameralism: Comparative Insights and Lessons', *Seminar*, Vol. 642, pp. 42-48 (February 2013).

Alok Prasanna Kumar, 'Money Bills and the Future of the Rajya Sabha', *Economic and Political Weekly* (Nov 23, 2019)

Law Commission of India, 170th Report: Reform of the Electoral Laws (1999).

Cases

M.S.M. Sharma v. Srikrishna Sinha, AIR 1959 SC 395.

- Special Reference No.1 of 1964, AIR 1965 SC 745 (U.P. Assembly case).
- P.V. Narasimha Rao v. State (NCT of Delhi), AIR 1998 SC 2120.
- B.R. Kapur v. State of Tamil Nadu, (2001) 7 SCC 231.
- Raja Ram Pal v. Hon'ble Speaker (2007) 3 SCC 184.
- Amarinder Singh v. Special Committee, Punjab Vidhan Sabha, (2010) 6 SCC 113.
- Lily Thomas v. Union of India, (2013) 7 SCC 653.
- Union of India v. Sh. Harish Chandra Singh Rawat, (2016) SCC Online SC 442,
- Justice Puttaswamy v. Union of India (Money Bill) (2019) 1 SCC 1.(Justice Chandrachud's dissent)
- Rojer Mathew v. South Indian Bank Ltd. & Ors.2019 SCC Online SC 1456
- Shivraj Singh Chouhan and Others v. Speaker, Madhya Pradesh Legislative Assembly and Others 2020 SCC OnLine SC 363
- Keisham Meghachandra Singh v. The Hon'ble Speaker Manipur Legislative Assembly & Ors.(2020) SCCOnLine SC 55.
- Shrimanth Balasaheb Patil v. Speaker Karnataka Legislative Assembly (2020) 2 SCC 595

Modules – III and IV

Union and State judiciary, Judicial Process and Arising Issues

(Lectures 13-25)

- (a) Organization and Independence of Judiciary
- (b) Appointments, Tenure and Security of Job of the Apex Court, high Courts and Subordinate Courts
- (c) Removal of the Judges of the Supreme Court and the High Courts.
- (d) Jurisdictions of the Supreme Court of India

- Original and Exclusive

- Appellate Jurisdiction – Constitutional matter, Civil, Criminal and S.L.P.
- Advisory Jurisdiction

(e) Curative Petitions: Width and Limit

(f) Judicial Review: Legitimacy, Creativity and Credibility

(g) Doctrine of Precedent and Bindingness of the

Decisions of the Supreme Court and the High Court

(h) Working of Collegium

(i) Transfer of the High Court Judges

(j) Supersession of the Judges of the Supreme Court of India

(k) Post-Retiral Appointments

We will look at the provisions dealing with the Union and State judiciary, namely Articles 124- 147 and Articles 214-231. The role of the judiciary in implementing fundamental rights and bringing about accountability on part of the executive branch has been transformative. The Indian Supreme Court has different categories of jurisdiction and some of them (such as Advisory Jurisdiction under Article 143) are used less often when compared to the appellate jurisdiction under Articles 133, 134 and 136. The module will look at whether the doctrine of political question will apply to the Indian judiciary given that the 'separation of powers' under the Indian Constitution is not as strict as the separation in some other jurisdictions. We will also examine the vexed question of the independence of the judiciary and the ongoing debate about the methods used for the appointment of judges at different levels. The different powers of the Supreme Court under its various jurisdictions, i.e. in its powers as a reviewing court, reviewing legislative action, executive action or constitutional amendment, its role as an appellate court, powers of answering presidential reference, and its power to do complete justice will be explored.

Readings:

- H.M.Seervai, *Constitutional Law of India*, 3rd edn., The 'political question' doctrine, pp. 2205-2213.

Judicial Independence p.2264-2454 particularly summing up at pp. 2450-54. Is Judicial Review undemocratic?, pp. 2498.

- Pran Chopra, 'The Constitution and Supreme Court', 39(30) *Economic and Political Weekly* 3355-3359 (2004).
- Pratap Bhanu Mehta, 'The Rise of Judicial Sovereignty', 18(2) *Journal of Democracy* 70- 83 (2007).

- Law Commission of India, 214th Report: Proposal on Reconsideration of Judges Cases I, II and III (2008).

- Abhinav Chandrachud, 'An Empirical Study of the Supreme Court's Composition', 46(1)

Economic and Political Weekly 71-78 (2011).

- Nick Robinson, 'A Quantitative Analysis of the Indian Supreme Court's Workload', 10(3)

Journal of Empirical Legal Studies 570-601 (2013).

- Arghya Sengupta, 'Judicial Primacy and the Basic Structure', 50(48) *Economic and Political Weekly* (Nov. 28, 2015).
- DREWRY, G. (2009). The Judicialization of 'Administrative' Tribunals in the UK: From Hewart to Leggatt, 5(28) *Transylvanian Review Of Administrative Sciences* 45-64 (2009), Retrieved from <https://rtsa.ro/tras/index.php/tras/article/view/27>
- Whittington, K.E., 2013. The Status of Unwritten Constitutional Conventions in the United States. *U. Ill. L. Rev.*, p.1847.

Cases:

- Subhash Sharma v. Union of India, AIR 1991 SC 631.
- All India Judges Association v. Union of India, AIR 1992 SC 165.
- S.P. Gupta v. Union of India, AIR 1982 SC 149. (First Judges case).
- Supreme Court Advocates-on-Record Association v. Union of India, AIR 1994 SC 268 (Second Judges case).
- In re Presidential Reference, AIR 1999 SC 1 (Third Judges case).
- Supreme Court Advocates-on-Record Association v. Union of India, (2016) 5 SCC 1. (Fourth Judges case).
- Rojer Mathew v. South India Bank Ltd. , 2019 SCC Online SC 1456.

Module – V
Federalism and Distribution of Legislative Powers

(Lectures 26-31)

- (a) Federal Idea and Chief Characteristics of a Federal System
- (b) Nature of Indian Polity
- (c) Territorial Distribution of Legislative Powers between Union and the States and Principle of Territorial Nexus
- (d) Matters of Union and State Legislation and Residuary Powers

e. Interpretative Techniques

(f) Pith and Substance

(g) Colourable Legislation

(h) Repugnancy

The distribution of law-making powers between the Union Parliament and the State Legislatures has been clearly made in the Constitution. However, several issues have arisen in the interpretation of specific entries enumerated in the Union, State and Concurrent Lists that are part of the Seventh Schedule. The litigation in this area examines situations where a repugnancy arises between the content and enforcement of Central and State Legislations. The important doctrines of 'Pith and Substance' and 'Harmonious Construction' will be discussed along with a close reading of the language in Articles 245, 246 and 254.

Relevant Readings:

- Pradyumna K. Tripathi, 'Article 254: The Text is Explicit', AIR 1986 (J) 17.
- V. Niranjan, 'Legislative Competence: The Union and the States', in *The Oxford Handbook of the Indian Constitution* (2016), pp. 466-486.
- Durga Das Basu, *Commentary on the Constitution of India*, Volume 8, 8th edn., Part XI - Relations between the Union and the States

Nature of distribution of powers and the theory of Implied Powers, pp. 8641-8655. Doctrine of 'Incidental and Ancillary powers', pp. 8657-60.

Doctrine of 'Occupied Field', pp. 8677-79. Doctrine of 'Pith and Substance', pp. 8692-97. Doctrine of 'Aspect of Legislation', pp. 8707-8710.

General Principles for Interpretation of the three lists in the Seventh Schedule, pp. 8712-8728.

Cases:

- Prafulla Kumar Mukherjee v. Bank of Commerce, Khulna, AIR 1947 PC 60.
- K.C. Gajapathi Narayan Deo v State of Orissa, AIR 1953 SC 375.
- Jayantilal Amritlal Shodhan v. F.N. Rana, AIR 1964 SC 648.
- Gujarat University v Sri Krishna Ranganath Mudholar, AIR 1963 SC 703.
- D.A.V. College, Bhatinda v. State of Punjab, AIR 1971 SC 1731.
- Union of India v. Harbhajan Singh Dhillon, AIR 1972 SC 106.
- Hoechst Pharmaceuticals Ltd. v. State of Bihar, AIR 1983 SC 1019.
- Federation of Hotel and Restaurant Association of India v. Union of India, (1989) 3 SCC 634.
- Vijay Kumar Sharma v. State of Karnataka, AIR 1990 SC 2072.
- Prof. Yashpal and Anr. v. State of Chhattisgarh, AIR 2005 SC 2026.
- State of Kerala v. Mar Appraem Kuri, (2012) 7 SCC 106.
- The State of Punjab v. Davinder Singh 2024 INSC 562
- State of U.P. V. Lalta Prasad Vaish and Sons 2024 INSC 812

Module – VI

Administrative and Financial Relations between Centre and the States

(Lectures 32 -35)

- (a) Administrative Relations between Union and States
- (b) Distribution of Financial Resources between Union and the States
- (c) Doctrine of Immunity of Instrumentality
- (d) Role of Finance Commission in Devolution of Finances from Union to States
- (e) Niti Ayog
- (f) Goods and Services Tax
- (g) Freedom of Trade, Commerce and Intercourse and its Regulations by the Union and the States

We will look at the provisions that have a direct bearing on debates about fiscal federalism, such as the role of the Finance Commission (Articles 270, 275, 280), the powers of the Goods and Services Tax Council (Article 279A) and discretionary spending powers (Article 282). The introduction of the Goods and Services Tax (GST) by way of a constitutional amendment in 2017, was a result of several years of negotiations with the States to give up their power to impose sales tax, in favour of a value added tax which would be a composite tax. The idea was to reduce the

cascading effect of multiple taxes and reduce the tax burden, facilitate trade and increase transparency in taxation. The taxation power of the states was hugely curtailed and required a constitutional amendment since the changes had a significant impact on fiscal federalism. The distribution of taxing powers under the Indian Constitution had always favored the Union and the GST has further increased dependencies on the Union Government. This module will provide an overview of the distribution of revenues between the Centre and the States as well as the impact of the GST regime on Centre-State relations.

Reference Material:

- Nirvikar Singh, 'Fiscal Federalism' in *The Oxford Handbook of the Indian Constitution* (2016), pp. 521-539.
- Alok Prasanna Kumar, 'A Fatal Blow to the Goods And Services Tax', 57(25) *Economic and Political Weekly* (June 18, 2022).
- *Union of India v. Mohit Minerals*, (2022 SCC OnLine SC 657).
- *Mineral Area Development v. M/s Steel Suthority of India* 2024 INSC 607

Module VII - Emergency Provisions

(Lectures 36-46)

- (a) National Emergency and its Impact on Union and the States
- (b) Financial Emergency and its Impact on Centre – State Relations
- (c) Breakdown of Constitutional Machinery in the States
- (d) Judicial Review of its Proclamation

A major feature in the Indian Constitution that seriously impinges on the federal character is the powers given to the Central government to impose a period of emergency through presidential proclamation. Articles 352-360 deal with the powers of the president to declare an emergency upon being satisfied that a grave emergency exists with respect to the whole of India or in a specified territory. During the declaration of an emergency, fundamental rights may be suspended and there is an enhancement of the executive powers of the Union Government. We need to especially reflect on the use of Article 352 to impose a national emergency on the ground of 'internal disturbances' between 1975-77 and then trace the subsequent changes to the Constitution as a whole. We will examine the conditions under which an emergency may be declared, by whom, the process required, the subsequent actions and their implications for the 'rule of law'. The

suspension of fundamental rights, the power to amend the constitution, the attempt to restrain judicial review during the period of internal emergency (1975-1977) have left deep impressions on Indian Constitutional Law which we need to be aware of.

Apart from the provisions for national emergency, Regional Emergencies under Article 356 (i.e. the imposition of President's rule in a State on the ground of a failure of constitutional machinery) has also raised serious questions about the nature of Indian federalism. This provision also raises important questions about the scope of judicial review in matters of proclamation of emergency. As mentioned earlier, the decision in *S.R. Bommai* (1994) has used the 'basic structure' doctrine to justify its assessment of situations where a breakdown of the constitutional machinery has been asserted. The court also answered questions as to whether these were purely political questions and whether there could be 'judicially manageable standards' to answer them.

Relevant Readings:

- **Granville Austin, *Working a Democratic Constitution* (OUP, 1999), pp. 293-391.**
- Soli J. Sorabjee, 'Decision of the Supreme Court in *S.R. Bommai v. Union Of India*: A Critique', (1994) 3 SCC (Jour) 1.
- Shubhankar Dam, 'Can a Legislative Assembly function without an Executive Government under the Indian Constitution?', *Public Law* 224-233 (Summer 2008).
- Gopal Subramaniam, 'Emergency Provisions under the Indian Constitution' in *Supreme But not Infallible: Essays in Honour of the Supreme Court of India* (OUP, 2000), p. 134.
- Sudhir Krishnaswamy and Madhav Khosla, 'Regional Emergencies Under Article 356 : The Extent Of Judicial Review', 3 *Indian Journal of Constitutional Law* 168-180 (2009).
- **Rahul Sagar, 'Emergency Powers' in *The Oxford Handbook of the Indian Constitution* (2016), pp. 213-231.**

Cases:

(On Article 352 – National Emergency)

- *Makhan Singh Tarsikka v. State of Punjab*, AIR 1964 SC 381.
- *Mohd. Yaqub v. State of Jammu and Kashmir*, AIR 1968 SC 765.
- *Additional District Magistrate, Jabalpur v. Shivkant Shukla*, AIR 1976 SC

1207. (On Article 356 – Regional Emergencies and comparable issues)

- *State of Rajasthan v. Union of India*, AIR 1977 SC 1361.

- S.R. Bommai v. Union of India, AIR 1994 SC 1918.
- Rameshwar Prasad v. Union of India, AIR 2006 SC 980.
- B.P. Singhal v. Union of India, (2010) 6 SCC 331.
- Nabam Rebia & Bamang Felix v. Deputy Speaker, Arunachal Legislative Assembly, (2016) 8 SCC 1.
- Government of National Capital Territory of Delhi v. Union of India (2018) 8 SCC 501.

Module VIII- Amendment of the Constitution and Overall Role of the Judiciary in Saving the Constitution and Federal Structure

(Lectures 47-60)

The evolution of the 'Basic Structure' theory arises in the context of the curbing of fundamental rights, but the Supreme Court states the theory in terms of concepts such as democracy, separation of powers and other constitutional processes. This theory presents a unique opportunity to discuss the essential features of the Indian Constitution. It gives us a keyhole to view the entire Constitution and organise the various features in order of their importance to the core or the essence of the Constitution. Since there is no exhaustive list of features, it also entails an exercise in constructive interpretation that has to take into account the political developments that unfolded in the background to the judicial articulation of this theory. In this module, we will look at the evolution of basic structure theory and its relation to fundamental rights. The 'Right to Property' and its curtailment through constitutional amendments is the central example. We will discuss the origins of the theory, its subsequent expansion and its contemporary usage.

Recommended Readings:

- Raju Ramachandran, 'The Supreme Court and the Basic Structure Doctrine', in *Supreme but not Infallible: Essays in Honour of the Supreme Court of India* (Oxford University Press, 2000) at pp. 107-134.
- John Simte, *The Basic Structure Doctrine, Article 370, and the Future of India's Democracy*, available at <https://verfassungsblog.de/the-basic-structure-doctrine-article-370-and-the-future-of-indias-democracy/>
- Dieter Conrad, 'Basic Structure of the Constitution and Constitutional Principles', Lecture Delivered at the Indian Law Institute, New Delhi on April 2, 1996. It was published in Law and Justice, a journal of the United Lawyers Association, New Delhi (Vol. 3, Nos.

1-4; pp. 99-114).

- Durga Das Basu, *Shorter Constitution of India*, Vol. 2 (14th edn., 2009)

Part XII: Right to Property, pp. 1805-1823.

Part XX: Amendment of the Constitution, pp. 2225-2245.

Part XVIII: Emergency Provisions, pp. 2155-2197.

- Granville Austin, *Working a Democratic Constitution: A History of the Indian Experience* (Oxford University Press, 1999),

Part II: The Great Constitutional Confrontation: Judicial versus Parliamentary Supremacy, 1967-73, pp. 171-293.

Closing the circle, pp. 314-328.

The Constitution Strengthened and Weakened, pp. 498-516.

Judicial Reform or Harassment, pp. 516-528.

- Namita Wahi, 'Property' in *The Oxford Handbook of the Indian Constitution* (2016), pp. 943-966.
- Surya Deva, 'Savings Clauses: The Ninth Schedule and Articles 31 A-C' in *The Oxford Handbook of the Indian Constitution* (2016), pp. 627-643.

Cases:

- Kameshwar Singh v. State of Bihar, AIR 1951 Pat 91.
- Shankari Prasad Singh Deo v. Union of India, AIR 1951 SC 458.
- State of West Bengal v. Bela Banerjee, AIR 1954 SC 170.
- Sajjan Singh v. State of Rajasthan, AIR 1965 SC 845.
- I.C. Golaknath v. State of Punjab, AIR 1967 SC 1643.
- Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461.
- Indira Nehru Gandhi v. Raj Narain, 1975 Supp. SCC 1.
- Waman Rao v. Union of India, AIR 1981 SC 271.
- Minerva Mills v. Union of India, AIR 1980 SC 1789.
- S.R. Bommai v. Union of India, AIR 1994 SC 1918.
- Kihoto Hollohan v. Zachillu, (1992) Supp. (2) SCC 651.
- I.R.Coelho v. State of Tamil Nadu (2007) 2 SCC 1.
- Supreme Court Advocates on Record Association v. Union of India, (2016) 5 SCC 1.
- In Re: Article 370 of the Constitution 2023 INSC 1058

Chanakya National Law University, Patna

B.A., LL.B. (H) & B.B.A., LL.B. (H) 2024-25; SEMESTER- 6th Semester

Course Title: Intellectual Property Law

Course Overview

This course seeks to equip students with a comprehensive understanding of key Intellectual Property Laws in India by firstly, reading together, understanding, interpreting and applying essential legal provisions of selected laws in the light of contemporary judicial interpretations; secondly, engaging critically with nuances of these laws and their interpretation; and thirdly, developing an insight into the socio-political dynamics that shape Intellectual Property Laws in India. This course will cover patents, copyrights and trade mark laws in India.

Module **One** discusses the **theoretical justifications for Intellectual Property Rights**

Module **Two** deals with the **Copyright law** in India.

Module **Three** deals with **Trademark law** in India.

Module **Four** covers the **Patent Law** in India.

Learning Outcomes

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

- a. Demonstrate thorough understanding of key legal provisions and ability to analyse and interpret contemporary judicial decisions on these provisions in laws relating to patent, copyright and trade mark in India.
- b. Effectively apply legal provisions of these laws to real-world scenarios involving specific intellectual property issues.
- c. Engage critically with the nuances and complexities of intellectual property laws, identifying ambiguities, gaps, and areas of contention within the legal framework.
- d. Develop discernment in understanding the socio-political factors that influence intellectual property laws in India, including the impact of globalization/de-globalisation and technological advancements on IP rights.
- e. Develop the ability to frame well-reasoned arguments, based on legal principles and socio-political context, on contemporary issues and critiques of intellectual property rights.

List of Topics/ Modules

Topic/ Module	Contents/ Concepts*	Sessions / Lectures
Module I: Introduction	<ul style="list-style-type: none"> ● Theoretical justifications and positioning how we think about copyright 	3
Module II: Trade Mark law	<ul style="list-style-type: none"> ● Trade Mark Act, 1999 (along with rule, manual and relevant case law) - Introduction, functions of trade mark, Definition of a mark, trade mark - essential features of a trade mark, kinds of trade mark, well known marks. ● conditions, procedure of Registration of a trade mark; grounds of refusal – absolute and relative grounds ● Rights and liabilities of a trade mark holder, limitations on rights, ● Honest and concurrent use; ● Infringement and Passing off Remedies, ● Protection of Trade Names and Domain Names ● Contemporary Developments- Effects of Information Technology, AI 	15
Module III: Copy Right law	<ul style="list-style-type: none"> ● The law of Copyright – introduction ● Fundamentals of copyright – Originality, Idea/Expression Dichotomy, Registration ● Subject Matter of copyright, concept of work, kinds of work ● Ownership and Authorship – first owner, joint owner/author, authorship and Artificial Intelligence ● Rights in respect of works – economic rights, moral rights, neighboring/related rights ● Infringement and exceptions to infringement – literal and non-literal infringement, fair use and fair dealing, de minimis principle 	15
Module IV: Patent law	<ul style="list-style-type: none"> ● Patent Act, 1970 – Introduction ● Patentability Criteria- New, Inventive Step, capable of Industrial Application, ● Patentable Subject Matter, Non-Patentable Inventions; ● Procedure for obtaining a Patent, Opposition to the Patent Grant (Pre-grant and Post- grant opposition), Term of Patent; ● Claim construction, disclosure, enablement, anticipation ● Rights and infringement ● Public Interest <ul style="list-style-type: none"> - Licensing and compulsory licensing - Bolar exception and 107A 	15

Text Books

- Lionel Bently, Brad Sherman, Dev Gangjee and Phillip Johnson *Intellectual Property Law*, OUP, 2022
- P Narayanan, Law of Trade Marks and Passing Off, Eastern Law House, 2017
- Tanya Aplin and Jennifer Davis, *Intellectual Property Law: Text, Cases and Materials* OUP
- Rochelle Cooper Dreyfuss and Justine Pila, *Oxford Handbook of Intellectual Property Law*, OUP, 2018

Recommended/Reference Text Books and Resources:

- Irene Calboli Jane C Ginsburg the Cambridge Handbook of International and Comparative Trademark Law (Cambridge Law Handbooks), CUP, 2020
- Adarsh Ramanujan-Patent Law: Cases and Materials- A Synthesis for India Vol. I and II, Thomson Reuters 2021
- Prashant T Reddy & Sumathi Chandrashekhara Create, Copy, Disrupt: India's Intellectual Property Dilemmas OUP India, 2016
- Lionel Bently, Jennifer Davis, Jane C Ginsburg Trade Marks and Brands: An Interdisciplinary Critique, CUP 2008
- Hans Lorgren The Politics of the Pharmaceutical Industry and Access to Medicine Routledge, 2017
- Neil Wilkof Overlapping Intellectual Property Rights OUP, 2012
- Mark Bortholomew Intellectual Property and the Brain: How Neuroscience will reshape legal protection for creations of the mind, cup 2022
- Mark Lemley, The Myth of the Sole Inventor, 110 Michigan Law Review 709 (2012)
- Susan Sell, Intellectual Property and Public Policy in Historical Perspective: Contestation and Settlement, 38 Loy. L.A. L. Rev. 267 (2004)

Web Resources

<https://www.youtube.com/watch?v=gID6eVeC1zs>

<https://spicyip.com/>

<https://www.ipindia.gov.in/>

https://www.wto.org/english/tratop_e/trips_e/trips_e.htm

<https://iprlawindia.org/blog/>

<https://www.iiprd.com/blogs-2/>

<https://dst.gov.in/sites/default/files/E-BOOK%20IPR.pdf>

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Chanakya National Law University, Patna
B.A., LL.B. (Hons.) and B.B.A., LL.B. (H) 2024-25; SEMESTER - VI

Course Title: Jurisprudence - II

Course Overview

The objective of this one semester course in Jurisprudence-II is to create and develop in the students the ability of understanding the fundamental legal concepts like Rights, Ownership, Possession, Liability, Title, Property, Obligation etc. which are basic yet significant to the study of law. Without a proper understanding of these concepts neither the theoretical study nor the practical training of a law student can be a successful venture. It is a well-known fact that jurisprudence has the immense potential of orienting the law students towards the attainment of the objectives of administration of justice in society. Until and unless the law students are thorough with the fundamental concepts which act as the bedrock foundation of the legal institution and all substantive and procedural laws, they cannot appreciate the true nature and purpose of law. After successful completion of this one semester course the students will be able to use their understanding of the fundamental concepts of law in legal practice and will also be inspired to pursue further and detailed studies in the related field. A tentative overview of the syllabus of the Course of Jurisprudence - II along with the learning outcomes is given below.

Learning Outcomes

After completing the course of Jurisprudence - II, the students will be able to:

1. Understand the meaning, characteristics and significance of fundamental legal concepts;
2. Comprehend the divergent approaches towards explaining and developing these concepts;
3. Apply the knowledge acquired in making, applying and interpreting the laws which essentially involve some or all of these legal concepts;
4. Identify the conflicts in the contemporary society pertaining to wide array of rights, and provide a workable solution; and
5. Analyse the judicial decisions more efficiently.

List of Topics/ Modules

Topic/ Module	Contents/ Concepts	Sessions / Lectures
Module I: Rights and Duties	<ul style="list-style-type: none"> • Nature and Definition • Wrongs • Duties • Theories of Right • The Characteristics of a Legal Right • Narrower and Wider Concept of Rights • Hohfeld's Analysis of Wider Concept of Right • Various Kinds of Legal Rights 	1-9
Module II: Ownership	<ul style="list-style-type: none"> • Analysis of the Idea of Ownership • Chief Incidents of Ownership • The Subject-matter of Ownership • Acquisition of Ownership • Kinds of Ownership 	10-14
Module III: Possession	<ul style="list-style-type: none"> • Nature and Concept of Possession • Possession in law and Possession in fact • Theories of Possession: Savigny's Theory, Ihering's Theory, Salmond's Theory, Holme's Theory and Pollock's Theory • Immediate and Mediate Possession • Acquisition and Continuance of Possession • Possessory Remedies 	15-20
Module IV: Persons	<ul style="list-style-type: none"> • Nature of Personality • Legal Status of the lower animals, dead men and unborn persons • Legal Persons • Corporation Sole and Corporation Aggregate • Agents, Beneficiaries and Members of a Corporation 	21-25

	<ul style="list-style-type: none"> • Acts and Liabilities of Corporation • Uses and Purposes of Incorporation • Unincorporated Associations • Theories of the Nature of Legal Persons <ul style="list-style-type: none"> ➤ Purpose Theory ➤ Theory of Enterprise Entity ➤ Symbolist or Bracket Theory ➤ Hohfeld's Theory ➤ Kelsen's Theory ➤ Fiction Theory ➤ Concession Theory ➤ Realist and Organism Theory 	
Module V: Liability	<ul style="list-style-type: none"> • Nature and Kinds of Liability • The Theory of Remedial and Penal Liability • The General Conditions of Penal Liability • <i>Actus Reus</i> and <i>Mens Rea</i> • Theory of Causation and its Significance in Liability • Intentional Wrongs, Wrongs of Negligence and Wrongs of Strict Liability • The Subjective and Objective Theory of Negligence • The Theory of Strict Liability • Vicarious Liability • The measure of Civil and Criminal Liability 	26-33
Module VI: Titles	<ul style="list-style-type: none"> • Vestitive facts • Acts in the Law and Agreements • Classes of Agreements 	33-36
Module VII: Property	<ul style="list-style-type: none"> • Meanings of the term Property • Kinds of Property 	37-42

	<ul style="list-style-type: none"> • Modes of Acquisition of Property • The Ownership of Material Things • Movable and Immovable Property • Real and Personal Property • Rights <i>in re propria</i> in Immaterial Things 	
Module VIII: Justice	<ul style="list-style-type: none"> • Rawls • Nozick • Amartya Sen 	43-48

Recommended/Reference Text Books and Resources:

Text Books

- Dias, Jurisprudence (LexisNexis, 5th Edition)
- Fitzgerald, P.J. (Ed.), Salmond on Jurisprudence (Sweet & Maxwell, 12th Edition)
- Jayakumar, NK, Lectures in Jurisprudence (LexisNexis, 3rd Edition)
- Paton, G.W., A Textbook of Jurisprudence (Oxford, 4th Edition)
- Pillai, P.S. Atchuthen, Jurisprudence and Legal Theory (Eastern Book Company, 3rd Edition)
- Singh, Dr. Avtar and Kaur, Dr. Harpreet, Introduction to Jurisprudence (LexisNexis, 4th Edition)

Instructor Details

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Chanakya National Law University, Patna

B.A., LL.B. (H) 2024-25; SEMESTER- VI

Course Title: Money Banking and Public Finance

Course Overview

The curriculum is designed to expose and enrich knowledge of the students about the basic principles of economics related to money, banking and the subject area related to public finance. Money, Banking and Public Finance constitutes important components towards understanding of working of an economy. A clear understanding of the operations of money and banking and their interaction with the rest of the economy is essential to realize how monetary forces operate through a multitude of channels — market, non-market, institutions and, among others, the state. In modern times, the activities of State have considerably increased and the theoretical understanding of different State activities through the budgetary mechanism is essential. Accordingly, the Paper on ‘Money, Banking and Public Finance’ is an optimal integration of monetary theory, banking institutions and government which combines with itself a systematic discussion of the theory, institutions and policy with special reference to India. The course is designed with an objective to give the students with a clear understanding of the basic concepts, tools of analysis and terminologies used in this subject and also to explain, facilitate their understanding of various legal phenomena related to it.

Module one deals with the evolution and functions of money, barter system and invention of money. Furthermore, the course will also discuss the preliminary concepts associated with various functions of money and its theoretical and empirical definitions and classifications. The module will also include the demand for money which constitutes Keynesian theory of demand for money. Theories of Money supply, high powered money and theories for quantity theory of money (QTM).

Module two deals with Indian Banking System, the process of credit creation, evolution of commercial banks. The module will also encompass the role, structure and functions of Central Bank, its Monetary policy and monetary policy lags. Monetary Policy Committee (MPC), its requirement and policy target, the requirement of Monetary Stimulus during pandemic. Besides students will also learn about value of monetary policy and its relationship with inflation: Cash transaction and cash balance approach – monetary standards – inflation, deflation, reflation and stagflation, Keynesian approach – trade-off between inflation and unemployment

Module three discusses the general concepts associated with the Indian Financial System and Global Financial System including, money market, capital market, financial institutions, measures taken by SEBI and RBI to regulate the financial market. It will also cover major economic crisis like Asian crisis and Euro crisis, global financial system and their dealing during the pandemic.

Module four of the course trains the students about the basic meaning and scope of Public Finance various functions of Public Finance, its importance and objectives of modern public finance. Nature and scope of Public Finance. The principle of public finance like maximum social advantage. Besides, subject matter like Principles of taxation, direct and indirect, its types and methods, merits and demerits economics of taxation, canons of taxation, tax incentives. Division of tax burden, the benefit and ability-to-pay approaches; Impact and incidence of taxes; Taxable capacity; Effects of taxation; Characteristics of a good tax system; meaning of Incidence: Impact, Shifting of taxes. Tax Evasion, Tax Shifting and Tax Capitalization and trends in tax revenue of the central and state governments in India. The importance and objectives of Public Expenditure, burden of Public Debt and its relevance will also be discussed.

Module five is related the objectives of Fiscal Policy, its role in Developing Countries particularly India. Instruments of Fiscal Policy and present Fiscal policy, its significance during Pandemic Deficit Financing and its trend in Union Budget of India

Module six deals with Fiscal Federalism in India, Principle of Federal Finance. Fiscal Federalism, its distinguishing features. Existing Vertical Distribution and Horizontal Distribution and its impact on various states, Inter-Governmental Financial Relations in India and present economic downturn and reasons for the economic downturn – crisis, issues and need of measurement. NITI Aayog to strengthen Co-operative and Competitive Federalism in India

Learning Outcomes

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

1. Understand the basic concepts related to money, banking and public finance;
2. Analyse the real-world economic issues and problems associated to money, financial market, financial institutions;
3. Examine the existing interface between monetary policy and fiscal policy and the existing trade-off between different policy measures;
4. Understand the importance and desirability of sound public finance dealing with the collection of revenue and its utilization for various purposes;
5. Demonstrate their understanding regarding the problems related to public expenditure, public debt and various budgetary policy particularly in case of India;
6. Relate and apply the concept of the above subject on contemporary issues like crypto currencies, pandemic and market, monetary stimulus during covid-19 and behavioural changes in the capital market during pandemic.

List of Topics/ Modules

Topic/ Module	Contents/ Concepts	Sessions / Lectures
Module I: Introduction to Money	<ul style="list-style-type: none"> • evolution and functions of money, barter system and invention of money. • Definitions and classifications of money. • demand for money which Keynesian theory of demand for money. • Supply of Money • Theories of Money supply, high powered money and theories for quantity theory of money (QTM). 	1-8
Module II: Indian Banking System	<ul style="list-style-type: none"> • Introduction to Indian Banking System, the process of credit creation, • evolution of commercial banks. • role, structure and functions of Central Bank, its Monetary policy and monetary policy lags. • Monetary Policy Committee (MPC), its requirement and policy target, the requirement of Monetary • Stimulus during pandemic. • monetary policy and its relationship with inflation: Cash transaction and cash balance approach – monetary standards – inflation, deflation, reflation and stagflation, 	9-15

	<ul style="list-style-type: none"> • Keynesian approach – trade-off between inflation and unemployment 	
Module III: Indian Financial System	<ul style="list-style-type: none"> • concepts associated with Indian Financial System • Global Financial System including, money market, capital market, financial institutions, • measures taken by SEBI and RBI to regulate the financial market. major economic crisis like Asian crisis and Euro crisis, global financial system and their dealing during the pandemic. • Cryptocurrency and issues related to it 	16-22
Module IV: Introduction to Public Finance	<ul style="list-style-type: none"> • meaning and scope of Public Finance various functions of Public Finance, its importance and objectives of modern public finance. Nature and scope of Public Finance. • The principle of public finance like maximum social advantage. • Principles of taxation, direct and indirect, its types and methods, merits and demerits economics of taxation, cannons of taxation, tax incentives. Division of tax burden, the benefit and ability-to-pay approaches; • Impact and incidence of taxes; Taxable capacity; 	23-33

	<p>Effects of taxation; Characteristics of a good tax system;</p> <ul style="list-style-type: none"> • meaning of Incidence: Impact, Shifting of taxes. Tax Evasion, Tax Shifting and Tax Capitalization and trends in tax revenue of the central and state governments in India. • The importance and objectives of Public Expenditure, burden of Public Debt and its relevance will also be discussed. 	
Module V: Fiscal Policy	<ul style="list-style-type: none"> • objectives of Fiscal Policy, its role in Developing Countries particularly India. • Instruments of Fiscal Policy and present • Fiscal policy, its significance during Pandemic • Deficit Financing and its trend in Union Budget of India 	34-40
Module VI: Fiscal Federalism	<ul style="list-style-type: none"> • Fiscal Federalism in India, Principle of Federal Finance. Fiscal Federalism, its distinguishing features. Existing Vertical Distribution and Horizontal Distribution and its impact on various states, • Inter-Governmental Financial Relations in India and present economic downturn and reasons for the economic downturn – crisis, issues and need of measurement. NITI Aayog 	41-50

	to strengthen Co-operative and Competitive Federalism in India	
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Recommended/Reference Text Books and Resources:

Text Books

1. Musgrave Richard, Public Finance in Theory and Practice, Tata McGraw Hill Publishers, New Delhi, Fifth Edition, 2004.
2. Samuelson, Paul, Economics, Tata McGraw Hill Publishing Company Limited, New Delhi, 2007.
3. Dalton, Hugh, Principles of Public Finance, Routledge Publishers, London, 2008.
4. Lekhi, R.K., Public Finance, Kalyani Publishers, Ludhiana, 2006
5. Bhatia, H L, Public Finance (Vikas Publishing House Pvt Ltd 2005)
6. Ahuja, H.L, Macroeconomics: Theories and Policies (S. Chand 2009)
7. Jhingan M.L, Money, Banking, International Trade and Public Finance (Vrinda Publications (P) Ltd 2010)
8. Pathak B V., Indian Financial System (3rd edn, Pearson Education 2012)
9. Sundram, K.P.M., Money Banking and International Trade, Sultan Chand and Sons Educational Publishers, New Delhi Thirty Ninth Edition 2004, Reprint,2005.
10. Vaish, M.C., Money Banking and International Trade, New Age International Private Limited Publishers, New Delhi, Eighth Updated Edition, 1997
11. LeRoy, Miller Roger and Van Hoose David D., Modern Money and Banking, McGraw Hill Book Company Limited, Singapore, 1993.
12. Paul R.R., Money Banking and International Trade, Kalyani Publishers, Ludhiana, Sixth Revised Edition, 2006.

Additional Readings

1. Day, A.C.L. (1960), Outline of Monetary Economics, Oxford University Press, Oxford.
2. De Kock, M.H. (1960), Central Banking, Staples Press, London. Due, J.F. (1963), Government Finance, Irwin, Homewood.
3. Government of India, Economic Survey (Annual), New Delhi.
4. Halm, G.N. Monetary Theory, Asia Publishing House, New Delhi.
5. Harris, C.L., Money and Banking, Allyn and Bacon, London.
6. Herber B.P., Modern Public Finance, Richard D. Irwin, Homewood.
7. Laliwala, J.I., The Theory of Inflation, Vani Educational Book, New Delhi.
8. Mishra, S.S., Money, Inflation and Economic Growth, Oxford & IBH Publishing Company, New Delhi.
9. Musgrave, R.A., The Theory of Public Finance, McGraw Hill, Kogakusha, Tokyo.
10. Reserve Bank of India, The Reserve Bank of India: Functions and Working, Bombay.
11. Reserve Bank of India, Report on Trend and Progress of Banking in India, (various years), Mumbai.

12. Reserve Bank of India, Report on Currency and Finance (Annual), Mumbai.
13. Sayers, R.S., Modern Banking, Oxford University Press, Delhi

Reports, Journals and News Papers

1. Economic and Political Weekly
2. RBI Currency and Finance Report
3. Economic survey
4. The Economics Times/ Business Standard

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Chanakya National Law University, Patna
B.B.A., LL.B. (H) 2024-25; SEMESTER – VI

Course Title: Strategic Management

Course Overview

The curriculum is designed to focus on the concepts of Business Strategy and is framed to help the students learn the concepts of Business Strategy, Formulating Policy Decision and Organizational Working.

Module one deals with **Principles of Strategy Implementation**

Module two focuses on **Legal Strategies**

Module three deals with **Operationalizing the Strategy**

Module four covers **Management Tools in Strategy**

Module five **Corporate Restructuring**

Module six deals with **Joint Ventures and Strategic Alliances**

Module seven covers **Mergers and Acquisitions**

Module Eight focuses on **Divestitures and Spin Offs**

Module Nine focuses on **International Business Strategies**

Module Ten focuses on **Challenges for the 21st Century**

Module Eleven focuses on **Competing for the Future**

If we know where we are and something about how we got there, we might see where we are trending – and if the outcomes which lie naturally in our course are unacceptable, to make timely change.

-Abraham Lincoln

Learning Outcomes

The course aims to providing basic theories and tools of analysis and develops an understanding of the strategies adapted by firms and the tools used to develop these strategies. The course also provides an appreciation and application of various models developed to analyze and implement the strategies, in different environmental situations.

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

1. Understand concepts of strategic management and the overarching game plans in various industries.
2. Analyze and scan environment to adapt the best strategic model.
3. Critically analyze the strategies used in different industries and practiced by corporates.
4. Conceive the basic tenets of management and law and how they are used in developing the strategies.
5. Apply the theories in practice for competing in the future.

List of Topics/ Modules

Topic/ Module	Contents/ Concepts	Sessions / Lectures
Module I: Principles of Strategy Implementation	<ul style="list-style-type: none"> • Introduction to Strategic Management • Strategy and Structure: Role of Structure - Managing Strategic Change: Reengineering, Restructuring, Innovation – • Successful Change of Strategy: Judging the Extent of Change Required, Force Field Analysis, • Dealing with Momentum - Establishing Strategic Controls: Premise Control, Implementation Control, Strategic Surveillances, Special Alert Control – • Operational Control System: Budgets, Schedules, Key Success Factors – Reward Systems - Crisis Management: • Steps for Managing Crisis - Matching Structure and Control to Strategy: Manufacturing, Research and Development, Sales. 	1-4
Module II Legal Strategy	<ul style="list-style-type: none"> • Legal firms – organization • Branding 	5-11

	<ul style="list-style-type: none"> • Pricing • Distribution • Competitive moves • Lincoln Lawyers and other law based movies/series. • Interviews of NLU lawyers and their strategies . 	
Module III: Operationalizing the Strategy	<ul style="list-style-type: none"> • Identification of Annual Objectives: Qualities of Effective Annual Objectives, Linkage to Long-term Objectives • Integrated and Coordinative Objectives, Consistency in Annual Objectives, Benefits of Annual Objectives – • Developing Functional Strategies: • Differences between Grand and Functional Strategies, Functional Strategies • Development of Policies: The Purpose of Business Policies. . 	
Module IV: Management Tools in Strategy	<ul style="list-style-type: none"> • Benchmarking: Definition of Benchmarking, Approaches to Benchmarking, Benchmarking Practices Worldwide • Competing Strategy Reengineering: Strategic Processes • Operational Processes • Enabling Processes Systematic Approaches, Clean Sheet Approach • Reverse Engineering • The Balanced Scorecard. 	12-19
Module V: Corporate Restructuring	<ul style="list-style-type: none"> • Forms of Corporate Restructuring: • Expansion, • Sell-offs, • Corporate Control, • Changes in Ownership Structure • Theory of the Firm and Corporate Activity: 	20-25

	<ul style="list-style-type: none"> • Rationale for the Existence of the Firm • Organizational Forms: Vertical Structure, Horizontal Structure - Numerator and Denominator Management • Turnaround Management: Stage1: Decline, Stage2: Response Initiation Stage, Stage3: Transition, Stage4: Outcome. 	
Module VI: Joint Ventures and Strategic Alliance	<ul style="list-style-type: none"> • Joint Ventures: Rationale for Joint Ventures • Reasons for the Failure of Joint Ventures • International Joint Ventures • Strategic Alliances: Generic Motives for a Strategic Alliance, Types of Strategic Alliances - Making Alliances Work: Partner Selection, Alliance Structure • Managing the Alliance - Advantages and Disadvantages of Strategic Alliance. 	26-36
Module VII: Mergers & Acquisitions	<ul style="list-style-type: none"> • Historical Perspectives of Mergers - Rationale for Mergers and Acquisitions: Increased Market Power, • Overcoming Entry Barriers, • Cost of New Product Development, • Increased Speed of Market, Lower Risk Compared to Developing New Products, • Increased Diversification, Reshaping the Firm's Competitive Scope • Industry Lifecycle and Merger Types 	37-49

	<ul style="list-style-type: none"> • Cross Boarder Mergers and Acquisitions: Reasons for Cross Border M & A – • Management Guide for Mergers and Acquisitions Activity: Diversification and Mergers in a Strategic Long Range Planning Framework: • The Managerial Capacity Perspectives, Diversification Planning, Mergers and the Carry-over of Managerial Capabilities • Blueprint for Integrating Acquisitions • Strategic Reasons for Mergers and Acquisitions Value Creation. 	
Module VIII: Divestitures and Spin Offs	<ul style="list-style-type: none"> • Voluntary Liquidation and Sell-Offs: Liquidating the Overall Firm • Partial Sell Offs • Motives for Divestiture: Efficiency Gains and Refocus, Information Effects, Wealth Transfers, Tax Reasons • Spin Offs: Disadvantages of Spin Offs • Equity Carve-Outs: Disadvantages of Carve-Outs – • Porter's Analysis of Divestiture/Acquisitions percentages: • The Porter Methodology, Measurement of Effects on Shareholder Values. 	50-55
Module IX: International Business Strategies	<ul style="list-style-type: none"> • Measuring and Managing Political and Country Risk – Trade: Instruments of Trade Policy, • Establishment of GATT and WTO, Regional Economic Integration in North America and in Europe, • European Single Currency. 	56-60

	<ul style="list-style-type: none"> • Strategic Planning: Benefits of Strategic Planning - Strategies for Production: • Country Factors, • Technology Factors, • Product Factors – • Strategies for Marketing: Product Distribution – • Strategies for Human Resource Management: Equality in Recruitment and Pay, Types of Staffing Policy, Employing Expatriates, Training and Development, Repatriation of Expatriates, Compensation, Performance Appraisal in Subsidiaries • Domestic HR Strategies Pursued in Subsidiaries, Subsidiaries' Autonomy in Decision Making, Labor Relations, Developing a Culturally Synergistic • Approach to HRM – • Strategies for Financial Management: Foreign Exchange, Meaning of Currency Risk, Exposure – Meaning and Types, Currency Risk • Management Alternatives, Corporate Response to Exchange Rate Fluctuations. 	
Module X: Challenges for the 21st Century	<ul style="list-style-type: none"> • Global Competitiveness in the New Millennium: • Competitive Strengths of Major Industrialized Countries, What Should be done to Meet the Global Competitive Challenges, What Should Corporations Do, What Should Government Do – Considerations for 	61-64

	<ul style="list-style-type: none"> • Strategies in the 21st Century: Corporate Strategy, Ethics, Public Values and Social Responsibility, Global Challenges, Role of the Government Ecological Challenges, Quality and Productivity, Workforce Diversity, Change, Empowerment – • Emergence of a Knowledge Worker – Role of a Knowledge Worker – E-commerce the Central Challenge • The CEO in the New Millennium: • Corporate Governance • Approach to Information. 	
Module XI: Competing for the Future	<ul style="list-style-type: none"> • An Alternative View of Corporate Strategy – • Beyond Restructuring – • Beyond Reengineering – • Competitive Strategy as Stretch: • Strategic Intent, A Sense of Direction, A Sense of Destiny • Competitive Strategy as Leverage: Premises on Which Leveraging Operates, Concentrates • Concept of Core Competency – C K Prahalad and Gary Hamel's View: • Identifying Core competencies, • A Relook at Core Competency – Views of Krishna Palepu and Tarun Khanna. 	65-70

Recommended/Reference Text Books and Resources:

Text Books

1. Introduction to Business Strategy The ICFAI University Press
2. Strategic Management Concepts and cases Fred R. David Pearson Education

References

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