

Chanakya National Law University, Patna
Master of Laws Group : (c) 2022-23; SEMESTER-II

Course Title: Legal Regulation of Economic Enterprises

Course Overview

India suffers from 'regulatory cholesterol' that is getting in the way of doing business. The legislations, rules and regulations enacted by the Union and State governments have over time created barriers to the smooth flow of ideas, organisation, money, entrepreneurship and through them the creation of jobs, wealth and GDP. The presence of hostile clauses in these laws, rules and regulations has grown since Independence, surviving three decades of economic reforms initiated in 1991. The biggest challenges come from the continuance of imprisonment as a tool of control. As automation increases in the coming years, the pre-Independence 1940s-style administrative controls meant to protect labour will prove counter-productive in 21st-century India. There are 1,536 laws that govern doing business in India, of which 678 are implemented at the Union level. Within these laws is a web of 69,233 compliances, of which 25,537 are at the Union level.

These compliances need to be communicated to the governments through 6,618 annual filings, 2,282 (34.5 percent) at the Union level and at the states, 4,336. These changes in compliance requirements occur constantly and add to business uncertainty. In the 12 months up to 31 December 2021, there have been 3,577 regulatory changes; over the three years from 1 January 2019 to 31 December 2021, there were 11,043 changes in compliance requirements. This translates to an average of 10 regulatory changes every single day. Of the 1,536 laws that govern doing business in India, more than half carry imprisonment clauses. Of the 69,233 compliances that businesses have to follow, 37.8 percent (or almost two out of every five) carry imprisonment clauses. More than half the clauses requiring imprisonment carry a sentence of at least one year. Several of these clauses criminalise process violations, while some of them punish inadvertent or minor lapses rather than wilful actions to cause harm, defraud, or evade. For some laws, delayed or incorrect filing of a compliance report is an offence whose punishment stands on par with sedition under the Indian Penal Code, 1860.

Learning Outcomes

India's business regulation framework needs a 21st-century rethink. The course aims to provide the basis for it. It seeks to deepen the debate around economic reforms in the world's fifth-largest economy, which is headed towards becoming the world's third largest before 2030.

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

1. Understand the Economic Enterprises
2. Analyse the future of Economic enterprises
3. Critically analyse the Legal Regulations.

List of Topics/ Modules

| Topic/ Module | Contents/ Concepts | Sessions / Lectures |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| Module I: | The Rationale of Government Regulation Unit-1 Constitutional perspectives Unit-2 The new economic policy - Industrial policy resolutions, declarations and statements; The place of public, small scale, co-operative, corporate, private and joint sectors - in the changing context Unit-3 Regulation of economic activities; Disclosure of information Unit-4 Fairness in competition Emphasis on consumerism | 1-10 |
| Module II: | Industrial Development Unit-5 Development and Regulation of Industries; Take - over of Management and Control of Industrial Units Unit-6 Sick Undertakings: Nationalization or Winding Up; Licensing Policy and Legal Process -Growing Trends of Liberalization | 11-20 |

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| | Unit-7 Deregulation of essential commodities: developmental sign or a social mishap | |
| Module III: | Problems of Control and Accountability Regulation of Hazardous Activity Unit-8 Mass disaster and environmental degradation: legal liability and legal remedies Unit-9 Public Liability Insurance: adequacy; Issues in zoning and location of industrial units | 21-30 |
| Module IV: | Legal Regulation Unit-10 Collaboration agreements for technology transfer Unit-11 Investment in India: FDIs and NRIs; Investment abroad Unit-12 Legal regulation of selected public enterprises – Telecom regulatory authority and insurance regulatory authority | 31-40 |
| Module V: | Legal Regulation of Select Public Enterprises Unit-13 : Public Enterprises for Transport, Mining and Energy. Telecom Regulatory Authority. Insurance Regulatory Authority. Broadcasting Regulatory Authority. Legal Regulation of Multi-Nationals. | 41-50 |
| Module VI: | Critical Issues Regarding the Capital Issues Unit-14 Equity and debt finance Global depositories De-materialised securities | 51-60 |

Recommended/Reference Text Books and Resources:

- S.Aswni Kumar, The Law of Indian Trade Mark (2001), Commercial Law House, Delhi.
- Dr. C.L Bansal, Corporate Governance Law, Practice & Procedures with Case Studies, EBC, 2006
- Dr. Sanjeev Kumar, Corporate Offences Director's Liability, Prosecution, Punishment, Remedies & Procedures, Bharat Law House Pvt Ltd, 2005
- Dr. J.C.Verma and dr Sanjeev Kumar, Corporate merger, Amalgamation and Take Overs, Bookshop of India
- Aggarwal, V.K. : Consumer Protection- Law and Practice.
- Myeni, S.R. : Corporate Law-II

- Sharma, Gokulesh : financial and Economic Laws Cherunilam,
- Francis : Business Environment
- M.N.Mishra, Law of Insurance
- C.Rangarajan, Handbook of Insurance and Allied Law.
- Bashyam and Adiga, The Negotiable Instrument Act, 1997
- M.L.Tannen, Jannen's Banking Law & Practice in India, 2000

Research Papers:

- U. Baxi (ed.), Inconvenient Forum and Convenient Catastrophe The Bhopal Case, (1986)
U. Baxi &
- T. Paul (eds.), Mass Disasters and Multinational Liability (1986)
- U. Baxi & A. Dhandba, Valiant Victims and Lethal Litigation: The Bhopal Case (1989) Indian Law Institute, Law of international Trade Transactions, (1973)

Legislations:

- Companies Act,2013 & SEBI Act,1992.
- Industrial(Development and Regulation) Act,1951.
- Essential Commodities Act,1955
- Competition Act,2002
- Securities Contracts(Regulation) Act,1956
- Insurance Regulatory and Development Authority Act,1999.
- Foreign Trade(Development and Regulation) Act,1992.
- Depositories Act, 1996.
- TRAI

Policies :

- Industrial Policy Resolutions of 1948,1956, 1991
- Industrial Licensing Policy 1970,1975
- Industrial Policy Statements 1973,1977, 1980
- Reports of Committees on Public Undertakings of Parliament.
- Industries (Development and Regulation) Act, 1951

Instructor Details

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