

SECOND YEAR

THIRD SEMESTER

PUBLIC INTERNATIONAL LAW

- 1. Historical and theoretical foundation of International law** UNITS: 03
- 2. Basic Principles of International Law** UNITS: 03
 - a. Sovereign equality of States
 - b. Non intervention
 - c. Non use of force
 - d. International cooperation
 - e. Peaceful settlement of disputes
- 3. Sources of International Law** UNITS: 06
 - a. Treaties
 - b. Customs
 - c. General Principles of Law recognized by Civilized Nations
 - d. Judicial & Arbitral decisions and Juristic Opinions
 - e. UN General Assembly Resolutions
- 4. Relationship between International and Internal Law** UNITS: 06
 - a. Theories
 - b. State practice with special reference to India and United Kingdom
- 5. Subjects of International Law** UNITS: 08
 - a. State
 - b. International organizations
 - c. Individuals/ Peoples
 - d. MNCs and other Private Entities
- 6. The Law of Recognition** UNITS: 07
 - a. Recognition of States
 - b. Recognition of Governments
 - c. Recognition Dejure and Defacto
 - d. Legal effects of Recognition
 - e. Stimson's doctrine of non-recognition
- 7. Jurisdiction of States** UNITS: 07
 - a. Territorial jurisdiction
 - b. Personal jurisdiction
 - c. Protective jurisdiction
 - d. Universal jurisdiction (terrorism, hijacking, narcotics, war crime and crimes against peace)
 - e. Diplomatic immunities and privileges
 - f. State immunity
- 8. Law of State Responsibility** UNITS: 07
 - a. Nature and kinds of responsibility

- b. Responsibility for breach of treaty and expropriation of property including the Calvo clause and the law relating to debts
 - c. Responsibility for international delinquencies
 - d. Treatment of aliens
 - e. Law relating to claims and damages
 - f. Obligations ErgaOmnes
 - g. Abuse of rights
- 9. State Succession** UNITS: 05
- a. Meaning and kinds
 - b. Theories of State Succession
 - c. Rights and Duties arising out of state Succession
- 10. The Law relating to the acquisition and loss of Nationality** UNITS: 05
- a. International importance of nationality
 - b. Nationality of corporations and un-incorporated associations
 - c. The law relating to extradition, rendition and asylum
- 11. Peaceful Settlement of International Disputes (with reference to Article 33 of UN Charter)** UNITS: 04
- 12. Law of Treaties** UNITS: 08
- a. Meaning
 - b. Classification of Treaties
 - c. Formation, Ratification and Reservation and Termination
 - d. Important Maxims- '*Pactatertiesnecnocent*', '*Rebus sicStantibus*', '*PactasuntServanda*'.
- 13. The Law relating to International Institutions** UNITS: 06
- a. The UN General Assembly
 - b. The Security Council
 - c. The Economic and Social Council
 - d. The development of International Law through the International Court of Justice
 - e. The UN Secretariat

Note: The units mentioned above include internal assessment hours.

BOOKS RECOMMENDED

1. J. G. Starke : Introduction to International Law
2. Dr.S. K. Kapoor : International Law and Human Rights
3. M. P. Tandon : Public International law
4. Dr. H.O. Agarwal : International Law and Human Rights
5. Malcolm N. Shaw : International Law
6. D.J. Harris : Cases and Materials on International Law
7. D.W. Bowett : The Law of International Institutions
8. S.K Verma : An Introduction to Public International law
9. Ian Brownlie : Basic Documents in International Law

ADMINISTRATIVE LAW

1. Introduction: UNITS: 08
Definition, Nature and scope of administrative law, reasons for the growth of administrative law, rule of law in England America and India, separation of powers and development in the united states and India
2. Delegated legislation: UNITS: 08
Development, restraint on delegation, Control over delegated legislation: Judicial control, Legislative Control, Parliamentary control
3. Classification of Administrative Action: UNITS: 07
Legislative, Judicial, Quasi judicial and Administrative Actions
4. Principles of Natural Justice: UNITS: 09
 - a. Rule against Bias, Kinds of Bias
 - b. Rule of Fair Hearing: Contents
 - c. Effect of failure of natural justice, Exceptions to the Principles of natural Justice
5. Administrative Adjudication: UNITS: 08
Reasons for the Growth, Structure and Procedure of Adjudicatory Bodies, Kinds of Tribunals
6. Administrative Discretion: UNITS: 08
Failure to exercise discretion, Excess or Abuse of discretion
7. Judicial Control of Administrative Action: UNITS: 08
 - a. Prerogative Remedies, Laches and delay, Resjudicata
 - b. Articles.136 and 226.
 - c. Statutory Judicial Remedies: Civil Suits and Appeals
 - d. Equitable Remedies: Injunctions and Declaratory Actions
8. Estoppel and Waiver: UNITS: 05
Government promise and estoppel in U.S.A. and England, Promissory estoppel in India
9. Government Liability: UNITS: 04
Government Contracts, Government Tortuous Liability
10. Ombudsman and Central vigilance Commission UNITS: 03
11. Public Undertakings: UNITS: 02
Reasons for the growth, Features, Control over Public undertakings
12. Government privileges in legal proceedings UNITS: 02
13. Official Secrets and Right to Information UNITS: 02

Note: The units mentioned above include internal assessment hours.

BOOKS RECOMMENDED

1. Sathe : Administrative Law
2. Jani M.P. : Principles of Administrative Law
3. Massey I.P. : Administrative Law
4. Philip and Wade : Administrative Law

LEGAL THEORY/JURISPRUDENCE

1. Preliminaries: UNITS: 03

The purpose of Legal Theory-Law and fact- The territorial nature of law.

2. Constitutional law- International Law. UNITS: 05

3. Theories/Schools: UNITS: 10

Natural Law Theory -Imperative Theory -Keison's Pure theory -Han's Theory- Legal Realism, American Realism and Scandinavian realism —Historical School- Sociological School -Marx's Economic theory.

4. The Sources of law:UNITS: 10

a. Legislation as a source of law- Types of legislations -Relation of legislation to other sources of law. -Codification- Interpretation of enacted law (in general).

b. Precedent -Authority of precedent -Circumstances destroying or weakening precedent -Ratio decidendi -Obiter dicta.

c. Custom -Importance of customary law, Kinds of customs:-Essentials of custom.

Legal concepts

5. Legal Rights: UNITS: 07

Concept of Rights -Characteristics of legal Rights -Legal Rights in wider sense of the term -Kinds of Legal Rights.

6. Ownership: UNITS: 07

Idea of ownership -The subject matter of ownership -Classification of ownership.

7. Possession:UNITS: 08

idea of possession- possession in fact and possession in law. Kind's of possession -Acquisition of possession -Possession and ownership -Possessory remedies.

8. Persons: UNITS: 08

Nature of personality -Legal status of lower animals, dead man, unborn person. Legal persons- Corporations-unincorporated associations -corporate personality.

9. Titles: UNITS: 06

Vestive Facts -Acts in Law -Agreements -Classes of agreements -Void and voidable agreements.

10. The Law of Property: UNITS: 06

Meaning of property -Kinds of property. Modes of acquisition of property.

11. The Law of obligations:UNITS: 05

Nature of obligations-Solidary obligations -Source of obligations.

Note: The units mentioned above include internal assessment hours.

RECOMMENDED BOOKS

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|-----------------------------|-----------------------------------|
| 1. Salmond | : Jurisprudence - Twelfth Edition |
| 2. Dr. B.N. Mani Triptathi, | : Jurisprudence. |
| 3. Dias | : Jurisprudence |
| 4. Lloyd | : Jurisprudence |

HUMAN RIGHTS (OPTIONAL)

The objectives of the course are to prepare for responsible citizenship with awareness of the relationship between Human Rights, democracy and development; to foster respect for international obligations for peace and development; to impart education on national and international regime of Human Rights; to sensitize students to human suffering and promotion of human life with dignity; to develop skills on human rights advocacy and to appreciate the relationship between rights and duties and to foster respect for tolerance and compassion for all living creatures.

Course Content:

I	UNITS: 15
Jurisprudence of Human Rights. Nature, definition, origin and theories of human rights.	
II	UNITS: 15
Universal protection of human rights. -United Nations and human rights - <i>Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, 1966; International Covenant Economic, Social and Cultural Rights, 1966</i>	
III	UNITS: 10
Regional Protection of Human rights - European system - Inter American System - African System	
IV	UNITS: 20
Protection of human rights at national level. Human rights and the constitution. The Protection of Human rights Act, 1993.	
V	UNITS: 15
Human Rights and Vulnerable Groups: Rights of Women, Children, Disabled, Tribals, Aged and Minorities - National and International Legal Developments.	

Note: The units mentioned above include internal assessment hours.

Suggested Readings:

1. Meron Theodor, Ed., Human Rights and International Law: Legal and Policy Issues, 2 Vols., Oxford: Clarendon Press, 1983.
2. S.K.Kapoor, Human rights Under International Law and Indian Law.
3. Henkin Luis, Rights of Man Today, London: Stevens, 1978.
4. Singh Nagendra, Enforcement of Human Rights in Peace and War and the future of humanity, Calcutta: Eastern Law House, 1986.
5. Relevant International Instruments.

6. *United Nations Charter, 1945.*
7. *Universal Declaration of Human Rights, 1948.*
8. *International Convention on the Elimination of All Forms of Racial Discrimination, 1948.*
9. *International covenant on civil and Political Rights, 1966.*
10. *International covenant on Economic and Cultural Rights, 1966.*
11. *Convention on Elimination of All forms of Discrimination Against Women, 1979.*
12. *Convention on the Rights of the Child, 1989.*

CHILD AND LAW (OPTIONAL)

1. Concept of Child Rights: The underlying Jurisprudence UNITS: 10
- ‘Rights Theories’ and the ‘Child Rights’
 1. Will Theory of Rights
 2. Interest Theory of Rights
 3. Liberationist Approach to Child Rights
 - Definition of ‘Child’: Age as a determining factor
2. Child rights in the International perspective with detailed reference to UNITS: 05
- Minimum Age Convention, 1973
 - Convention on the Rights of the Child, 1989
3. Constitution of India and Child Rights UNIT: 10
- Children and Fundamental Rights (*Art. 14, Art. 15(3), Art.21, Art. 21 A, Art.23, Art. 24, etc*).
 - Directive Principles of State Policy(*Article 39, 47, 41, 45, 46, etc*)
 - Fundamental Duties and Child Rights (*Article 51 K*)
4. Position of child under Family Law UNITS: 15
- Childs Right to Maintenance, Education & Custody
 - Guardianship of a child
 - Adoption Law and the child
 - Law of Legitimacy of a child
 - Law relating to child marriage
 - Child rights under the Law of Succession
5. Position of child under Indian Contract Act 1872 UNITS: 05

6. Labour Laws and the child	UNITS: 05
7. Criminal Laws and the child	UNITS: 06
Relevant parts of	
- Indian Penal Code 1860	
- Immoral Traffic (Prevention) Act 1956	
- The Young Person's (Harmful Publications) Act 1956	
8. Procedural Laws and the Child	UNITS: 05
- The Criminal Procedure	
- Law of Evidence	
9. Juvenile Justice	UNITS: 05
Detailed reference to Juvenile Justice (Care and Protection of Children) Act 2000	
10. Commissions for Protection of Child Rights Act 2005.	UNITS: 04
11. Goa Children's Act 2003 & allied Acts and Rules.	UNITS: 05

Note: The units mentioned above include internal assessment hours.

Recommended Books:

1. S.N. Jain ed, Child and the Law (1979) Indian Law Institute, New Delhi
5. S.C. Tripathy, Law relating to Women & Children
6. Anjani Kant, Law relating to Women & Children
7. Mamta Rao, Law relating to Women & Children
8. Agarwal & Agarwal, Law relating to Women & Children
9. AshaBajpai: Child Rights in India: Law, Policy and Practice.

INTERPRETATION OF STATUTES

1. Basic Principles: UNITS: 05

Meaning of interpretation, construction, Intention of legislature

2. General Principles of Interpretations: UNITS: 10

Literal interpretation, golden rule, the mischief rule, construction *re magis valeat quam pareat*, regard to consequences, statute to read as a whole

3. Internal Aids to Construction UNITS: 02

4. External Aids to Construction UNITS: 02

5. Other Principles of Construction: UNITS: 05

Treatment of general words, beneficial construction, construction in *Bona Partem*, restrictive construction, harmonious construction, construction in *pan materia*, construction to prevent evasion or abuse, equitable construction.

6. Imperative And Directive Statutes UNITS: 03

7. Codifying And Consolidating Statutes UNITS: 03

8. Presumptions UNITS: 15

- a. Presumption against ousting established jurisdiction
- b. Presumption against exceeding territorial nexus
- c. Presumption against ouster of jurisdiction of courts.
- d. Presumption against changes in common law.
- e. Presumption against including what is inconvenient or unreasonable.
- f. Presumption against intending injustice or absurdity.
- g. Presumption against retrospective operation of Law
- h. Presumption against violation of international law
- i. Presumption on favour of constitutionality of a statute.

9. Maxims And Principles UNITS: 20

- a. *Casus omissus*

- b. Contemporanea expositio
- c. Nosutura a sochiis
- d. Rule of ejusdem generis
- e. Ut res magis valeat quam pareat
- f. Gerialiaspecialibus non derogant
- g. Ex visceribus actus
- h. Acts in pan material rodendosingulasingulis
- i. Expressiouniusestexclusioalterius.

10. General Clauses Act UNITS: 10

- a. Definitions Sec. 3
- b. Commencement of Acts
- c. Repeal
- d. Commencement and Termination of time
- e. Computation of time
- f. Measurement of distances
- g. Duty to be done on pro-rata
- h. Gender & number
- i. Powers conferred
- j. Power to appoint

Note: The units mentioned above include internal assessment hours.

BOOKS RECOMMENDED

G. P. Singh: Interpretation of Statutes
 Maxwell: Interpretation of Statutes
 Avtar Singh: Interpretation of Statutes
 Bare Act General Clauses Act

INSURANCE

1. Basic insurance :UNITS: 02
Introduction, insurance scheme and its benefits, insurance and loss prevention
2. State control of Insurance Business : UNITS: 06
Insurance Act, 1938, Life Insurance Act,1956, General insurance Business (Nationalisation) Act. 1972, insurance Regulatory and Development Authority Act, 1999.
3. Law relating to Insurance Contracts :UNITS: 03
Sources, basic legal concepts, def of contract of insurance.
4. Formation, Performance and Discharge of Contract :UNITS: 03
Competence of parties, free consent, wagering agreements, void and voidable agreements, Discharge of contracts.
5. Proposal and policy :UNITS: 03
Proposal covers note, the slip, the policy, and construction of policy.
6. Terms and conditions and exceptions of policy :UNITS: 04
Condition precedents and subsequent, effect of breach, waiver of breach, assignment of policy, premium.
7. Utmost good faith :UNITS: 04
Duty of disclosure, insured's and insurer's duty, extent of the duty, illustrative cases.
8. Insurable interest :UNITS: 03
Contractual and statutory, illustrative cases.
9. Indemnity, Subrogation and Contribution. UNITS: 04
10. The risk UNITS: 03
11. Proximate cause UNITS: 04
12. Reinsurance : UNITS:03
Marine Insurance
13. Insurable Interest UNITS: 05
14. Disclosure and representation UNITS: 03
15. The marine policy UNITS: 02
16. The voyage UNITS: 02
17. The insured perils UNITS: 02
18. Loss and abandonment UNITS: 02
19. Partial loss and average loss. Fire insurance UNITS: 02
20. Non-disclosure and misrepresentation UNITS: 04
21. Standard fire policy UNITS: 03
22. Proximate cause UNITS: 03
23. Subrogation, Double Insurance Contribution and Average :UNITS: 05
Accident and Motor Insurance
Life insurance
Marine Insurance

Note: The units mentioned above include internal assessment hours.

RECOMMENDED BOOKS

- K.V.S.N Sharma : Law of insurance
DrAvtar Singh : Law of insurance
M.N.Srinivasan's : Principles of insurance Jaw

HEALTH AND LAW (OPTIONAL)

- 1.1. **The right to health as emergent from parts III and IV of the Constitution** UNITS: 10
- 1.2. National Health Policy
- 1.3. Indigenous and Allopathic Health Systems
- 2. Duties of employer, community and state** UNITS: 15
- 2.1. Industrial Accidents (e.g. Bhopal Gas Tragedy)
- 2.2. Rail, Air, Eco Disasters (duties of carriers as well).
- 2.3. Flood - related epidemics
- 2.4. Other epidemic situations
- 3. Organization of public health care in India** UNITS: 15
- 3.1. Legal organization of public hospitals
- 3.2. Medico-legal cases and duties of hospitals
- 3.3. Liability for medical negligence in public hospitals
- 3.4. Mental health care in public hospitals : duties and liabilities
- 3.5. Rural health care
- 4. Organization of private health care** UNITS: 15
- 4.1. Legal aspects of private medical practice
- 4.2. Medical negligence
- 4.3. Amniocentesis
- 4.4. Public service related situations - negligence of private doctors in eye campus, sterilization camps, etc.
- 4.5. The problem of disposal of medical and surgical wastes and liabilities of private and public health care units.
- 4.6. Side effects
- 5. Cost and Insurance** UNITS: 15
- 5.1. Types of Health Insurance in India
- 5.2. Employee's Health Insurance Corporation
- 5.3. Cost of Health Care and Weaker Sections of Society.
- 6. Medical Jurisprudence** UNITS: 05
1. Market economy, public health and law

Suggested readings

1. Pandey, J.N. Constitution of India
2. Jain, *M.P.*, Indian Constitutional Law
3. Kishore, Jugal,. National Health Programmes of India: National Policies and Legislations relating to Health, Century Publications, 2005.
4. Modi's Textbook of Medical Jurisprudence and toxicology, N.M. Tripathi, Publications.
5. Seal, Sirish Chandra, Health Administration in India, Dawn Books, 1975.
6. Ramchandrudu, G. Health Planning In India, A.P.H. Publishing Corporation, New Delhi
7. Srivastava, R.K. Public Health System in India, Pinnacle Technology, 2011.
8. Rosen, George , A History of Public Health (Paperback), John Hopkin University Press, 1993.
9. Baru, Rama B., Private health care in India, Sage Publications, 1994.
10. Raman, A. Venkat, and Bjorkman, James Warner, Public-Private Partnership in Health Care in India : Lessons for Developing Countries, Routledge Publications, Oxon, 2009.
11. Kumar, R. *Challenges of Health care in India: economics and Administration*, Deep and Deep Publications, New Delhi, 2008.
12. Agarwala, Amar Narain, *Health Insurance in India*, East End Publishers, 1945.
13. Mehta, Usha, *Health Insurance in India and Abroad*, Allied Publishers, 1965.