

Judicial Process

Sub. Code: MLC – 202

L 4, C 4

Unit I: Nature of judicial process

Judicial process as an instrument of social ordering, Judicial process and creativity in law common law model-Legal Reasoning and growth of law-change and stability, The tools and techniques of judicial creativity and precedent, Legal development and creativity through legal reasoning under statutory and codified systems.

Special Dimensions of Judicial Process in Constitutional Adjudications: Notions of judicial review, Role in Constitutional adjudication-various theories of judicial role, Tools and techniques in policy-making and creativity in constitutional adjudication. Varieties of judicial and juristic activism, Problems of accountability and judicial law-making.

Unit II: Judicial Process in India

Indian debate on the role of judges and on the notion of judicial review, The independence of judiciary and the political nature of judicial process, Judicial activism and creativity of the Supreme Court-The tools and techniques of creativity, Judicial process in pursuit of constitutional goals and values-New dimensions of judicial activism and structural challenges, Institutional liability of courts and judicial activism-Scope and limits.

Unit III: The Concepts of Justice

The concept of justice or Dharma in Indian thought, Dharma as the foundation of legal ordering in Indian thought, the concept and various theories of justice in the western thought, Various theoretical bases of justice-the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

Unit IV: Relation between Law and Justice

Equivalence Theories-Justice as nothing more than the positive law of the stronger class, Dependency theories-For its realization justice depends on law, but justice is not the same as law, the independence of justice theories-means to end relationship of law and justice-the relationship in the context of the Indian Constitutional ordering, Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

Select Bibliography

1. Julius Stone, The Province and Function of Law, 2000 Univeral, New Delhi
2. Cardozo, The Nature of Judicial Process, 1995 Univeral, New Delhi
3. Henry J. Abraham, The Judicial Process, 1998, Oxford.
4. J. Stone, Precedent and the Law-Dynamics of Common Law Growth, 1985
5. W. Friedmann, Legal Theory, 1960
6. Bodenheimer-Jurispudence-the Philosophy and Method of the Law, 1997, Universal, New Delhi
7. J. Stone, Legal System and Lawyers', Reasonings, 1999 Universal, New Delhi

Legal Education and Research Methodology

Sub. Code: MLC – 204

L 4, C 4

Unit I: Introductory

Objectives of Legal Education, Lecture Method of Teaching – Merits and demerits, The Problem Method, Discussion method and its suitability at postgraduate legal teaching, The Seminar Method of teaching, Examination system and problems in evaluation – external and internal assessment, Student participation in law school programmes – Organisation of Seminars, publication of journal and assessment of teachers, Clinical legal education – legal aid, legal literacy, legal survey and law reform.

Unit II: Research Methods

Social Legal Research, Doctrinal and non-doctrinal, Relevance of empirical research, induction and deduction

Unit III: Identification of Problem of research

What is a research problem? Survey of available literature and bibliographical research, Legislative materials including subordinate legislation, notification and policy statements, Decisional materials including foreign decisions; methods of discovering the, “rule of the case” tracing the history of important cases and ensuring that these have not been over-ruled; discovering judicial conflict in the area pertaining to the research problem and the reasons thereof, Juristic Writings – a survey of juristic literature relevant to select problems in India and foreign periodicals, Compilation of list of reports or special studies conducted relevant to the problem.

Unit III: Preparation of the Research Design

Formulation of the Research problem, Devising tools and techniques for collection of data: Methodology, Methods for the collection of statutory and case materials and juristic Literature, Use of historical and comparative research materials, Use of observation studies

Use of questionnaires/interview, Use of case studies, Sampling procedures – design of sample, types of sampling to be adopted, Use of scaling techniques, Jurimetrics, Computerized Research – A study of legal research programmes such as, Lexis and West law coding, Classification and tabulation of data – use of cards for data collection – Rules for tabulation, Explanation of tabulated data, Analysis of data.

Unit – IV: Conduct of Research

Supervision, Guidelines for researchers

Bibliography

1. S.K.Agrawal (Ed.), Legal Education in India (1973), Tripathi, Bombay.
2. N.R.Madhava Menon, (ed) A Handbook of Clinical Legal Education, (1998) Eastern Book Company, Lucknow.
3. M.O.Price, H.Bitner and Bysiewiez, Effective Legal Research (1978)
4. Pauline V. Young Scientific Social Survey and Research , (1962)
5. William J. Grade and Paul K.Hatt, Methods in Social Research, Mc Graw-Hill Book, Company, London
6. H.M.Hyman, Interviewing in Social Research (1965)
7. Payne, The Art of Asking Questions (1965)
8. Erwin C.Surrency, B.Fielf and J.Crea, A Guide to Legal Research (1959)
9. Morris L.Cohan, Legal Research in Nutshell, (1996), West Publishing Co.
10. Harvard Law Review Association, Uniform System of Citations.

DRUG ADDICTION, CRIMINAL JUSTICE AND HUMAN RIGHTS

Sub. Code: MLE 206

L 4, C 4.

Unit: Introductory

Basic conceptions, Drugs' narcotics" "psychotropic substances". 'Dependence," "addiction", "Crimes without victims, "Primary drug abuse", Problem of drug addiction, Analysis of the background and different convention related control of drug trafficking, Causes of drug addiction.

Unit – II: Anagraphic and Social Characteristics of Drug Users

Gender, Age, Religiousness, Single individuals/cohabitation, Socio-economic level of family, Residence patterns (urban/rural/urban), Educational levels, Occupation, Age at first use, Types of drug use, Reasons given as cause of first use, Method of intake, Pattern of the – Use, Average Quantity and Cost, Consequences on addict's health (physical/psychic).

NOTE: Since no detailed empirical studies exist in India, the class should be in this topic sensitized by comparative studies. The principal objective of this discussion is to orient the class to a whole variety of factors which interact in the making of a drug addict.

Unit III: Indian Regulatory System

Penal provisions under the IPC and Custom Act, Penal provisions under the Narcotics, Drugs and Psychotropic Substances Act, 1985, Procedure and punishment under NDPS Act. Judicial approaches to sentencing in drug trafficking and abuse, treatment, aftercare And rehabilitation

Unit IV: The International Legal Regime

Analysis of background, text and operation of the Single Convention on Narcotic Drugs, 1961, Analysis of the Convention on Psychotropic Substances, 1972, International collaboration in combating drug addiction, The SARC, and South-South Cooperation, Profile of international market for psychotropic substances.

Unit V: The Role of Community in Combating Drug Addiction

Profile of Community initiatives in inhibition of dependence and addiction (e.g. addiction and aftercare), The role of educational systems, The role of medical profession, The role of mass media, Law reform initiatives

Select bibliography

1. H.S. Becker, *Outsiders: The Studies in Sociology of Deviance* (1966)
2. J.A. Incard, C.D. Chambers, (eds.), *Drugs and the Criminal Justice System* (1974)
3. R. Goeken, *DrugAbuse andpersonality in Young Offenders* (1971)
4. G. Edwards Busch, (ed.) *Drug Problems in Britain: A Review of Ten Years* (1981)
5. P. Kondanram and Y.N. Murthy, "Drug Abuse and Crime: A Preliminary Study" 7 *Indian Journal of Criminology*, 65-68 (1979)
6. P.R. Rajgopat *Violence and Response: A Critique of the Indian Criminal System* (1988)
7. United Nations, *Economic and Social Reports of the Commission on Narcotic Drugs*, United Nations
8. Social Defence, Research Institute (UNSDRI) *Combating Drug Abuse and Related Crimes* (Rome, July 1984, Publicatio.n No. 21).
9. Lok Sabha and Rajya Sabha Debates on 1986 **Bill** on Psychotropic Substances. Useful Journals in this area are:
 - The Law and Society Review (USA)
 - Journal of Drug Issues (Tallahassee Florida)
 - International Journal of Addictions (New York)

British Journal of Criminology

Journal of Criminal Law, Criminology and Police Science (Baltimore, Md.)

Journal of Criminal Law and Criminology (Chicago, Ill.)

International Journal of Offender Therapy and Comparative Criminology (London)

Bulletin on Narcotics (United Nations)

Privileged Class Deviance

Sub. Code: MLE 208

L 4, C

Unit I: Privileged Class Deviance (Elective).

Introduction: Meaning and concepts -Theories of Deviance(Individualistic versus Sociological Theories ,Functionalism & Anomie Theories , Conflict and Threat Theories , Labeling Theory) Conceptions of white collar crimes-Indian approaches to socio-economic offences-Notions of privileged class deviance as providing a wider categorization of understanding Indian development-Typical forms of such deviance(Official deviance (deviance by legislators, judges, bureaucrats) ,Professional deviance : journalists, teachers, doctors, lawyers, engineers, architects and publishers ,Trade union deviance ,Landlord deviance (class/caste based deviance) ,Police deviance ,Deviance on electoral process(rigging, booth capturing, impersonation, corrupt practices), Gender-based aggression by socially economically and politically Powerful.

Unit II: Official Deviance:

Conception of official deviance - permissible limit of discretionary powers Commissions on official deviance(The Chambal valley dacoit - Vinoba Mission and Jai Prakash Narain Mission – in 1959 and 1971,The Chagla Commission Report in LIC-Mundhra Affair, The Das Commission Report on Pratap Singh Kairon, The Grover Commission Report on Dev Raj Urs,The Maruti Commission Report,The Ibakkar - Natarajan Commission Report on Fairfax)

Unit III: Police Deviance:

Structures of legal restraint on police power in India-Unconstitutionality of "third-degree" methods and use of fatal force by Police-"Encounter" killings-Police atrocities - The plea of superior orders-Rape and related forms of gender-based aggression by police and para- Military forces.

Unit IV: Professional Deviance:

Unethical practices at the Indian bar- The Lentin Commission Report- The Press Council on unprofessional and unethical journalism- Medical malpractice

Unit V: Response of Indian Legal Order to the Deviance of Privileged Classes:

Vigilance Commission- Public Accounts Committee- Ombudsman- Commissions of Enquiry - Prevention of Corruption Act, 1947- The Antulay Case

INTELLECTUAL PROPERTY RIGHTS

Sub. Code: MLE 210

L 4, C 4.

Unit I: Introduction

Meaning & Origin of IPR, purpose of Intellectual Property Rights, Categories of IPR, International Conventions, World Trade Organization (WTO) and Intellectual Property Rights, World Intellectual Property Organization (WIPO), Trade Related Aspects of Intellectual Property Rights (TRIPS).

Unit II: Intellectual Property: Issues & Challenges

Meaning of Copyright, Copyright Protection, Legal Recognition, Copyrights in Computer Software, Rights of Broadcasting Organizations and Performers Rights, Copyrights Act. 1957.

Meaning of Patent, Purpose & Policy, Objects of Patent Law, Rights and obligations of patent holder, patents –Infringements and remedies, Rights of Patentees, transfer of patent, revocation and surrender of patents, patent Agent, Global Governance towards patent.

Unit III: Intellectual Property: Contemporary Trends

Introduction of Trade Marks, Trade Mark and Paris convention, Madrid Agreement, Comparative analysis in India, Legal Recognition, Trade Mark Act. , Geographical Indications, Geographical Indications of Goods Act. Rights of Biological Diversity, Biological Diversity Act.2002, UNESCO – Protection of Folklore/ Cultural Expressions, Nagoya Protocol and Indian Law.

Unit IV: Designs & Rights of Plant Breeders and Farmers

Industrial Designs, Layout Designs (Topographies) of integrated circuits, Rights of Plant Breeder's and Farmer's, Benefit Sharing and Contractual Agreements- International Treaty on Plant Genetic.

Suggestive Readings:

1. W. Cornish & Llewelyn – Intellectual Property: Patent, Copyrights, Trade Marks & Allied Rights”, London Sweet & Maxwell.
2. Nard Madison- The Intellectual Property, Aspian Publication.
3. Carlosm Correa- Oxford Commentaries on GATT/WTO Agreements trade related aspects of Intellectual Property Rights, Oxford University Press.
4. David Bainbridge – Intellectual Property Law.
5. Dr. S.R. Myneni- Law of Intellectual Property, Asia Law House, Hyderabad.
6. Dr. B.L. Wadhera – Law Relating to Intellectual Property, Universal Law Publishing co., New Delhi.
7. N.K. Acharya – Intellectual Property Rights, Asia Law House, Hyderabad.

Corporate Taxation

Sub. Code: MLE - 212

L 4, C 4.

Unit-I: Income Tax

Type of Companies – (a) Indian Company (b) Domestic Company (c) Foreign Company (d) Public Sector Company (e) Companies in which public are substantially interested S 2(18) (f) Infrastructure Capital Company. Special Provision in respect of newly established undertaking in free trade zone SEZ, 100% export oriented unit 10A, 10AA, 10B, 10BA. Profit and Gains of business or profession. Capital Gains. Set off or carry forward of losses. Incentive and deductions to Companies under Section 80. Deprecation under Companies Act- Schedule 14 S. 205 & S. 350 and depreciation under Income Tax Act. Minimum Alternate Tax 115 JB, Tonnage Taxation Ch. 12 G. Tax on Distributed Profits under Section 115 (O), Special Provisions relating to tax on income received from Venture Capital Companies and Venture Capital Fund 115-U. Dividend Tax ; International Transaction. Penalties and prosecution

Unit - II : Wealth Tax

Introduction & Chargeability, Valuation date and computation, Assets and deemed assets, Assets exempt from tax, Debt owed, Valuation of assets, Return of wealth and assessment.

Unit - III: Sales Tax & VAT Laws

Preliminary, Imposition of Tax, Registration and Security, Returns, Assessment, Payment of Tax and Interest, Accounts and Records, Objections, Appeals and Disputes, Penalties and Offences, Way to GST (Tax on goods & services)- going to implement w.e.f. 1-4-2010.

Unit - IV: Excise, Customs and Service Tax

(1) Excise: Introduction, Levy and Collection, Valuation, Cenvat Credit, Search, Seizure and Confiscation, Appeals and Revision

(2) Custom: Introduction, Charge of Custom Duty, Bill of Entry, Prohibition of Import and Export, Goods liable for confiscation, Baggage exempt from duty, Offences.

(3) Service Tax: Introduction, Exemption from service tax, Abatement, Penalties, Service Tax on Government Department and Public Authorities

Selected Bibliography:

1. Singhania V.K. & Singhania Kapil, *Direct Taxes, 2006, Law and Practice*, Taxmann.
2. Ahuja Girish & Gupta Ravi, *Concise Commentary on Income Tax 2008*, Bharat Law House.
3. Garg Rakesh, *Delhi Vat Ready Reckoner, 2007*, Versatile Publishers.
4. Garg Mohan Lal, *Law of Central Sales Tax, 2008*, Jain Book Agency.
5. Kohli D.N., *Central Excise Procedures 2008*, Taxman Publication
6. Jain R.K., *Service Tax Law Guide, 2007-2008*, Centax Publishers
7. Jain R.K., *Customs Law Manuals, 2008* Centax Publishers
8. Gupta Ravi & Ahuja Girish, *Bharat's Systematic Approach to Income Tax & Central Sales Tax, 2006*, Bharat Law House.
9. Chaturvedi K., *Guide to Mastering Vat, 2005*, Wadhwa & Company.
10. Chaturvedi K., *Central Sales Tax Laws, 2002*, Wadhwa & Company.
11. Arvind P. Datar, *Guide to Central Excise Law and Practice, 2002*, Wadhwa & Company.
12. Gururaj B.N., *Guide to the Customs Act, 2005*, Wadhwa & Company.
13. Batra Ashok, *A Guide to Service Tax, 2005*, S. Wadhwa & Company.
14. Gupta S.S., *Service Tax, 2005*, Taxmann.
15. Aggarwal Rohini, *Service Tax Law and Practice, 2005*, Eastern Book Company