



**MOHANLAL SUKHADIA UNIVERSITY, UDAIPUR**

**FACULTY OF LAW**

**THIRD SEMESTER MASTER OF LAWS**

(Session 2018-19)

**(BUSINESS LAW BRANCH)**

PAPER – I (Paper Code 51901) (PAPER NAME – LAW OF INDUSTRIAL AND INTELLECTUAL PROPERTY)

**Max. Marks: 100 (80 External + 20 Internal)**

**Min. Marks: 40**

- Unit – 1 :** IPR and International Perspectives :  
Trademarks and Consumers Protection (Study of UNCTAD report on the subject) the Legal Regime of Unfair Trade Practices and of Intellectual Industrial Property, United National approaches (UNCTAD, UNCITRAL), EEC approaches, Position in U.S., The Indian situation,  
Special Problems of the Status of Computer Software in Copyright and Patent Law : A Comparative Study.
- Unit - 2 :** Biotechnology Patents :  
Nature and types of Biotechnology Patents,  
Patent over new forms of life : TRIPS obligations, Plant Patenting, Sui generis protection for plant varieties, Multinational Ownership,  
Regulation of environment and health hazards in biotechnology patents: Indian policy and position,  
Patent Search, Examination and Records : International and global patent information retrieval systems (European Patent Treaty), Patent Cooperation Treaty (PCT), Differences in resources for patent examination between developed and developing societies, The Indian situation.
- Unit – 3 :** Special Problems of Proof Infringement:  
Status of intellectual property in transit – TRIPS obligation – Indian position,  
The Evidentiary problems inaction of Passing off,  
The proof of non-anticipation,  
Novelty of Inventions protected by Patent Law,  
Evidentiary problems in Piracy : TRIPS obligation – reversal of burden of proof in process patent, Need and Scope of Law Reforms.
- Unit – 4 :** Intellectual Property and Human Right :  
Freedom of Speech and expression as the basis of the regime of intellectual property right-copyright protection of internet – WCT (WIPO Copyright Treaty, 1996),  
Legal status of Hazardous Research protected by the regime of intellectual property law,  
Human right of the impoverished masses intellectual property protection of new product for healthcare and food security,  
Traditional knowledge – protection-biodiversity convention right of indigenous people.

**SELECTED BIBLIOGRAPHY:**

1. Special attention should be given to literature of the U.N. System, WIPO and the UNESCO.
2. Terence P. Stewart (ed.) : The GATT Uruguay Round : A Negotiating History (1986-1994) the End Game (Part-I)(1999), Kluwer.
3. Iver P. Cooper : Biotechnology and Law (1998), Clerk Boardman Callaghan, New York.
4. David Bainbridge : Software Copyright Law (1999), Butterworths
5. Sookman : Computer Law (1998), Carswell

6. Carlos M. Correa (ed.) : Intellectual Property and International Trade (1998), Kluwer
7. Patent Cooperation Treaty Handbook (1998), Sweet and Maxwell
8. Christopher Wadlow : The Law of Passing Off (1998), Sweet and Maxwell
9. W. R. Cornish : Intellectual Property Law (1999), Sweet and Maxwell

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PAPER – II (Paper Code 51902) (PAPER NAME – LEGAL REGULATION OF ECONOMIC ENTERPRISES)

**Max. Marks: 100 (80 External + 20 Internal)**

**Min. Marks: 40**

- Unit – 1 :** The Rationale of Government Regulation : Constitutional perspectives,  
The new economic policy – industrial policy resolutions, declarations and statements,  
The place of public, small scale, cooperative, corporate, private and joint sectors in  
the changing context,  
Regulation of Economic Activities,  
Disclosure of Information,  
Fairness in Competition,  
Emphasis on Consumerism,  
Development and Regulation of Industries;  
Takeover of Management and Control of Industrial units,  
Sick undertakings: Nationalization or winding up?  
Licensing Policy and Legal Process – Growing Trends of Liberalization Deregulation of  
essential commodities: developmental sign or a social mishap? Financial Services:  
Changing Techniques of Regulation.
- Unit – 2 :** Critical Issues regarding the Capital Issues : Equity and Debt finance,  
Global depositories,  
De-materialized Securities,  
Problems of Control and Accountability;  
Regulation of Hazardous Activity: Mass Disaster and Environmental Degradation;  
Legal Liability and Legal Remedies,  
Public Liability Insurance;  
Issues in Zoning and Location of Industrial Units.
- Unit – 3 :** Special Aspects of Legal Regulation of Select Public Enterprises:  
Telecom Regulatory Authority,  
Insurance Regulatory Authority,  
Broadcasting Regulatory Authority.
- Unit – 4 :** Legal Regulation of Multi – Nationals :  
Collaboration Agreements for Technology Transfer,  
Development and Regulation of Foreign Investments,  
Investment in India; FDIs and NRIs, Investment abroad.

**SELECTED BIBLIOGRAPHY:**

1. S. Aswani Kumar : The Law of Indian Trade Mark (2001), Commercial Law House, Delhi
2. Industrial Policy Resolution of 1948, 1956, 1991
3. Industrial Licensing Policy 1970, 1975
4. Industrial Policy Statements, 1973, 1977, 1980
5. Reports of Committees on Public undertakings of Parliament

6. Industries (Development and Regulation) Act, 1951
7. U. Baxi & A. Dhandba : Valiant Victims and Lethal Litigation: The Bhopal Case (1989)
8. Indian Law Institute, Law of International Trade Transaction (1973)

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**(BUSINESS LAW BRANCH)**

PAPER – III (Paper Code 51903) (PAPER NAME – LAW OF EXPORT IMPORT REGULATIONS)

**Max. Marks: 100 (80 External + 20 Internal)**

**Min. Marks: 40**

**Unit – I Introduction:**

- i) State Control over import and export of goods from rigidity to liberalization,
- ii) Impact of regulation on economy
- iii) The Basic Needs of Export and Import Trade: Goods, Services, Transportation,
- iv) International Regime: WTO agreement, WTO and tariff restrictions, WTO and non-tariff restrictions, Investment and transfer of technology, Quote restriction and anti dumping, Permissible regulations, Quarantine regulation, Dumping of discarded technology and goods in international market, Reduction of subsidies and counter measures

**Unit – II General Law on Control of Imports and Exports :**

- i) General scheme,
- ii) Legislative control,
- iii) Power of control : Central government and RBI,
- iv) Foreign Trade Development and Regulation Act 1992,
- v) Restrictions under customs law, Prohibition and penalties
- vi) Export- Import formulation : Guiding features,
- vii) Control Under FEMA, Foreign Exchange and currency, Import of goods, Export promotion councils, Export oriented units and export processing zones, Control of Exports: Quality control, Regulation on goods, Conservation of foreign exchange, Foreign exchange management, Currency transfer, Investment in foreign countries

**Unit – III Exam Policy:**

- i) Changing Dimensions: Investment Policy : NRIs, FII (Foreign Institutional Investors), FDIs, Joint venture, Promotion on foreign trade, Agricultural products, Textile and cloths, Jewellery, Service Sector;
- ii) Law relating to Customs : Prohibition on importation and exportation of goods, Control of smuggling activities in export-import trade, Levy of, and exemption from, customs duties, Clearance of imported goods and export goods, Conveyance and warehousing of goods

**Unit – IV Regulation on Investment:**

- i) Borrowing and lending of money and foreign currency,
- ii) Securities abroad-issue of, Immovable property- purchase abroad,
- iii) Establishment of business outside,
- iv) Issue of derivatives and foreign securities-GDR (Global depositories receipts), ADR (American depository receipts) and URO,
- v) Investment in Indian Banks,
- vi) Repatriation and Surrender of Foreign Securities,
- vii) Technology Transfer : Restrictive terms in Technology Transfer Agreements, Automatic approval schemes

## **SELECT BIBLIOGRAPHY**

1. Government of India, Handbook of Import Export Procedures
2. Government of India Import and Export Policy (1997-2002)
3. Foreign Trade Development and Regulation Act 1992 and Rules Foreign
4. Exchange Management Act 1999
5. Customs Manual (Latest edition) Final Treaty of GATT, 1994

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**(CONSTITUTION BRANCH)**

PAPER – I (PAPER CODE - 43901) : (PAPER NAME – MASS MEDIA LAW)

**Max. Marks: 100 (80 External + 20 Internal)**

**Min. Marks: 40**

**Unit I : Mass Media – Types of – Press Films, Radio Television**

- a. Ownership patterns – Press – Private – Public
- b. Ownership patterns – Films –Private
- c. Ownership patterns – Radio & Television, Public
- d. Difference between visual and non-Visual Media- Impact on Peoples Minds.

**Unit II : Press – Freedom of Speech and Expression Article 19(i)(A)**

- a. Includes Freedom of the Press
- b. Laws of defamation, obscenity, blasphemy and sedition
- c. The relating to employees wages and service conditions
- d. Price and Page Schedule Regulation
- e. Newsprint Control Order
- f. Advertisement - Is it included within freedom of speech and expression?

**Unit III : Films - How far included in freedom in or speech and expression?**

- a. Censorship of films – constitutionality
- b. The Abbas Case
- c. Difference between films and Press - Why pre- censorship valid for films but not for the Press?
- d. Censorship under the Cinematograph Act.

**Unit IV: Radio and Television - Government monopoly.**

- a. Why Government department?
- b. Should there be an autonomous corporation ?
- c. Effect of television on people.
- d. Report of the Chanda Committee.
- e. Government policy.
- f. Commercial advertisement
- g. Judicial Review of Doordarshan decisions : Freedom to telecast.
- h. Radio and television subject to law of defamation and obscenity.

**Selected Bibliography :**

1. M.P.Jain: Constitutional Law of India (1994) Wadhwa.
2. H.M.Seervai : Constitutional Law of India Vol.I (1991) Tripathi, Bombay
3. John B.Howard, "The Social Accountability of Public Enterprises: in Law and Community Controls in New Development Strategies (International Centre for Law in Development 1980).
4. Bruce Michael Boyd, "Film Censorship in India: A Reasonable Restriction on Freedom of Speech and Expression". 14 J.I.L.I 501(1972).
5. Rajeev Dhavan, "On the Law of the Press in India" 26 J .I.L.I. 288 (1984)
6. Rajeev Dhavan, " Legitimizing Government Rhetoric : Reflections on Some Aspects of the Second Press Commission" 26 J.I.L.I. (1984)
7. Soli Sorabjee, Law of Press Censorship in India (1976)
8. Justice E.S.Venkaramiah, Freedom of Press Some Recent Trends (1984)
9. D.D. Basu, The Law of Press of India (1980)

Student should consult relevant volumes of the Annual Survey of Indian Law published by the India Law Institute (Constitutional Law 1 & 11, Administrative Law and Public Interest Litigation.



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**(CONSTITUTION BRANCH)**

PAPER – II (PAPER CODE - 43902) : (PAPER NAME – PUBLIC UTILITY LAW)

**Max. Marks: 100 (80 External + 20 Internal)**

**Min. Marks: 40**

Candidates are required to attempt four questions. Each Question carry equal marks.

**Unit I : 1. Public Utilities**

- a. Railways, Electricity, Gas, Road Transport, Telephone, Post and Telegraph Service, Police, Fire Brigade, Banking service etc.
  - b. Growth and evolution of Public utilities and their legislation
2. Public Utilities – Why Government Monopoly?

- a. Administrative Authorities - Structure of the Administrative Authorities.
- b. Subordinate Legislation.

**Unit II : 1. Utilities Legislation – Patterns of –**

- a. Administrative Authorities – Structure of the Administrative Authorities.
  - b. Subordinate Legislation.
2. Public Utilities and Fair Rearing

- a. Quasi- Judicial Decision – Administrative Discretion.

**Unit III : 1. Public Utilities and Consumer Protection**

- a. Rights of consumers protected by the Consumer Protection Act
  - b. Rights Arising form Law of Contract and Law of Torts.
2. Public Utilities And their Employees

- a. Application of Articles 16 and 311 ?
- b. Application of Industrial Law – right to strike.

**Unit IV: 1. Public Utilities and Fundamental Rights**

- a. The right to equality :the airhostess case
  - b. Are Public utilities “State” for the purpose of article 12 of the Constitution?
  - c. Extension of the concept of State.
2. Liabilities and special privileges of public utilities
- a. In Contract
  - b. In Tort
  - c. In Criminal Law

**Selected Bibliography :**

1. P.M.Bakshi, Television and the Law (1986)
2. Vasant Kelkar, "Business of Postal Service" 33, I.J.P.A pp. 133-141 (1987)
3. G. Ramesh, " Characteristic of Large Service Organisation in a Developing Country Like India" 32 I.J.P.A 77 (1986).
4. Nalini Paranjpe, "Planning for Welfare in the Indian Railways" 31 I.J.P.A
5. Arvind K.Sharma " Semi-Autonomous Enterprise : Conceptual Portrait-Further Evidence on the Theory of Autonomy" 33, I.J.P.A, p.99-113
6. S.P.Sathe, Administrative Law (1998)
7. Jain & Jain, Principles of Administrative Law (1986)
8. Jagdish Ul, Handbook of electricity Laws (1978)
9. Bhaumik, The Indian Railways Act (1981)
10. Law Commission of India, 38th Report : Indian Post Office Act, 1898 (1968)



Students should consult relevant volumes of Annual Survey of Indian Law published by the Indian Law Institute (Constitutional Law 1 & 11, Administrative Law, Consumers Protection Law and Labour Law).

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PAPER – III (PAPER CODE - **43903**) : (PAPER NAME – **UNION-STATE FINANCIAL RELATIONS**)

**Max. Marks: 100 (80 External + 20 Internal)**

**Min. Marks: 40**

Unit I : 1. Federalism – Essentials

- a. Models of Federal Government – U.S.A Australia, Canada
  - b. Difference between Federation and Confederation
  - c. Evolution of federal government in India
2. Distribution of Legislative Power / Administrative Power
- a. Indian Constitution
  - b. Centre-State relations
  - c. Factors responsible for subordination of States
  - d. Administrative relations

Unit II :2. Distribution of Fiscal Power :

1. Distribution of Fiscal Power :
  - a. Scheme of Allocation of taxing power
  - b. Extent of Union power of taxation
  - c. Residuary power – inclusion of fiscal power
2. Restrictions of Fiscal Power
  - a. Fundamental Rights
  - b. Inter – Government tax immunities
  - c. Difference between tax and fee
3. Distribution of Tax Revenues
  - a. Tax-Sharing under the Constitution
  - b. Finance Commission – Specific purpose grants (Article 282)
4. Borrowing Power of the State
  - a. Borrowing by the Government of India
  - b. Borrowing by the States

Unit III:1 Inter-State Trade and Commerce

- a. Freedom of Inter-State trade and commerce
  - b. Restrictions on legislative power of the Union and States with regard to trade and commerce.
2. Planning & Financial Relations
- a. Planning Commission
  - b. National Development Council
  - c. Plan Grants

Unit IV: 1. Co-operative Federalism

- a. Full faith and credit
  - b. Inter-State Council
  - c. Zonal Councils
  - d. Inter-State disputes
2. Federal Government in India
- a. Model of Jammu and Kashmir
  - b. Sarkaria Commission Report
  - c. What Reforms are Necessary ?

## Selected Bibliography

1. H.M.Seervai, Constitutional Law of India (1991),Tripathi, Bombay
  2. Sudha Bha ttnagar, Union-State Financial Relations and Finance Commissions (1979)
  3. Ashok Chandra, Federalism in India (1965)
  4. V.D.Sebastian, Indian Federalism : The Legislative Conflicts Chs. 6-7 and 8(1980)
  5. Chandrapal, Centre-State Relations and Cooperative Federalism, Chs. 5 and 8 (1983)
  6. G.C.V. Subba Rao, Legislative Powers in Indian Constitution Law, Chs. 37,38,39 (1982)
  7. Richard M.Pious, The American Presidency, 293-331, Ch. 9(1979)
  8. Daniel J.Elazar, American Federalism, Chs. 3 and 4 (1984)
  9. K.P.Krishna Shetty, The Law of Union-State Relations and the Indian Federalism Ch.9 .(1981)
  10. Report of the Eighth Finance Commission
  11. Administrative Reforms Commission on Centre-State Relationship Ch.3 (1969)
  12. Constituent Assembly Debates Vo1.9, 203, 240 and 302-349;-Vol. 10, 325-342.
  13. Administrative Reforms Commission, Report of the Study Team on Central-State Relationship (1967) Vol. 1, Sections 1 and 11, 99. IS -168
  14. L.M.Singhvi (ed) , Union-State Relations in India 124-154(1969)
  15. Government of Tamilnadu, Report of the Centre- State Relations Inquiry Committee Ch.5(1971)
  16. D.T.Lakadwala, Union-State Financial Relations (1967)
  17. M.P.Jain, Indian constitutional Law (1994), Wadhwa
  18. K.Subba Rao, The Indian Federation (1969)
  19. K.C.Wheare, Federal Government (1963)
- Students should consult relevant volumes of the Annual Survey of Indian Law Published by the Indian Law Institute (Constitutional Law II).