



MOHANLAL SUKHADIA UNIVERSITY, UDAIPUR

FACULTY OF LAW

FOURTH SEMESTER MASTER OF LAWS

(Session 2018-19)

(BUSINESS LAW BRANCH)

PAPER – I (Paper Code 52901) (PAPER NAME – BANKING LAW)

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

Min. Marks: 40

Unit 1 Introduction:

- i) Nature and development of banking,
- ii) History of banking in India and elsewhere indigenous banking evolution,
- iii) banking in India- different kinds of banks and their functions
- iv) Multi-functional banks-growth and legal issues,
- v) Law relating to Banking Companies in India: Controls by government and its agencies, On management, On accounts and audit, Lending Credit policy, Reconstruction and reorganization, Suspension and winding up, Contract between banker and customer: their rights and duties,
- vi) Social Control over Banking:
- vii) Nationalization Evaluation : private ownership, nationalization and disinvestments, Protection of depositors, Priority lending, Promotion of under privileged classes

Unit 2 Deposit Insurance :

- i) The Deposit Insurance Corporation Act 1961 : object and reasons, Establishment of capital of DIC,
- ii) Registration of Banking Companies, Insured Banks, Liability of DIC to depositors,
- iii) Relations between Insured Banks,
- iv) DIC and Reserve Bank of India,
- v) The Central Bank : Evolution of Central Bank, Characteristics and functions, Economic and social objectives, The Central Bank and the State-as bankers' bank,
- vi) The Reserve Bank of India as the Central Bank Organizational structure,
- vii) Functions of the RBI, Regulation of monetary mechanism of the economy, Credit control, Exchange control Monopoly of currency issue, Bank rate policy formulation,
- viii) Control of RBI over non-banking companies, Financial companies, Non-financial companies,
- ix) Relationship of Banker and Customer: Legal character, Contract banker and customer, Banker's lien, Protection of bankers, Customers,
- x) Nature and type of Accounts, Special classes of Customers-Lunatics, Partnership, corporations, Local Authorities,
- xi) Banking duty of Customers,
- xii) Consumer Protection : Banking Service

Unit 3 Negotiable Instruments:

- i) Meaning and kinds,
- ii) Transfer and Negotiations,
- iii) Holder and Holder in due course,
- iv) Presentment and payment,
- v) Liabilities of parties,
- vi) Lending by Banks: Good lending principles. Lending to poor masses, Securities for advance, Kinds and their merits and demerits,
- vii) Repayment of loans: rate of interest, protection against penalty, Default and recovery,
- viii) Debt Recovery Tribunal (DRT)

Unit 4 Recent Trends of Banking System in India :

- i) New technology
- ii) Information technology,
- iii) Automation and legal aspects,
- iv) Automatic teller machine and use of internet,
- v) Smart card,
- vi) Use of expert system,
- vii) Credit cards,
- viii) Reforms in Indian Banking Law,
- ix) Recommendations of Committees : a review

SELECT BIBLIOGRAPHY:

- Basu, A. : Review of Current Banking Theory and Practice (1998) Mac Millan
- M. Hapgood (ed) : Paget's Law of Banking (1989) Butterworths, London
R. Goode : Commercial Law, (1995) Penguin, London
- Ross Cranston : Principles of Banking Law (1997) Oxford
- L. C. Goyle : The Law Banking and Bankers (1995) Eastern
- M. L. Tannan : Tannan's Banking Law and Practice in India (1997), India Law House, New Delhi, 2 volumes
- K. C. Shekhar : Banking Theory and Practice (1998), UBS Publisher Distributors Ltd., New Delhi
- M. Dasessse, S. Isaacs and G. Pen : E.G. Banking Law, (1994), Lloyds of London Press London
- V. Conti and Hamaui (eds.) : Financial Markets Liberalization and the Role of Banks', Cambridge University Press, Cambridge (1993)
- J. Dermine (ed.) : European Banking in the 1990's (1993) Blackwell, Oxford
- K. Subrahmanyam Banking Reforms in India (1997), Tata McGraw Hill, New Delhi
- R. S. Narayana : The Recovery of Debts due to Banks and Financial Institution Act, 1993 (51 of 1993), Asia Law House, Hyderabad
- M. A. Mir : The Law Relating to Bank Guarantee in India (1992) Metropolitan Book, New Delhi
- Mitra : The Law Relating to Bankers' Letters of Credit and Allied Laws (1998), University Book Agency, Allahabad



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PAPER – II (Paper Code 52902) (PAPER NAME – INSURANCE LAW)

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

Min. Marks: 40

Unit 1: Introduction :

- i) Nature of Insurance contract,
- ii) various kinds of insurance,
- iii) proposal. Policy, parties consideration, need for utmost good faith, insurable interest, indemnity,
- iv) Insurance policy,
- v) law of contract and law of torts –
- vi) future of insurance : need, importance and place of insurance,
- vii) Constitutional perspectives - the Entries 24, 25, 29, 30, 47 of List – I Union List: 23,24 of List III,
- viii) General Principles of Law of Insurance: Definition, nature and history, The risk-commencement, attachment and duration, Assignment and alteration, Settlement of claim and subrogation, Effect of war upon policies,
- ix) Indian Insurance Law : General History and development,
- x) The Insurance Act 1938
- xi) Insurance Regulatory Authority Act 2000,
- xii) Mutual Insurance companies and cooperative life insurance societies,
- xiii) Double insurance and re-insurance,
- xiv) life Insurance: Nature and scope, Event insured against life insurance contract, Circumstances affecting the risk, Amounts recoverable under life policy, Persons entitled to payment, Settlement of claim and payment of money

Unit 2: Marine Insurance:

- i) Nature and Scope,
- ii) Classification of Marine Policies,
- iii) The Marine Insurance Act, 1963: Marine Insurance, Insurable interest, insurable value, Marine insurance policy-condition-express warranties construction of terms of policy, Voyage deviation, Perils of the sea, Assignment of Policy, Partial laws of ship and of freight, salvage, general average, particular charges, Return of premium

Unit 3: Insurance against Accidents :

- i) The Fatal Accidents Act, 1855: Objects and reasons, Assessment of compensation, Contributory negligence, Apportionment of compensation and liability,
- ii) The Personal Injuries (Compensation insurance) Act 1963: Compensation payable under the Act, Compensation insurance scheme under the Act-Compulsory insurance,
- iii) Property Insurance: Fire Insurance, The Emergency Risks (Factories) Insurance, The Emergency Risks (Goods) Insurance, Policies covering risk of explosion, Policies covering accidental loss, damage to property, Policies covering risk of storm and tempest, Glass-plate policies,

- iv) Burglary and Theft policies,
- v) Live Stock Policies,
- vi) Goods in Transit Insurance,
- vii) Agricultural Insurance

Unit 4 : Insurance against Third Party Risks:

- i) The Motor Vehicles Act, 1988: Nature and Scope, Effect of Insolvency or death on claims of insolvency and death of parties, certificate of insurance,
- ii) Claims Tribunal: Constitution, functions, application for compensation, procedure powers and award,
- iii) Liability Insurance : Nature and kinds of such insurance, Public Liability Insurance, Professional negligence insurance,
- iv) Miscellaneous Insurance Schemes: New Dimensions: Group Life Insurance, Mediclaim Sickness Insurance

SELECT BIBLIOGRAPHY:

John Hanson and Christopals Henly : All Risks Property Insurance (1999), LLP Asia
Hongkong

Peter Mac Donald Eggers and Patric Foss : Good faith and Insurance Contracts
LLP Asia, Hongkong

Banjeree : Law of Insurance (1994), Asia Law House, Hyderabad

Mtra, B.C. : Law Relating to Marine Insurance (1997) Asia Law House, Hyderabad

Brids : Modern Insurance (1997), Sweet & Maxwell International Labour Office,
Administration Practice of Social Insurance (1985)

E.R. Hardy Ivamy : General Principles of Insurance Law (1979)

Edwin, W. Patterson, cases and Materials on Law of Insurance (1955)

M.N. Sreenivasan : Law and the Life Insurance Contract (1914)



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PAPER – III (Paper Code 52903) (PAPER NAME – CORPORATE FINANCE)

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

Min. Marks: 40

Unit 1 : Introduction :

- i) Meaning, importance and scope of corporate finance,
- ii) Capital needs-capitalization-working capital-securities borrowings
- iii) deposits debentures,
- iv) Objectives of corporate finance-profit maximization and wealth maximization,
- v) Constitutional perspectives-the entires 37, 38, 43, 44, 45, 46, 47, 52, 82, 85 and 86 of List I-Union List; entry 24 of List 1 I-State List,
- vi) Equity Finance: Share Capital,
- vii) Prospectus - information disclosure,
- viii) Issue and allotment of Shares, Shares without monetary consideration, Non-opting equity shares,
- ix) Debt Finance : Debenture, Nature, issue and class, Deposits and acceptance, Creation of charges, Fixed and floating charges Mortgages, Convertible debentures

Unit 2 : Conservation of Corporate Finance :

- i) Regulation by Disclosure,
- ii) Control on payment of dividends,
- iii) Managerial remuneration,
- iv) Payment of commissions and brokerage,
- v) Inter-corporate loans and investments.
- vi) Pay-back of shares,
- vii) Other corporate spending,
- viii) Protection of Creditors: Need for creditor protection, Preference in Payment, Rights in making company decision affecting creditor interests, Creditor Self-Protection, Incorporation of favourable terms in lending contracts, Right to nominate directors, Control over corporate spending

Unit 3 : Protection of Investors :

- i) Individual share holder right,
- ii) Corporate membership right,
- iii) Derivative actions,
- iv) Qualified membership right,
- v) Conversion,
- vi) consolidation and re-organization of shares,
- vii) Transfer and transmission of securities,
- viii) Dematerialization of securities.

Unit 4 : Corporate Fund Raising :

- i) Depositories – IDR (Indian Depository Receipts), ADR (American Depository Receipts), GDR (Global Depository Receipts),
- ii) Public financing institutions-IDBI, ICICI, IFC and SFC,

- iii) Mutual Fund and other collective investment schemes,
- iv) Institutional investment-LIC, UTI and banks,
- v) FDI and NRI investment - Foreign institutional investment (IMF and World bank),
- vi) Administrative Regulation on Corporate Finance : Inspection of accounts, SEBI, Central Government control, Control by registrar of companies, RBI control

SELECT BIBLIOGRAPHY:

- Alastair Hundson : The Law on Financial Derivatives (1998), Sweet & Maxwell
- Eil's Ferran : Company Law and Corporate Finance (1999), Oxford Jonathan Charkham : Fair Shares : The Future of Shareholder Power and Responsibility (1999), Oxford
- Ramaiya A : Guide to the Companies Act (1998), Vol. I, IT and III
- H. A.J. Ford and A.P. Austen: Ford's principle of Corporations Law (1999), Butterworths
- J.H. Farrar and B.M. Hanniyan : Farrar's Company Law (1998), Butterworths
- Austen R.P. : The Law of Public Company Finance (1986), LBC
- R.M. Goode : Legal Problems of Credit and Security (1988), Sweet and Maxwell
- Altman and Subrahmanyam : Recent Advances in Corporate Finance (1985), LBC
- Gilbert Harold Corporation Finance (1956)
- Henry E. Hogland: Corporation Finance (1947)
- Maryin M. Kristein: Corporation Finance (1975)
- R.C. Osborn : Corporation Finance (1959)
- S.C. Kuchhal : Corporation Finance : Principles and Problems (6th ed. 1966)
- V.G. Kulkarni : Corporate Finance : (1961)
- Y.D. Kulsheshta : Government Regulation of Financial Management of Private Corporate Sector in India (1986)



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(CONSTITUTION BRANCH)

PAPER – I (PAPER CODE - **44901**) : (PAPER NAME – **PLURALISM AND FEDERALISM**)

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

Min. Marks: 40

Unit I : 1. Constitutionalism

- a. Authoritarianism – Dictatorship
- b. Democracy – Communism
- c. Limited Government-concept-Limitations on government
- d. What is a Constitution ?
- e. Development of a democratic government in England- Historical evolution of Constitutional government.
- f. Conventions of constitutionalism – law and conventions
- g. Written Constitution : U.S.A., Canada, Australia and India.
- h. Separation of powers : Montesquieu
- i. Rule of Law : Concept and New Horizons
- j. Fundamental Rights : Human Rights
- k. Judicial Review : European Court of Human Rights
- l. Human Rights : International Conventions
- m. Limits & doctrine of domestic jurisdiction in international law

Unit II :2. Federalism

- a. What is a federal government?
- b. Difference between confederation and federation
- c. Conditions requisite for federalism
- d. Patterns of federal government - U.S.A., Australia, Canada, India
- e. Judicial review - for federal umpiring
- f. New trends in federalism : Co-operative federalism
- g. India - Central Control v. State Autonomy
- h. Political factors influencing federalism
- i. Plural aspects of Indian Federalism: Jammu & Kashmir, Punjab, Assam. Dynamic of federalism.

Unit III:3 Pluralism

- a. What is a pluralistic society?
- b. Ethnic, linguistic, cultural, political pluralism
- c. Individual rights - right to dissent
- d. Freedom of speech and expression
- e. Freedom of the press
- f. Freedom of association
- g. Rights to separateness
- h. Freedom of religion
- i. Rights of the religions and linguistic minorities
- j. Compensatory discrimination for backward classes
- k. Women-rights to equality and right to special protection
- l. Scheduled Tribes, Distinct Identity – protection against exploitation - NSIS-Exclusion from Hindu Law.

4. Uniform Civil Code

Unit IV : 1. Equality in Plural Society .

- a. Right to equality and reasonable classification
- b. Prohibition of discrimination on ground of religion, caste, sex, language
- c. Abolition of untouchability
- d. Secularism - constitutional principles
- e. Tribal Groups and Equality

2. Pluralism and International Concerns

- a. International Declaration of Human Rights
- b. Conventions against genocide
- c. Protection of religious, ethnic and linguistic minorities
- d. State Intervention for protection of human rights
- e. Right of self-determination.

Selected Bibliography :

1. Upendra Baxi, "Law, Democracy and Human Rights"-5 Lokayan Bulletin 4 (1987)
 2. V.M.Dandekar .. Unitary Elements in a Federal Constitution" 22 E.P.W. 1865 (1988)
 3. Rajeev Dhavan, "The Press and the Constitutional Guarantee of Free Speech and Expression" 28 J.I.L.1. 299 /1986)
 4. M.A.Fazal" Drafting A British Bill of Rights" 27 J.I.L.1. 423 (1985)
 5. M.P.Jain, Indian Constitutional Law (1994), Wadhwa
 6. Jagat Narain .. Judicial Law Making and the Place of the Directive Principles in the Indian Constitution, J.I.L.I. 198 (1985)
 7. Rhett Ludwikowski, "Judicial Review in the socialist Legal Systems : Current Development" 37, I.C.L.D. 89-108 (1988)
 8. S.P.Sathe, Fundamental Rights and Amendment of the Indian Constitution (1968)
 9. H.M.Seervi, Constitutional Law of India (1993), Tripathi, Bombay
- Students should consult relevant volumes of the Annual Survey of Indian Law published by the Indian Law Institute.



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PAPER – II (PAPER CODE - 44902) : (PAPER NAME – HUMAN RIGHTS)

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

Min. Marks: 40

- Unit I :**
- 1. Panoramic View of Human Rights**
 - a. Human Rights in Non-western Thought
 - b. Awareness of Human rights during the nationalist movement
 - c. Universal Declaration of Human Rights, Constituent Assembly and Part-III, drafting process.
 - d. Subsequent developments in International Law and the Position in India (e.g. Convention of Social discrimination, torture, gender discrimination, environment and the two human rights convenants).
 - 2. Fundamental Rights Jurisprudence as Incorporating Directive Principles**
 - a. The dichotomy of Fundamental Rights (F.R.) and Directive Principles (D.P.)
 - b. The Interaction between F.R. and D.P.
 - c. Resultant expansion of basic needs oriented human rights in India.
- Unit II :**
- 3. Right not be Subject to Torture, Inhuman or Cruel Treatment**
 - a. Conceptions of torture, third-degree methods
 - b. "Justifications" for it
 - c. Outlawry of torture at international and constitutional law level
 - d. Incidence of torture in India
 - e. Judicial attitude
 - f. Law Reform-proposed and pending
 - 4. Minority Rights**
 - a. Conception of minorities
 - b. Scope of protection
 - c. The position of minority "Woman" and their basic rights
 - d. Communal Riots as Involving violation of Rights.
- Unit III :**
- 5. Rights to development of Individuals and Nations**
 - a. The UN Declaration on Right to Development. 1987
 - b. The need for constitutional and legal changes in India from human rights standpoint
 - 6. People's Participation in Protection and Promotion of Human Rights**
 - a. Role of International NGOS
 - b. Amnesty International
 - c. Minority Rights Groups
 - d. International Bars Association, Law Asia
 - e. Contribution of these groups to protection and promotion of human rights in India.
- Unit IV :**
- 7. Freedom**
 - a. Free Press - its role in protecting human rights
 - b. Right of association
 - c. Right to due process of law
 - d. Access and Distributive Justice

8. Independence of the Judiciary

- a. Role of the Legal Profession
- b. Judicial appointments - tenure of judges
- c. Qualifications of judges
- d. Separation of Judiciary from executive.

Selected bibliography :

1. M.K.Akbar, Riots After Riots (1988)
2. U.Baxi (ed) , The Right to be Human (1986)
3. U.Baxi, The Crisis of the Indian Legal System (1982), Vikas Publishing House, New Delhi
4. F.Kazmi, Human Rights (1987)
5. L.Levin, Human Rights (1982)
6. Madhavtirtha, Human Rights (1953)
7. W.P.Gromley, Human Rights and Environment (1976)
8. H.Beddard, Human Rights and Europe (1980)
9. Nagendra Singh, Human Rights and International Co-operation (1969)
10. S.C.Kashyap, Human Rights and Parliament (1978)
11. S.C.Jhera, Human Rights and United Nations (1977)
12. Moskowitz, Human Rights and) 'World Order (1958)
13. J.A.Andrews, Human Rights in International Law (1986)
14. I.Menon (ed) Human Rights in International Law (1985)
15. A.B.Roberston (ed), Human Rights in National and International Law (1970)
16. Upendra Baxi, "Human Rights, Accountability and Development" Indian Journal of International Law 279(1978)



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(CONSTITUTION BRANCH)

**PAPER – III (PAPER CODE - 44903) : (PAPER NAME – NATIONAL SECURITY, PUBLIC ORDER AND
RULE OF LAW)**

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

Min. Marks: 40

Unit I : 1. National Security, Public Orders and Rule of Law

- a. Emergency Detention in England – Civil Liberties
- b. Subjective satisfaction or objective assessment?
- c. Pre-Independence Law

2. Preventive Detention and Indian Constitution

- a. Article 22 of the Constitution
- b. Preventive Detention and Safeguards
- c. Declaration of Emergencies
- d. 1962, 1965 and 1970 Emergencies
- e. 1975 Emergency

Unit II : Exceptional Legislation

- a. COFEPOSA and other legislation to curb economic offenders
- b. NSA "the draconian law" -comments of NHRC
- c. Special courts and tribunals
- d. Due process and special legislation

Unit III: Civil Liberties and Emergency

- a. Article 19
- b. Meaning of "Security of State"
- c. Meaning of "Public Order"
- d. Suspension of Article 19 rights on declaration of emergency
- e. President's Right to suspend right to move any court
- f. Article 21-special importance - its non- suspendability
- g. Suspendability - 44th amendment

Unit IV : Access to Courts and Emergency

- a. Article 359: ups and downs of judicial review
- b. Constitution (Forty-fourth), Amendment Act, 1978
- c. Constitution (Fifty-ninth) Amendment Act, 1988

6. Martial Law

- a. Provision in English Law
- b. Provisions in the Constitution

Selected Bibliography :

1. G. O. Koppell " The Emergency, The Courts and Indian Democracy" 8 J.I.L.I. 287(1966)
2. V H. M. SeelVai, The Emergency, Future Safeguards and the habeas Corpus: A Criticism (1978)
3. International Commission of Jurists, Status of Emergency and Human Rights (1984)
4. N. C. Chattelji and Parmeshwar Rao, Emergency and the law (1966).