



Course Wise Content Details for LL.B. Programme:

Semester-V

Course Name-Jurisprudence-II

Course Code-LB-604

Total Classes-40

Credits-2 Target Group: Students of Law, Political Science, History, Sociology Course Objectives

This Course aims to introduce to students with the jurisprudential analysis of certain concepts in the field of Law. These concepts are basic and essential for the study of Law. By learning the Jurisprudential Analysis of basic concepts, the students shall gain the expertise in analysing other concepts also used in the field of Law. Students will also learn how to use this expertise in filing and contesting the cases on strong grounds before the Courts of Law in India as well as in other countries. The philosophical understanding of the concepts will give them fundamental clarity in different arenas of law.

Course Learning Outcomes:

After successful completion of this Course, students should be able to:

1. Have in depth knowledge of basic concepts in jurisprudence and to develop a critical approach in the field of law.
2. Identify the strengths and limitations of different theories and models in explaining the basics of Law and to develop the capacity to engage in lifelong learning.
3. Apply their knowledge, skills and creativity to get the solution of contemporary legal problems.
4. Differentiate properly among various concepts and use them appropriately wherever required.

Contents: **Part A + Part B**

PART –A

Legal concepts

Unit -1

- Concept of “Dharma”& “Purusharth”
- Rights & Duties

Suggested Readings

- R.W.M.Dias, -Jural Relations II, Jurisprudence, pp.23-43(1994).
- Upendra Baxi, "Laches and the Rights to constitutional Remedies: *Quis Custodiet Ipsos Custodes?*", Alice Jacob (ed.), Constitutional Developments since Independence (1975).
- Bhiku Parekh, "The Modern Conception of Right and Marxist Critique" in Upendra Baxi (ed.), The Right to be Human, pp. 1-22 (1987).
- Ganesh, S. -Vedic Concept of Dharma, Purvamimamsa, Vol 12, September 2021.
- Hohfeld's Contributions to the Science of Law Walter Wheeler Cook (ed.), Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays by Wesley Newcomb Hohfeld, pp. 1-15 and pp. 27-73 (1919).

Unit 2

Person and Personality

Suggested Readings

- Joel Feinberg, "The Rights of Animals and Unborn Generations" in Philosophy & Environmental Crisis by William T. Blackstone (ed.), pp. 43-68 (1974).
- R.W.M.Dias, Theories of the Nature of "Legal Person" in Jurisprudence, pp. 265-270 (1994).
- Adolf A. Berle and Gardiner Means, "The Evolution of Modern Corporate Structure", Chapter I of Book II, Regrouping of Rights: Relative Legal Position of Ownership and Control of The Modern Corporation and Private Property (1932).

Cases:

1. *Shiromani Gurudwara Prabandhak Committee, Amritsar vs. Shri Som Nath Dass & Ors.*, 2000,
2. *The State Trading Corporation of India Ltd. & Ors. vs. The Commercial Tax Officer, Visakhapatnam & Ors.*, AIR 1963 SC 1811; 1964 SCR (4) 89.
3. *Kanta Mohanlal Kotechavs. Branch Manager, United India Insurance Company Limited*, 2006 Indlaw SC MAH5.
4. *Divisional Controller, B.T.S. Division, Karnataka State Road Transport Corporation vs. Vidya Shinde*, 2005 ACJ 69.
5. *Bhawariba vs. New India Assurance Co. Ltd.*, 2006 ACJ 2085.
Manikuttan vs. M.N. Baby, 2009 ACJ 1497.

Unit 3

Possession and Ownership

Suggested Readings

- Law of Possession & Ownership of Property by Arindam Mitra , published by Sodhi Publication,2024.
- Property Law: Rules, Policies, and Practices, by Joseph William Singer, published by Wolter Kluwer, 2017.
- THE CONSTITUTIONAL MANDATE FOR SOCIAL WELFARE – SYSTEMIC DIFFERENCES AND LINKS BETWEEN PROPERTY, LAND RIGHTS AND HOUSING RIGHTS byAJ van der Walt &S Viljoen ,available at; <https://scielo.org.za/pdf/pej/v18n4/10.pdf>

Unit 4

(a) Property in Dayabhaga

(b) Property in Prakranam of Mitakshara

Suggested Readings

- Vijnaneshwara produced commentary on Yajnavalkyasmriti known as Mitakshara.
- Jimuavahana produced commentary on Naradasmriti, known as Dayabhaga.
- Concepts of Justice & Constitution Imperatives (□□□□□□□□□□□□□□□□□□ - Discovery of truth.)

PART-B

Legal Theories

Unit -5 Theories of Justice

- Kautilya
- Rawls
- Fuller
- Nozick
- Amartya Sen

Suggested Readings

- The Arthashastra by L.N. Rangrajan and Samashastrri
- Kautilya -Theories of Punishment, KautilyaArthshastra – Editor Rajsehwar Shastri Dravid, SSU Varansi.
- A Theory of Justice: by John RAWLS, Harvard University Press,2009.

- Criminal Justice: Mainstream and Crosscurrents, by John Randolph Fuller, Oxford Publication.2013.
- Nozick's Libertarian Theory of Justice Peter Vallentyne, University of Missouri, in Anarchy, State, and Utopia—A Reappraisal, edited by Ralf Bader and John Meadowcroft (Cambridge University Press: 2011), pp. 145-67.
available at https://klinechair.missouri.edu/docs/nozicks_theory_of_justice.pdf
- Robert Nozick: Property, Justice, and the Minimal State, by Jonathan Wolff, Stanford University Press,1991.

Unit-6 Theories of Reality

- (a) Concept of Reality, Knowledge, Cognition and Recognition
- (b) Dogmatism and Criticism,
- (c) Experience, Truth, Introspection and Illusion
- (d) Argument and Judgement.

Meaning & Interpretation of:

- **Satyameva jayate– Truth alone Triumphs– Motto of Bharat in the context of para(pra)&apara(Apara)vidya (Mundakopanisad)**
- **Yato dharmah tato jayah -Where there is dharma there will be victory– Motto of Supreme Court in context of Srimad bhagvad gita.**
- **Dharma cakra pravartanaya – Setting the wheel of dharma (Law)– Motto of Parliament House in the context of Mahabharata and Buddhism.**
- **Ashryahsarva-dharmanam-sasvadanviksikismrta - Jurisprudence(Logic) is the resource of all actions and the shelter of all virtues in the context of Kautilya Arthashastra.**
- **Satyamsivam Sundaram- The Truth, the Auspicious and the Beautiful – Motto of Television in the context of Indian Culture.**

Logical Fallacies – Fallacy against Reality, Fallacy of Contrary Reason, Fallacy of Uncertain Reason, Concept of Dialectics.

Suggested Readings

- Stcherbatsky, Theodore. – Buddhist Logic (in two vols.), Dover Publications Inc., New York. 20955-5, 20956-3
- Vidyabhusana, S.C. – A History of Indian Logic, Motilal Banarsidass, Delhi, 1978 ko
- Nyayabindu of Dharmakirti, ed. By Chandrashekhar Shastri, Chaukhambha Sanskrit Series, 1954.
<https://archive.org/details/NyayaBinduOfDharmakirtiWithDharmottaraCommentaryChandraShekharShastri/page/n1/mode/2up>

Unit-7

- Tarkavidyā (Reasoning) or “hetuśāstra” or “hetuvidyā” or “Vada Vidya”
- Nyāyaśāstra (Jurisprudence of Logic)
- Mimasa
- Ānvīkṣikī (Science of Inquiry)

Suggested Readings

- An Introduction to Indian Philosophy by Satish Chandra Chatterjee and Dharendra Mohan Dutta.
- Mimansadarshanam (Shaabarhashysahitam) by Jaimini, published by Chaukhamba Publications, Varanasi.
- Tarkbhasha by Keshav Mishra (commentary by Gajanan Shastri musalgaonkar) published by Chaukhamba Publications, Varanasi.

- Nyaydarshanam (Vatsyayan bhashyasahitam) by Maharshi Gautam published by Chaukhamba Publications, Varanasi.
- Nyay sidhant muktawali by Vishwanath Panchanan Bhattacharya (commentary by Gajanan Shastri musalgaonkar) published by Chaukhamba Publications, Varanasi.
- Mimansa Rules of Interpretation by Just. Markandey Katju (K.L Sarkar's, Tagore Memorial Lectures, 2nd Ed. Modern Law Publications.
- Translations of the Nyaya Sutra in Indian thought – Dr. Ganga Nath Jha.
- *Inside Chanakya's Mind: Aanvikshiki and the Art of Thinking, by Radhakrishnan Pillai, Published by Penguin Random House.

