

**NEW SYLLABUS**

**OF**

**LL.M. ( SEMESTER – I)**

**GROUP – E**

**(Environment and Legal Order)**

**Effective from**  
**The Academic year 2017-18**

**DEPARTMENT OF ENVIRONMENT AND LEGAL ORDER**

**UNIVERSITY SCHOOL OF LAW**

**GUJARAT UNIVERSITY**

## **Semester - I**

**LAW 401**

**LEGAL THEORIES**

**4 Credits**

### **Unit-I Analytical Legal Positivism**

- 1.1 Analytical School
  - 1.1.1 Jermy Bentham
  - 1.1.2 John Austin

### **Unit-II The Pure Theory**

- 2.1 Hans Kelsen
  - 2.1.1 The Basic Norm
  - 2.1.2 Implication of Pure Theory
  - 2.1.3 Contribution of Kelsen

### **Unit-III Sociological School**

- 3.1 The Social Origin of Laws & Legal Institution
- 3.2 Impact of Laws on Society
- 3.3 The Task of Law in Society
  - 3.3.1 Roscoe Pound
  - 3.3.2 Social Engineering

### **Unit-IV American Realism**

- 4.1 Justice Holmes
- 4.2 Carl. N. Llewellyn

### **Unit-IV Natural Law**

- 5.1 The Greek Period
- 5.2 The Roman Period
- 5.3 The Medieval Period
- 5.4 Revival of Natural Law Theories

## References :

1. Bodenheimer, Jurisprudence – The Philosophy and Method of Law (1996) Universal, Delhi
2. Fitzgerald, (ed.) Salmond on Jurisprudence (1999) Tripathi, Bombay.
3. W. Friedmann, Legal Theory (1999) Universal, New Delhi.
4. Paton G. W., Jurisprudence (1972) Oxford, ELBS.
5. Dias, Jurisprudence (1994 First Indian re-print), Adithya Books, New Delhi.
6. Roscoe Pond, Introduction to the Philosophy of Law (1998 re-print) Universal, New Delhi.
7. Hart, H.L.A., The Concepts of Law (1970) Oxford, ELBS
8. Lloyds Introduction to Jurisprudence, Sweet and Maxwell.

**LAW 402 INDIAN CONSTITUTIONAL LAW:  
THE NEW CHALLENGES**

**4 Credits**

**Unit-I State”: Need for Widening the Definition in the Wake of Liberalization**

**Unit-II Right to Equality: Privatization and Its Impact on Affirmative Action**

**Unit-III Freedom of Press and Challenges of New Scientific Development**

- 3.1 Freedom of speech and right to broadcast and telecast
- 3.2 Access to information
- 3.3 Right to strikes, hartal and bandh

**Unit-IV Emerging Regime of New Rights and Remedies**

- 4.1 Reading Directive Principles and Fundamental Duties into Fundamental Rights
  - 4.1.1 Compensation jurisprudence
  - 4.1.2 Right to education
    - 4.1.2.1 Commercialisation of education and its impact
    - 4.1.2.2 Brain-drain by foreign education market

**Unit-V Secularism, Religious Fanaticism and Federalism**

- 5.1 Allocation and share of resources - distribution of grants in aid
  - 5.1.1 The inter-state disputes on resources
- 5.2 Directions of the centre to the State under Article 356 and 365
- 5.3 Special status of certain States
  - 5.3.1 Tribal Areas, Scheduled Areas

**Unit-VI Separation of Powers: Stresses and Strain**

- 6.1 Judicial activism and judicial restraint
- 6.2 PIL: implementation
- 6.3 Judicial independence
- 6.4 Appointment, transfer and removal of judges
- 6.5 Accountability: executive and judiciary
- 6.6 Tribunals

## **References :**

1. H.M. Sheervai, Indian Constitution of Law (three Volumes)
2. M.P. Jain, Constitution Law of India (2008), Tripathi, Bombay
3. D. D. Baus Commentaries of Indian Constitution
4. Latest Judgments of Supreme Court

**Unit-I Introduction**

- 1.1 Nature of International Law
- 1.2 Basis of International Law
- 1.3 Evolution and Development of International Law
- 1.4 Codification of International Law

**Unit-II Sources of International Law**

- 2.1 General
- 2.2 Custom
- 2.3 Treaties
- 2.4 The General Principles of Law
- 2.5 Judicial Decisions
- 2.6 Juristic Work on International Law
- 2.7 General Assembly Resolutions and Declarations

**Unit-III Relation between International Law and Municipal Law**

- 3.1 Theories on Relationship
- 3.2 Theories on the Application of International Law within Municipal Law
- 3.3 Municipal Law before International Tribunals
- 3.4 International Law within Municipal Sphere

**Unit-IV Subjects of International Law**

- 4.1 State as a Subject
- 4.2 Public International Organizations
- 4.3 Individual as Subject of International Law

**Unit-V Law and Practice of Treaties**

- 5.1 The Treaty Making Process
- 5.2 Treaties and Third Parties
- 5.3 Treaty Interpretation
- 5.4 Amendment and Modification of Treaties

**References:**

1. Akehurst's Modern Introduction to International Law, Ed. By Peter Malanczuk, 7th Edition, (Revised)
2. Alina Kacxorowska, Public International Law 150 Leading Cases, Old Bailey Press, 2002.
3. Bowett D.W., The Law of International Institutions, 4th Edition, 2003, Universal.
4. Brownlie, Ian (2003) Principles of Public International Law, Oxford University Press, 6th Edition.
5. David D. Caron, Cases & Materials on International Law.
6. Oppenheim, International Law (Vol. I & II)
7. Starke J.G., Introduction to International Law. 8. M.P. Tandon, Public International Law, 16th Edition, (2005), Allahabad Law Agency.

**Part-I Environment and Development****Unit-I Environment Protection in India: Historical perspective**

- 1.1. Ancient and Medieval period of Indian traditions and environment protection
- 1.2. Role of Religious philosophy
- 1.3. The Concept of Dharma
- 1.4. Protection of Natural resources during ancient India

**Unit-II Legal framework and Policies for Environment Protection in India**

- 2.1 Pre-Independent Environment legislations
- 2.2 Five Year Plans
- 2.3 National Policies related to Environment
  - 2.3.1 Forest Policy
  - 2.3.2 Water Policy
  - 2.3.3 National Environment Policy 2006

**Unit-III Constitutional Provisions and environment**

- 3.1 Fundamental rights
  - 3.1.1 Right to water,
  - 3.1.2 Right to Food,
  - 3.1.3 Right to health
  - 3.1.4 Right environment
- 3.2 Directive Principles
- 3.3 Fundamental duty
- 3.4 Distribution of powers between the State and Center over natural resources

**Unit-IV Environmental Jurisprudence and International Instruments**

- 4.1 Stockholm Declaration
- 4.2 World Commission on Environment and Development ( WCED )
- 4.3 Rio Declaration
- 4.4 Agenda 21
- 4.5 Sustainable Development Goals



## **Unit-V Environmental Jurisprudence and Judiciary**

- 5.1 Supreme Court
  - 5.1.1 Polluter pays principle
  - 5.1.2 Precautionary principle
  - 5.1.3 Public Trust Doctrine
  - 5.1.4 Absolute Liability
  - 5.1.5 Strict Liability
- 5.2 National Green Tribunal

### **References:**

1. Stuart and Gillivary, Environmental Law, (2001) Universal Publishing House Pvt. Ltd. Delhi
2. Goel Aruna, Environment and Ancient Sanskrit Literature (2003) Deep and Deep Publications
3. Kumar Surendra, Environment Protection, (2009), Northern Book Center, Delhi
4. Shyam Diwan and Armin Rosencranz, *Environmental Law and Policy in India – Cases, Materials and Statutes* (2<sup>nd</sup> ed., 2001)
5. C. Shashtri, Environmental Law in India, Eastern Book Company, Lucknow. (2015)
6. Kailash Thakur, Environmental Protection Law and Policy in India (1997), Deep & Deep publications, New Delhi.
7. Leelakrishnan, P, The Environmental Law in India (1999), Lexis Nexis Butterworths-India
8. Leelakrishnan, P, Environmental Law Case Book, (2006) Lexis Nexis Butterworths-India
9. Boyle Alan Anderson Michael –Human Rights approaches to environmental protection – Oxford, Clarendon press, 1998
10. Tiwari H. N. Environmental Law, Allahabad Law Agency Faridabad, 2005

**Unit-I Environmental Pollution**

- 1.1 Concept of Environmental Pollution
- 1.2 Kinds of Pollutions
- 1.3 Factors responsible for environmental pollutions
- 1.4 Globalization and issues related to pollution control

**Unit-II Legal Framework to control Water Pollution**

- 2.1 Factors responsible for water pollution
- 2.2 The Water (Prevention and Control of Pollution) Act, 1974
- 2.3 Role of the Pollution control boards under the act.
- 2.4 Role of the appellate authority under the act
- 2.4 Remedial measures for the water pollution under the act
- 2.6 Judicial approach
- 2.7 The water (prevention and control of pollution) rules, 1975
- 2.8 Water (prevention and control of pollution) Cess rules, 1978

**Unit-III Legal framework to Control Pollution**

- 3.1 The Air (prevention and control of Pollution) Act, 1981
  - 3.1.1 Role of the Pollution control boards under the act.
  - 3.1.2 Role of the appellate authority under the act
  - 3.1.3 National Ambient Air Quality Standards Notification, 2009
  - 3.1.4 WHO guidelines and Ambient Air Quality Index [launched in 2014 in India]
  - 3.1.5 Judicial approach
  - 3.1.6 Air (Pollution and Control of Pollution) Rules, 1982
- 3.2 Noise Pollution (Regulation and Control) Rules, 2000
  - 3.2.1 Noise Pollution (Regulation and Control)(Amendment)Rules, 2010
- 3.3 Marine pollution in India
- 3.4 Land Pollution and legal framework
- 3.5 Legal framework for nuclear pollution in India

#### **Unit-IV Coastal Zone Management**

- 4.1 Sea Erosion
- 4.2 CRZ Notification
  - 4.2.1 Prohibition and exemptions
  - 4.2.2 Permissible activities
- 4.3 Classification of Zones
- 4.4 Regulation of Sea resorts
- 4.5 Coastal zone management plans
- 4.6 Aquaculture

#### **Unit-V General Laws on Environmental Concern**

- 5.1 Code of Criminal Procedure: Public nuisance
- 5.2 Provisions in the Indian Penal Code
- 5.3 Local bodies law: An overview

#### **References:**

1. 1.Singh Gurdip, Environmental Law, (2016) Eastern Book Company
2. Shyam Diwan and Armin Rosencranz, *Environmental Law and Policy in India – Cases, Materials and Statutes* (2<sup>nd</sup> ed., 2001)
3. C. Shashtri, Environmental Law in India, Eastern Book Company, Lucknow. (2015)
4. Kailash Thakur, Environmental Protection Law and Policy in India (1997), Deep & Deep publications, New Delhi.
5. Leelakrishnan, P, The Environmental Law in India (1999), Lexis Nexis Butterworths-India
6. Leelakrishnan, P, Environmental Law Case Book, (2006) Lexis Nexis Butterworths-India
7. Nanda, Sukanta K. Environmental law,(2009) Central Publications, Allahabad
8. Singh Chatrapati, Legal Policy for the Control of Environmental Pollution (1987)
9. Sands, P., Principles of International Environmental Law I : Framework Standards and Implementation, Manchester University Press U.K. 1995
10. Bell Stuart & McGillivray Donald, Environmental Law, The Law And Policy Relating To The Protection Of The Environment, First Indian Reprint, Universal Law Publishing Co. Pvt. Ltd. New Delhi.

11. Boyle Alan Anderson Michael –Human Rights approaches to environmental protection – Oxford, Clarendon press, 1998
12. Dr. Tiwari H. N. Environmental Law, Allahabad Law Agency Faridabad, 2005
13. Ritwick Dutta : Supreme Court cases on Forest Conservation

**Unit-I Concept of Environment Protection**

- 1.1 Concept of Environment and Environment pollution
- 1.2 Globalization and challenges related to Environment protection
- 1.3 Changing role of the State and community in Environment Protection

**Unit-II Environment Protection Act, 1986**

- 2.1 Objectives of the act
- 2.2 Rule making powers of the Central Government under the act
- 2.3 Role of the Pollution Control Boards
- 2.4 Remedial measures to control environmental provisions under the act
- 2.5 Environment (protection) Rules, 1986

**Unit-III Major Rules under EPA, 1986 - I**

- 3.1 The Chemical Accidents (Emergency planning, Preparedness and Response) Rules, 1996
- 3.2 The Bio-Medical Waste (Management and Handling) Rules, 1998
- 3.3 The Municipal Solid Wastes (Management and Handling) Rules, 2000
- 3.4 Hazardous wastes (Management and Handling) Rules, 1989
- 3.5 The Manufacture, Storage and important of Hazardous Chemical Rules, 1989

**Unit IV Major Rules under EPA, 1986 - II**

- 4.1 Environment Impact Assessment Notification, 1994 as amended in 2006
- 4.2 The Recycled plastics Manufacture and Usage Rules, 1999
- 4.3 The Ozone Depleting Substances (Regulation) rules, 2000
- 4.4 The Batteries (Management and Handling) Rules, 2001
- 4.5 Coastal Regulation Zone Notification, 1991 amended in 2011

**Unit-V Emerging Legal Controls**

- 5.1 Environment Audit
- 5.2 Eco-mark
- 5.3 Environment Impact Assessment (EIA)
- 5.4 Public participation in environmental decision – making

5.5 Environment Information

5.6 Eco-tourism

**References:**

1. Leelakrishnan, P, Environmental Law Case Book, (2006) Lexis Nexis Butterworths-India
2. Boyle Alan Anderson Michael –Human Rights approaches to environmental protection – Oxford, Clarendon press, 1998
3. Tiwari H. N. Environmental Law, Allahabad Law Agency Faridabad, 2005
4. Singh Gurdip, Environmental Law, (2016) Eastern Book Company
5. Shyam Diwan and Armin Rosencranz, *Environmental Law and Policy in India – Cases, Materials and Statutes* (2<sup>nd</sup> ed., 2001)
6. Doabia, T.S. Environmental and Pollution Laws in India (set of 2 volumes), (2017) , Lexis Nexis Butterworths
7. Vibhaw Nawneet\_, Environmental Law-an Introduction, (2016), Lexis Nexis Butterworths