



**SYLLABUS**  
**SEMESTER II | LL.M.**  
**(January-June 2023)**

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\*Dissertation shall also be made during the semester (200 + 100 marks)



## COMMERCIAL ARBITRATION

### SEMESTER II | LL.M.

#### SYLLABUS (SESSION: JAN-JUNE)

<b>Faculty @</b>	Prof. Jaya Vasudevan	<b>Year/ Semester</b>	2/LL.M
<b>Course Name</b>	Commercial Arbitration	<b>No. of Credits</b>	04
<b>Course Code</b>	NA	<b>Session duration</b>	1 hour
<b>No of Contact Hours (Week)</b>	50 Hrs Lecture+10 Hrs Tutorials	<b>Pre-requisite</b>	None
<b>Course Introduction</b>	<p>The course gives an insightful exposition to the law of commercial arbitration both in the domestic and international contexts. The course examines and discusses theoretical foundations of international &amp; national arbitration and legal exposition of commercial arbitration through multilateral instruments and other regional initiatives. It focuses mainly on the various legal and policy issues pertaining to arbitral process, ranging from entering into the arbitration agreement to the enforcement of the final award. Critical issues of competence and jurisdiction of arbitral tribunal, procedural fairness, legality and enforcement of the arbitral award will be specifically addressed. Reference shall also be made to national arbitration statutes of select jurisdictions, major international arbitration treaties/conventions/model law and the rules of major international arbitral institutions to fully understand the contemporary developments.</p>		
<b>Pedagogy</b>	<p>The course will be taught in the form of classroom lectures, case law/article analysis, discussion method and tutorials.</p>		

**Course Objectives:**

- The course seeks to find solutions which fit the needs of conflict resolution in international business
- The aim is to provide a clear understanding of a neutral process acceptable to both parties to a transaction
- Critically assess the risks of forum shopping and avoid the problems of conflicts over applicable law
- Introduce arbitration as an effective method of dispute resolution that is sensitive to commercial needs

**LEARNING OUTCOMES**

- To give an insight into the concept and scope of Arbitration in commercial disputes
- To understand the nature & meaning of Commercial Arbitration in the transnational context
- To distinguish between the Domestic and International Arbitration Law & Procedure
- To analyse the recent judicial and legislative trends on arbitration law in India & abroad
- To develop a keen interest in the area of arbitration as an effective dispute resolution mechanism in commercial transactions in the modern world

**EVALUATION COMPONENTS**

<b>Components of Course Evaluation</b>	<b>% distribution</b>
End term Examination	80%
Individual Projects and Presentation	20%
<b>Total</b>	<b>100%</b>

**COURSE PLAN**

<b>S.No.</b>	<b>Topics</b>	<b>Lecture Hours</b>
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1	Theoretical Foundations & Concepts in Commercial Arbitration	4
2	Competence & Jurisdiction of Arbitral Tribunal	6
3	Procedural Issues in Arbitration	6
4	Legality & Fairness in Arbitral Process	6
5	Enforcement & Recognition of Arbitral Awards	6
6	Scope and Extent of Judicial Intervention in Arbitration	4
7	International Arbitration: Transnational Practices	4
8	Legislative Trends in Arbitration in India	3
9	Modern Trends in Arbitration	3
10	Concluding Discussions	3

**DETAILED SYLLABUS FOR COMMERCIAL ARBITRATION (LL.M  
2<sup>nd</sup> Semester)**

Unit	Theoretical foundations & Concepts in Commercial Arbitration
<b>Module 1</b>	<ul style="list-style-type: none"> <li>• Nature &amp; Meaning of Commercial Arbitration</li> <li>• Interpretation of International Commercial Arbitration</li> </ul> <p>a) Two Theoretical Models:</p> <ul style="list-style-type: none"> <li>➤ National order approach</li> <li>➤ The denationalized autonomous approach</li> </ul> <p>b) Theories in International Commercial Arbitration</p> <ul style="list-style-type: none"> <li>➤ Jurisdictional Theory</li> <li>➤ Contractual theory</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Hybrid theory</li> <li>➤ Autonomous Theory</li> </ul> <p>c) Concepts in International Commercial Arbitration</p> <ul style="list-style-type: none"> <li>➤ <i>Lex fori/Lex Arbitri</i></li> <li>➤ Choice of Law</li> <li>➤ Conflict of Law/ Applicable Law</li> <li>➤ Party Autonomy</li> <li>➤ Freedom of Contract</li> <li>➤ Reciprocity /Sovereignty</li> <li>➤ Unification/Harmonization</li> </ul>
<b>Module 2</b>	<p><b>Competence &amp; Jurisdiction of Arbitral Tribunal</b></p> <ul style="list-style-type: none"> <li>➤ Institutional v. <i>Ad hoc</i> Arbitration</li> <li>➤ Appointment of Arbitrators</li> <li>➤ Validity of Arbitration Agreement</li> <li>➤ Jurisdiction of Arbitral Tribunal</li> <li>➤ Doctrine of <i>Separability</i></li> <li>➤ Principle of <i>competence-competence</i></li> <li>➤ Judicial Approach</li> </ul>
<b>Module 3</b>	<p><b>Procedural Regularities in Arbitration</b></p> <ul style="list-style-type: none"> <li>➤ Notice of Arbitration</li> <li>➤ Principles of Natural Justice</li> <li>➤ Determination of Rules of Procedure</li> <li>➤ Reasoned Awards</li> <li>➤ Settlement of Disputes</li> <li>➤ Judicial Approach</li> </ul>
<b>Module 4</b>	<p><b>Legality &amp; Fairness in Arbitral Awards</b></p> <ul style="list-style-type: none"> <li>➤ Procedural v. Substantive Law in Arbitration</li> <li>➤ Choice of Law</li> <li>➤ Applicable Law in Arbitration</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Rule of Fairness in Arbitration</li> <li>➤ Rules of Major Arbitral Institutions</li> <li>➤ Recent Trends</li> <li>➤ Judicial Approach</li> </ul>
<b>Module 5</b>	<p><b>Finality &amp; Enforcement of Arbitral Awards</b></p> <ul style="list-style-type: none"> <li>➤ Finality of Arbitral Awards</li> <li>➤ Setting aside of domestic awards</li> <li>➤ Non-Enforcement of Foreign Awards</li> <li>➤ Public Policy: National &amp; Transnational Perspectives</li> <li>➤ Judicial &amp; Legislative Trends</li> <li>➤ Rules of Major arbitral Institutions</li> </ul>
<b>Module 6</b>	<p><b>Scope &amp; Extent of Judicial Intervention in Arbitration</b></p> <ul style="list-style-type: none"> <li>➤ National &amp; International Experience</li> <li>➤ Provisions under Arbitration &amp; Conciliation Act, 1996</li> <li>➤ Judicial Approach: The Comparative Perspective</li> <li>➤ Legislative Trends in major Jurisdictions</li> </ul>
<b>Module 7</b>	<p><b>Commercial Arbitration: Transnational Perspectives</b></p> <ul style="list-style-type: none"> <li>➤ New Challenges in Arbitration</li> <li>➤ Investment Arbitration &amp; Trade</li> <li>➤ Role of Multilateral Trade Institutions</li> <li>➤ Contemporary Trends</li> <li>➤ Way Forward</li> </ul>
<b>Module 8</b>	<p><b>Modern Trends in Arbitration in India</b></p> <ul style="list-style-type: none"> <li>➤ Legislative Trends</li> <li>➤ Arbitration &amp; Conciliation Act ( Amendment Acts), 2015, 2019 &amp; 2021</li> <li>➤ Major Judicial Decisions</li> <li>➤ Role of Major Arbitral Institutions in India</li> </ul>

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### **STATUTES/ INSTRUMENTS/ RULES:**

- *The Arbitration & Conciliation Act, 1996*
- *English Arbitration Act, 1996*
- *The Federal Arbitration Act, 1925*
- *UNCITRAL Model Law on International Commercial Arbitration*
- *ICC/ AAA/LCIA/ICSID/SIAC/ HKIAC Rules*

### **SUGGESTED LIST OF CASES:**

- *TDM Infrastructure private ltd v.UE development corporation ltd*
- *M/S. Afcons Infrastructure Ltd. & Anr v. M/S Cherian Varkey Constntruction co ltd*
- *R M Investment & Trading v. Boeing*
- *S.B.P. & Co v. Patel Engineering Ltd. & Anr*
- *Konkan Railway corporation v. mehul construction ltd*
- *Konkan Railway corporation v. Rani construction ltd*
- *Bhatia International v. Bulk Trading S. A. & Anr*
- *Venture Global Engineering v. Satyam Computer Services Ltd*
- *Bharat Aluminium Co. V. Kaiser Aluminium Technical Service, Inc.*
- *Imax Corporation v. M/S E-City Entertainment*
- *World Sport Group Ltd v. MSM Sattelite pte Ltd*
- *Chloro controls pvt Ltd v. Sevem trent water purification Inc &ors.*
- *Shri Lal Mahal Ltd v. Progetto Grano Spa*
- *Phulchand Exports Ltd v. O O O Patriot.*
- *BCCI v. Cochin Cricket Pvt. Ltd.*
- *Indus Mobile Distribution Private Ltd. v. Datawind Private Ltd & Ors.*
- *Devyani International Ltd. v. Siddhivinayak Builders and Developers*
- *Indus Mobile Distribution Private Ltd. v. Datawind Private Ltd & Ors.*
- *Antrix Corporation Ltd. v. Devas Multimedia Pvt. Ltd.*

### **TEXT BOOKS**

- Gary B Born, *International Arbitration; Law and Practice*, Wolters Kluwer
- *Russell on Arbitration*, Sweet & Maxwell

- Margaret L Mose, *The Principles and Practice of International Commercial Arbitration*, Cambridge University Press
- Julian D.M. Lew *et al.* *Comparative International Commercial Arbitration*, Kluwer Law International.
- Redfern and Hunter *on International Arbitration*, Oxford University Press

#### **SUGGESTED READINGS**

- Justice R S Bachawat's *Law of Arbitration & Conciliation*, Lexis Nexis
- Dushyant Dave, Matin Hunter *et.al.*; *Arbitration in India*, Wolters Kluwer
- Rao P C & William Sheffield, *Alternative Dispute Resolution What it is and How it Works*; Universal Law publishing
- E Resources from HNLU Library

*Additional reading materials will also be supplied as per the pre-requirements of lectures/class room discussions.*





## LAW RELATING TO SECURITIES

### SEMESTER II | LL.M.

#### SYLLABUS (SESSION: JAN-JUNE)

<b>Faculty</b>	Dr. Y. Papa Rao	<b>Year/ Semester</b>	LL. M. 2 <sup>ND</sup> Semester
<b>Course Name</b>	LAW RELATING TO SECURITIES	<b>Each Session Duration</b>	1 hour
<b>No of Lectures</b>	50-Lectures+10-Tutorials	<b>Pre-requisite</b>	None
<b>Introduction</b>	<p>The Law Relating to Securities plays a significant role in formation of capital of the Corporation in particular and Nation's economy in general. The term "securities" refers to documents indicating ownership or creditorship, such as shares, debentures, bonds and treasury certificates. The owners of securities obtain certain rights in relation to the earnings and assets of the issuer, or from associated voting power. Securities are regulated to help ensure that investors have accurate information about the securities and their value, to facilitate the trading of securities, to help maintain the integrity of the trading system, to prevent undesirable transaction in securities and prevent securities fraud. This is achieved through regulation of the conduct of those who issue securities, regulation and licensure of brokers and dealers who facilitate the trade of securities, and even regulation of the conduct of individual investors.</p> <p>The Law Relating to Securities aims to develop the ability of the students to understand the essence of law relating to issuance of securities, fields of regulation and the supremacy of law as one of the indications of a well-regulated financial market. This would enable the students to represent the interest of a corporation, an institution or individuals in an organization and aims to develop the ability to provide legal consultations for the administration of an organization within the scope of a definite competence. This subject will also</p>		

help to understand the role of intermediaries in the securities market and the regulatory framework of these bodies. The Regulatory Bodies try best to cope with the changing scenario of market and the impact of global market over securities market in India. It needs to regulate the various types of securities and steps of issuance had empowered the regulatory bodies to come with the regulations, rules and notifications as and when required. Thus, the Law Relating to Securities Market will draw a complete picture of understanding the various aspects of Capital Markets and Market Intermediaries.

**COURS OBJECTIVES:**

- To understand the Evolution of Securities Laws in U.K, U.S and India
- To acquaint the Legal Frame work pertaining to the Securities Laws in India
- To know the concept and working of Capital Market and Market Intermediaries
- To measure of performance of Stock Exchanges and Depositories
- To examine the role of Securities and Exchange Board of India
- PEDAGOGY: The method of teaching is Lecture Method with Power Point Presentation which includes Legal Provisions and Case Laws pertaining to the Law Relating to Securities. Participatory and reflective learning through discussions covering all dimensions of the Subject in general and Class in particular.

**EVALUATION COMPONENTS**

End Term Examination	80 marks
Project	20 marks
Total	100 marks

**COURSE PLAN**

S.No.	Topics	Lecture Sessions
1	Introduction	1-10

2	<b>Regulatory Framework</b>	11-20
3	<b>Capital Markets</b>	21-30
4	<b>Stock Exchanges</b>	31-40
5	<b>Depository System</b>	41-50

**COURSE CONTENTS:**

<b>Module</b>	<b>Contents</b>
<b>Introduction</b>	Evolution of the Law of Securities – UK, USA, India – Indian Capital Market – Need, Functions, Structure and Constituents, Primary market, Secondary market, Features of Developed Capital Market: The International Organization of Securities Commissions (IOSCO), Securities Market and Economic Growth.
<b>Regulatory Framework</b>	SEBI - Objective, Power, Functions, Securities Appellate Tribunal, Appeal and Appearance before SAT – ICDR Regulations 2018, IPO, FPO, Rights Issue, Bonus Issue, Preferential Issue – Insider trading – SEBI (Prohibition of Insider Trading) Regulations 2015 Objective, Connected Person, Price sensitive information.
<b>Capital Markets</b>	Stock broker – Sub-broker – Merchant Bankers – Under writers – Debenture trustees, Debenture Trust Deed – Credit Rating Agencies.
<b>Stock Exchanges</b>	Stock Exchanges – Functions, significance, operations and trading mechanism, Corporatization and Demutualization of Stock Exchanges. – National Stock Exchange, Bombay Stock Exchange – Securities Contract (Regulation) Act and Rules – Listing & Delisting of securities – Derivatives
<b>Depository System</b>	Depository system – Depositories Act 1996 - Concept and Benefits, Difference between Depository and Custodian, NSDL and CDSL. – Dematerialization of securities – Indian Depository Receipts, American Depository Receipts & Global Depository Receipts.

**BOOKS FOR REFERENCES:**

1. LEXIS NEXIS's GUIDE TO THE COMPANIES ACT BY A RAMAIYA-19 EDITION NOVEMBER 2020.
2. Securities Law by Alastair Hudson-November 2013, Sweet & Maxwell, 2<sup>nd</sup> edition.
3. Machiraju H.R., *The Working of Stock Exchanges in India*, Taxmann Allied Service (P) Ltd., 59/32, New Rohtak Road, New Delhi – 110 005 third edition-2009.
4. Gopaldaswamy N., *Inside Capital Market*, ICFAI, Hyderabad (2009)
5. Kothari, Vinod, *Securitisaton, asset reconstruction and enforcement of Security Interest*. 6<sup>th</sup> Edition October, 2020. Lexis Nexis.
6. Ferran, Eilis, *Company Law and Corporate Finance* (Latest ed.) Oxford University Press, 1999.
7. Company Law and Practice by Dr. G.K. Kapoor and Sanjay Dhamija (TAXMANN) 26<sup>th</sup> edition, September, 2022.
8. Securities Law by Kondaiah Jonnalagadda, (First Edition-2015) Lexis Nexis.
9. SEBI Manual (Taxmann). Taxmann, July, 2022.

#### **CASE LAWS:**

- Sahara v. SEBI (2013)1 SCC 1.
- DLF v. SEBI (2015)
- Mistry v. Tata Sons. (2017)
- Hindustan Lever Ltd. V. SEBI (1996)
- S. Karthik & Ors v. N. Subhash Chand Jain & Ors.(23/09/2021)
- Dahiben Umedbhai patel v. Norman James Hamilton (1985) 57 CompCas 700(Bom)
- M.S. Madhusoodhanan v. Kerala Kaumudi Pvt. Ltd. (2004) 9 SCC 204.
- S.P. Jain v. Kalinga Tubes. (1965) 2 SCR 720.
- V.B. rangaraj v. V.B. Gopalakrishnan. AIR 1992 SC 43.
- Messer Holdings Limited v. Shyam Madanmohan Ruia (2010) 159 CompCas 29.
- Western Maharashtra Development Corporation Ltd. V. Bajaj Auto Ltd. (2010) 154 CompCas 593(Bom).
- Sholapur Spinning & Weaving Co. Ltd. Inre. (1965) 35 CompCas 165(Bom).
- Raksjree Sugars and Chemicals Limited v. Axis Bank Limited. AIR 2011 Mad 144.
- Multi Commodity Exchange v. Central Electricity Regulatory Commission. 2011(113) Bom LR531.

**ACTS, RULES AND REGULATIONS:**

- The Companies Act, 2013
- The Securities (Contract) Regulation Act, 1956
- The Forward Contracts (Regulation) Act, 1952.
- The SEBI Act, 1992
- The Depositories Act, 1996
- The Companies Rules, 2014
- The ICDR Regulations, 2018.



## CORPORATE RECONSTRUCTION

### SEMESTER VIII | LL.M.

#### SYLLABUS (SESSION: JAN-JUNE)

<b>Faculty</b>	Dr Vipin Kumar	<b>Class/ Semester</b>	LLM/II
<b>Course Name</b>	Corporate Reconstruction	<b>Session duration</b>	1 hour
<b>No of Contact Hours (Week)</b>	5 Hrs	<b>Pre-requisite</b>	None
<b>Course Objectives</b>	<p>The students are expected to remember and understand the underlying concepts of corporate restructuring. They should be able to apply the knowledge to various transactions of corporate restructuring taking place in the real corporate world. They should be capable of evaluating the strengths, weaknesses, opportunities and threats of different modes of corporate restructuring and prepare drafts of corporate documents.</p> <p>For attaining the desired outcomes of the course, certain objectives have been framed. The objectives of the course are:</p> <ul style="list-style-type: none"> <li>● To identify and describe the various concepts underlying the modes of corporate restructuring.</li> <li>● To explain the law relating to different modes of corporate restructuring.</li> <li>● To associate and distinguish between the provisions relating to different modes of corporate restructuring</li> </ul> <p>The above mentioned objectives shall help the students in achieving</p>		

the desired outcomes of the course.
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### **LEARNING OUTCOMES**

After completion of the course, the students are expected:

- To evaluate and assess the best possible mode of corporate restructuring.
- To apply the conceptual understanding and knowledge of provisions to a given set of problems faced by companies in real life situation.
- To prepare draft documents required for corporate restructuring.
- To frame legal opinions on a given situation.
- To prepare research projects after examining and investigating the modes of corporate restructuring.

### **EVALUATION COMPONENTS**

End-Term Examination	80
Project	20
<b>Total</b>	100

### **COURSE PLAN**

<b>S.No.</b>	<b>Module</b>	<b>Lecture Sessions</b>
1	Module I	1-12
2	Module II	13-26
3	Module III	27-39
4	Module IV	40-53

**DETAILED SYLLABUS**

<b>UNIT</b>	<b>CONTENT</b>
<b>Module I INTRODUCTION</b>	<ol style="list-style-type: none"> <li>1. Corporate Restructuring: Meaning, Need and Scope</li> <li>2. Modes of Corporate Restructuring</li> <li>3. Joint Ventures, Disinvestment and Slump Sale</li> <li>4. Financial Restructuring: Buy Back, Reduction and Reorganisation of Capital</li> <li>5. Funding Options for Corporate Restructuring: Venture Capital, Angel Investment and Private Equity</li> </ol>
<b>Module II MERGERS</b>	<ol style="list-style-type: none"> <li>1. Legal and Procedural Aspects of Mergers</li> <li>2. Accounting and Human Aspects of Mergers</li> <li>3. Taxation Aspects of Mergers</li> <li>4. Stamp Duty on Merger Transactions</li> <li>5. Post Merger Aspects: Reorganisation and De-listing</li> </ol>
<b>Module III ACQUISITIONS AND TAKEOVERS</b>	<ol style="list-style-type: none"> <li>1. Corporate Demergers and Reverse Mergers: Procedural Aspects and Tax Implications</li> <li>2. Takeover and Acquisition: Meaning, Concept and Types</li> <li>3. Legal and Procedural Aspects of Takeover: Disclosures, Open Offer and Exemptions</li> <li>4. Due Diligence</li> <li>5. Valuation</li> </ol>
<b>Module IV PRACTICAL ASPECTS</b>	<ol style="list-style-type: none"> <li>1. Interest of Small Investors and Minorities in Corporate Restructuring</li> <li>2. Corporate Insolvency</li> <li>3. Competition Law Aspects of Combinations</li> <li>4. Drafting of Merger Scheme</li> <li>5. Drafting of Shareholders Agreement</li> </ol>



**READINGS:****Articles:**

- Sudheendhra Putty, "Corporate Restructuring: Why and How", *Corporate Professionals Today*, vol. 11, 2008, p. 93.
- Rajesh Dhawan, "Corporate Restructuring", *SEBI and Corporate Law Weekly*, vol. 90, 2009, p. 123.
- Naresh Kumar, "Corporate Restructuring", *SEBI and Corporate Law Weekly*, vol. 12, 1997, p. 67.
- Rashmi Tyagi, "Enforceability of Non-compete Clause in a Joint Venture Agreement", (2008) 13 CPT 57.
- Subrata Kumar Ray, "Formation of Joint Venture in India", (2004) 1 CPT 504.
- Anna Bansal, "Slump Sale and the Incidental Concerns", (2013) 122 SCL 65.
- Gaurav N Pingle, "Buy Back under Companies Act, 2013 – Provisions and Procedure", (2018) 42 CPT 359
- Nikita Snehil, "Proposed Changes Under SEBI (Buy Back of Securities) Regulations, 2018 – An Overview", (2018) 41 CPT 846
- Divesh Goyal, "Reduction of Share Capital - An Insight View", (2017) 79 taxmann.com 17
- Rajeev Venugopal, "SEBI AIF Regulations - Whether this could lead to a change in private equity landscape in India", (2012) 114 SCL 65.
- Jayantika Singh, "Alternative Investment Funds - Venturing Out of the Fund Troubles", (2013) 118 SCL 101.
- Shrijith Nair and Nandita Thakur, "Private Equity Investment in India", (2009) 90 SCL 38 (MAG).
- Barsha Dikshit and Rahul Maharshi, "Fast Track Merger - Faster Way of Corporate Restructuring", (2017) 77 taxmann.com 299 (Article).
- Divesh Goyal "Mergers and Amalgamations Under Cos. Act - An Overview", (2017) 79 taxmann.com 169.
- Yogesh Mittal, "Cross Border Mergers - An In Depth View", (2018) 147 SCL 83.
- V. V. Vara Prasad and B. Murali Krishna, "Merger and Acquisitions - Management Practices", [2009] 15 CPT 708.

- T. P. Ghosh, “Acquisitions and Mergers – An international Comparison of the Accounting and Disclosure Norms”, (1995) 4 SCL 33 (Mag.).
- Md Sahanur Islam *et al*, “The Behavioral Aspect of Mergers and Acquisitions”, *Global Journal of Business Research*, vol. 6(3), 2012, p. 103.
- Ekta Gupta, "Corporate Restructuring - Tax Implications", *SEBI and Corporate Law Weekly*, vol. 61, 2005, p.124.
- Neha Srivastava, “Mergers and Acquisition Deals in India from Direct Tax Perspective”, (2017) 78 taxmann.com 117
- Zeenat Masoor Masudi and Iftekhar Anees, “Stamp Duty Implications of Mergers and Demergers”, (2012) 113 SCL 112 (Article)
- Tahir Ashraf Siddiqui, “Pertinent Intellectual Property Issues in Mergers and Acquisitions- An Analysis”, [2011] 107 SCL 9 (Mag).
- Ashok K Saxena, “Delisting of Securities”, (2002) 37 SCL 110 (Mag).
- Munmi Phukon, “Non-compliance of Listing Regulations may Lead to Compulsory Delisting”, (2018) 148 SCL 1 (Articles)
- Ashish Banga, “Reverse Mergers: Indian Scenario”, (2009) 92 SCL 49 (MAG)
- Rajesh Dhawan, “Demerger – Tax Implications”, (2011) 20 CPT 338
- Rajeev Babel, “Discretionary Jurisdiction of Company Court in Declining Demerger”, (2016) 135 SCL 85 (Articles)
- V. P. Chhabra, “Computation of Additional Shares for Creeping Acquisition Under Takeover Code”, (2017) 141 SCL 25.
- Anushree Agrawal, “Poison Pill Device - An Anti Takeover Defence”, (2012) 112 SCL 121.
- Pammy Jaiswal and Rahul Maharishi, “Minority Squeeze Out - A Strong New Provision under Section 236 of the Companies Act 2013”, (2017) 38 CPT 403
- Shripal Lakdawala, Parthiv Kamdar, Karnav Gandhi, “SEBI Streamlines Procedure for Seeking Exemption under Takeover Code”, (2018) 90 taxmann.com 323 (Article)
- Suvir Sharma and Siddharth Sharma, “Overhauling of the SEBI takeover Code 2011 - An analysis of amended key regulations”, (2012) 116 SCL 55 (Article).
- Gaurav N. Pingle, “SEBI Eases Takeover Code for Buying Stressed Assets”, (2017) 142 SCL 15
- Sudheendhra Putty, “Corporate Due Diligence”, (2009) 89 SCL 29 (Mag).

- Sowmya Narayan S. Prakash C., “Due Diligence Review in Proposed Acquisition”, (1999) 21 SCL 143 (Mag).
- M. Sayed Ahmed and Kirti Ram Hariharan, “Liability for Mis-statement in Prospectus and Due Diligence Duty”, (1999) 22 SCL 75 (Mag)
- Kamal Garg and Ravi Bhushan, “Valuation by Registered Valuers”, (2018) 93 taxmann.com 174.
- Rajkumar S. Adukia, “Valuation Approaches and Methodologies”, (2018) 6 Chartered Secretary 39.
- Taruna Kumbhar and Honey Soni, “Registered Valuers and Valuation Rules, 2017”, (2018) 6 Chartered Secretary 53
- Jitendra Kumar Panda, “Rights and Benefits Available to Minority Shareholders - A Comparative Study”, (2013) 28 CPT 278.
- T. V. Ganesan, “Majority Shareholders Rights v Minority Shareholders Rights”, (2014) 128 SCL 1.
- Megha Bhasin, “Oppression of Minority Shareholders - A Jurisprudential Analysis”, (2011) 105 SCL 121 (Mag)
- Sikha Bansal and Richa Saraf, “Insolvency Code - Plights and Rights of Operational Creditors”, (2018) 147 SCL 105.
- Prateek Gattani and Nipun Singhvi, “Resolving Jurisprudence - Winding Up vis-a-vis Insolvency”, (2018) 41 CPT 853.
- Kamal Garg and Himanshu Sarpal, “Forensic Science vis-a-vis Insolvency and Bankruptcy Code”, (2018) 41 CPT 615
- Vipin Kumar, “Regulation of Combinations - Issues and Appraisal”, (2013) 117 SCL 36.
- Ravi Prakash, “Merger Control Under Competition Policy”, (2008) 87 SCL 37 (MAG).
- Shubham Khare and Niharika Maske, “An Analysis of Mergers, Amalgamations and Acquisitions Under the Competition Act, 2002”, (2010) 97 SCL 58 (MAG)

**Books**

- A. Ramaiya, Guide to Companies Act, LexisNexis Butterworths, Wadhwa, Nagpur (*Latest Eds.*)
- M.C. Bhandari Guide to Company Law Procedures, Lexis Nexis Butterworths Wadhwa, Nagpur (*Latest Eds.*)
- Taxmann Master Guide to Companies Act 2013 & Company Rules (*Latest Eds.*)
- S K Kataria, The Companies Act, 2013 with Rules and Ready Referencer by Bloomsbury Publication (*Latest Eds.*)
- Sridharan and Pradhan Guide to Takeovers and Mergers by Wadhwa & Co. (*Latest Eds.*)
- ICSI Handbook on Mergers Amalgamations and Takeovers (*Latest Eds.*)
- K.R. Sampath Mergers/Amalgamations, Takeovers, Joint Ventures, LLPs and Corporate Restructure, Snow White Publications (*Latest Eds.*)
- S. Ramanujam Mergers et al, LexisNexis Butterworths Wadhwa Nagpur (*Latest Eds.*)
- Ray Mergers and Acquisitions Strategy, Valuation and Integration, PHI, (*Latest Eds.*)

**Case Laws**

- Ion Exchange (India) Ltd. In re, (2001) 105 Comp Cases 115 (Bom)
- Miheer H. Mafatlal v. Mafatlal Industries Ltd., JT 1996 (8) 205
- Bank of Baroda Ltd. v. Mahindra Ugine Steel Co. Ltd., (1976) 46 Com Cases 227 (Guj)
- MEL Windmills Pvt. Ltd. v. Mineral Enterprises Ltd & Anr., (2019) 155 SCL 54 (NCLAT)
- Real Image LLP v. Qube Cinema Technologies (P.) Ltd., [2018] 97 taxmann.com 436 (NCLT- Chennai)
- Marshall Sons & Co. India Ltd v. ITO, 223 ITR 809 (SC)
- Hindustan Lever Limited v. State of Maharashtra, (2003) 117 Com Cases 758

NOTE: The lists of articles, books and case laws are only indicative and students are expected to keep themselves apprised of the latest happenings by reading journals, reporters and other materials on the subject.



## IPR ISSUES IN CYBERSPACE AND THE INFORMATION TECHNOLOGY ACT

### SEMESTER II - LL.M, (SPECIALIZATION- IPR)

#### SYLLABUS (SESSION: JAN-JUNE)

<b>Faculty</b>	Dr. Atul Jaybhaye	<b>Year/ Semester</b>	LLM 2 <sup>ND</sup> SEMESTER
<b>Course Name</b>	IPR Issues in Cyberspace and the Information Technology Act	<b>Each Session Duration</b>	1 hour
<b>No. of Contact hours</b>	60 hours	<b>Pre-requisite</b>	Basics of IPR

#### **INTRODUCTION, COURSE OBJECTIVE & PEDAGOGY:**

Technology is ever changing and its influence on traditional norms/ laws regulating physical activities is gigantic. With ever growing need and emergence of information technology laws, newer wrongs/ crimes have got increasing recognized and brought in the realm of regulation and governance in cyberspace. Internet and Technology has played a supplementing and/or adversarial role to intellectual property rights in cyberspace. The aim of this paper is to acknowledge the role of internet in modern life and recognize the challenges it has posed to conventional notion of crime, wrong, jurisdiction and remedies available to right holders in digital space.

#### **Course Objective is to develop an understanding about:**

**CO1:** To understand the emergence of Internet and its influence on traditional concepts of jurisdiction, crime and laws.

**CO2:** To study the different prevalent laws governing cyber crimes and cyber wrongs in digital space.

**CO3:** To examine the conventional as well as emerging challenges posed to trademark law by technology and cyberspace.

**CO4:** To analyse the exclusive rights under Copyright Law and its Challenges/ limitations in Digital Space.

**CO5:** To recognize the role of patents as support and/or hindrance to technology facilitating internet or digital activities.

**LEARNING OUTCOMES:** At the end of the course, students will be able to:

**LO1-** Identify and explain jurisdiction issues in cyberspace and laws governing it in and across India.

**LO2** –Critically analyse nuances of recent trends and techniques used by cyber fraudsters in the digital age.

**LO3** – Demonstrate the concept of trademarks, domain names and its infringement in cyberspace along with remedies.

**LO4-** Know and understand the importance of digital copyright, challenges to distribution and reproduction rights in cyberspace and allied issues.

**LO5** – Equipped with the knowledge of patenting technology facilitating online transactions, misuse and monopoly of patent in cyberspace.

### **EVALUATION COMPONENTS**

<b>Components of Course Evaluation</b>	<b>% Distribution</b>
Merged Mid-End Term Examination	80 %
Individual Projects	20%
<b>Total</b>	<b>100%</b>

### **COURSE PLAN**

<b>S.No.</b>	<b>Topics</b>	<b>Lecture Sessions (in approx.)</b>
1.	INTRODUCTION	1-8

2.	CHALLENGES OF JURISDICTION IN CYBERSPACE	9-19
3.	OVERVIEW OF THE INFORMATION TECHNOLOGY ACT, 2000	20-31
4.	UNDERSTANDING TRADEMARK IN CYBERSPACE	32-41
5.	COPYRIGHT IN THE DIGITAL WORLD	42-51
6.	INTERNET PATENTS	52-60

### DETAILED SYLLABUS

UNIT	CONTENT
<b>Module 1</b> <b>INTRODUCTION</b>	<ol style="list-style-type: none"> <li>1. History and Evolution of the Internet</li> <li>2. Types of Computer Networks</li> <li>3. Impact of the Internet on Intellectual Property</li> <li>4. Concept of cyberspace and emerging threats</li> <li>5. Cyber security and its principles</li> </ol>
<b>Module 2</b> <b>CHALLENGES OF JURISDICTION IN CYBERSPACE</b>	<ol style="list-style-type: none"> <li>1. Concept of Jurisdiction and its types</li> <li>2. Issues of jurisdiction in cyberspace</li> <li>3. The Test evolved               <ol style="list-style-type: none"> <li>a) -Minimum Contacts Theory</li> <li>b) -Sliding Scale Theory</li> <li>c) -Effects Test and International targeting</li> </ol> </li> <li>4. Jurisdiction under IT Act, 2000</li> </ol>
<b>Module 3</b> <b>OVERVIEW OF THE INFORMATION TECHNOLOGY ACT, 2000</b>	<ol style="list-style-type: none"> <li>1. Object, scope, and applicability of the Act</li> <li>2. Use of Digital Signature</li> <li>3. E-commerce and E-governance</li> <li>4. Cyber Contraventions</li> <li>5. Cyber Crimes against Individuals, Government and Property</li> </ol>

	<ol style="list-style-type: none"> <li>6. Appropriate bodies for redressing civil and criminal offence</li> <li>7. Recent trends in cybercrimes and cases</li> <li>8. Right to privacy vis a vis Right of Interception</li> </ol>
<b>Module 4</b> <b>UNDERSTANDING</b> <b>TRADEMARKS IN</b> <b>CYBERSPACE</b>	<ol style="list-style-type: none"> <li>1. Domain name disputes relating to TM</li> <li>2. Sale of Counterfeit and Grey market Goods through cyberspace</li> <li>3. E-commerce and Trademark issues</li> <li>4. Google Adwords and Trademark Infringement</li> <li>5. Linking, Framing, Catching, Meta tagging and related Trademark Implications</li> <li>6. ICAAN and Role of UDRP/ INDRP</li> </ol>
<b>Module 5</b> <b>COPYRIGHT IN</b> <b>THE DIGITAL</b> <b>WORLD</b>	<ol style="list-style-type: none"> <li>1. Concept of Digital Copyright</li> <li>2. Challenge to Distribution and Reproduction Rights in Cyberspace <ol style="list-style-type: none"> <li>a) Digital Piracy of Software, Films, Books and other copyrighted material</li> <li>b) Search Engines and Copyright Challenges in Cyberspace</li> <li>c) Social Media and Digital Copyright</li> </ol> </li> <li>3. Digital Rights Management and role of Blockchain and Smart contracts</li> <li>4. DMCA and Indian developments</li> </ol>
<b>Module 6</b> <b>INTERNET</b> <b>PATENTS</b>	<ol style="list-style-type: none"> <li>1. Patenting technology facilitating Online transactions</li> <li>2. Internet Business Methods and Patentability</li> <li>3. Misuse and Monopoly of Patent in Cyberspace <ol style="list-style-type: none"> <li>a) Apple v. Samsung</li> <li>b) Amazon's One-click Patent</li> <li>c) Alice Case Law</li> </ol> </li> </ol>



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**READINGS:****STATUTES, RULES AND REGULATIONS:**

1. The Information Technology Act, 2000
2. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021
3. The Copyright Act, 1957
4. The Digital Millennium Copyright Act, 1998
5. The Patent Act, 1970
6. The Trademarks Act, 1999

**CASE LAWS:**

1. *International Shoe Co. v. Washington* 326 U.S. 310 (1945)
2. *Calder v. Jones* 465 U.S. 783 (1984)
3. *Zippo Manufacturing Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119
4. *Casio India Co. Limited v. Ashita Tele Systems pvt. Ltd.* 2003 (27) PTC 265 (Del)
5. *Independent News Service Pvt. Limited v. India Broadcast Live Llc and Ors.* 2007 (35) PTC 177 (Del.)
6. *Banyan Tree Holding (P) Limited v. A. Murali Krishna Reddy and Anr.* CS (OS) No. 894/2008
7. *Suhas Katti v. State of Tamilnadu* C No. 4680 Of 2004
8. *Ritu Kohli's Case*, 2000
9. *Shreya Singhal v. Union of India, Writ Petition (Criminal) No. 167 of 2012*
10. *Yahoo!, Inc. v. Akash Arora & Anr.*, 78 (1999) DLT 285
11. *Satyam Infoway Ltd v. Siffynet Solutions Pvt. Ltd* Appeal (civil) 3028 of 2004
12. *My Space Inc. v. Super Cassettes Industries Ltd.*, FAO(OS) 540/2011
13. *Eastern Book Company & Ors v. D.B. Modak & Anr*, Appeal (civil) 6472 of 2004
14. *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004
15. *Apple Inc. v. Samsung Electronic Co., Ltd.*, 137 S. Ct. 429;

16. *Alice Corp. v. CLS Bank International* 573 U.S. 208 (2014)

### BOOKS:

1. Dr. Karnika Seth, *Cyber Laws in the Information Technology Age*, Lexis Nexis, 1<sup>st</sup> Ed.
2. Dr. Karnika Seth, *Computers, Internet and New Technology Laws*, Lexis Nexis, 3<sup>rd</sup> Ed.
3. Nandan Kamath, *Law relating to Computers, Internet and E-commerce*, Universal Law Publication Co., 5<sup>th</sup> Ed.
4. Elizabeth Verky and Jitihin Saji Issac, *Intellectual Property Law*, EBC, 2<sup>nd</sup> Ed.
5. G. Peter Albert, *Intellectual Property Law in Cyberspace*, Bloomberg BNA; 2<sup>nd</sup> Ed.
6. Dr. Pavan Duggal, *Exploring Intellectual Property Rights in Cyberspace*, Saakshar Law Publications, (Kindle Edition).
7. Dr. Manoj Kumar Sinha and Vandana Mahalwar, *Copyright Law in the Digital World: Challenges and Opportunities*, Springer; 1<sup>st</sup> ed. 2017, (Kindle Edition).

### ONLINE AVAILABLE BOOKS (In HNLU Digital Library/Open Access Platform):

### ONLINE ARTICLES/BLOGS/REPORTS:

1. Singh, Yatindra. "Cyber Laws." *Journal of the Indian Law Institute*, vol. 44, no. 2, Indian Law Institute, 2002, pp. 190–204, <http://www.jstor.org/stable/43951808>.
2. Carroll, Lisa. "Intellectual Property Law: A Better Way to Skin the Cat: Resolving Domain Name Disputes." *GPSolo*, vol. 17, no. 6, American Bar Association, 2000, pp. 46–47, <http://www.jstor.org/stable/23671901>.
3. Justice S. Muralidhar, Jurisdictional Issues in Cyberspace, *The Indian Journal of Law and Technology* Volume 6, 2010.  
[https://www.lkouniv.ac.in/site/writereaddata/siteContent/202004131505182050sanjana\\_mittal\\_law JURISDICTIONAL ISSUES IN CYBERSPACE.pdf](https://www.lkouniv.ac.in/site/writereaddata/siteContent/202004131505182050sanjana_mittal_law JURISDICTIONAL ISSUES IN CYBERSPACE.pdf)
4. Asim Vehbi, Core Issues of Copyright Law in the Digital Environment: The Promise of Blockchain, *International Journal of Applied Engineering Research* ISSN 0973-4562 Volume 13, Number 20 (2018) pp. 14510-14516.  
[https://www.ripublication.com/ijaer18/ijaerv13n20\\_07.pdf](https://www.ripublication.com/ijaer18/ijaerv13n20_07.pdf)

5. Eugene R. Quinn, Jr., Abusing Intellectual Property Rights in Cyberspace: Patent Misuse Revisited, *William Mitchell Law Review*, Vol. 28:3  
<https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1691&context=wmlr>
6. Dr. Atul Jaybhaye, Cyber Law and IPR Issues: The Indian Perspective, *Bharati Law Review*, 2016, pp.166-179,  
<http://docs.manupatra.in/newsline/articles/Upload/19A86CE4-2FBD-432B-B166-AFBA9087A834.pdf>
7. Dr. Atul Jaybhaye and Ms. Barkha Dodai, Copyright Piracy in the Digital Age with Special Reference to Napster's Case, *International Journal of Law Management and Humanities*, Volume 4, Issue 5, Page 2137 – 2148,  
<https://www.ijlmh.com/paper/copyright-piracy-in-the-digital-age-with-special-reference-to-napsters-case/>



## LAW OF PATENTS

### SEMESTER II - LL.M, (SPECIALIZATION- IPR)

#### SYLLABUS (SESSION: JAN-JUNE)

<b>Faculty</b>	Prof. (Dr.) V.C. Vivekanandan, Dr. Ankit Singh/Ms. Barkha Dodai	<b>Year/ Semester</b>	LLM 2 <sup>ND</sup> SEMESTER
<b>Course Name</b>	Law of Patents	<b>Each Session Duration</b>	1 hour
<b>No of Lectures/ Week</b>	5	<b>Pre-requisite</b>	Basics of Intellectual Property Rights
<b>INTRODUCTION AND COURSE OBJECTIVES</b>	<p>A Patent is a monopoly provided by the sovereign for a limited period of time. A Patent protects all types of invention needs to undergo an examination process under the Patent Law which needs to be done. Patents are statutorily designed real life legal instruments aimed at protecting inventions. It acts as economic incentives to inventors who put in intellectual labor to develop new and useful inventions and foster research and development by providing limited term exclusivity to patentees to commercially make use of the inventions they own. Patents are granted by national governments in consideration for disclosing to the public the scientific and technological information subsisting in the inventions by the inventors/or the subsequent owners of the inventions for a limited period of time. Hence, they are enforceable only within the territorial limits of the nation granting it.</p>		

	<p>For an invention to get patent certain conditions, namely novelty, presence of an inventive step and utility, have to be satisfied. Though all jurisdictions across the world seek these conditions, the degree of each of these conditions varies with jurisdictions. This has led to a situation where some inventions are patentable in some jurisdictions and not in others. The rapid developments of technology leading to a boom in bio technology, nano-technology and pharmaceutical industry have also created much flux in the standard of conditions for patent. This program is structured to give a profound insight into the conditions of patenting and how it has responded to technological advancements.</p> <p>This course is an attempt towards imparting knowledge of various aspects of Patent Law.</p> <ul style="list-style-type: none"> <li>✓ Providing an understanding of Concept of Patent Law. Justification of Patent as an intellectual property. Historical development of Patent Law with certain exceptions and limitations.</li> <li>✓ Developing skills of analyzing of various concepts under Patent Law.</li> <li>✓ Improving the students' level of comprehension and interest in engaging with Patent Law and debating the same from the viewpoint of rights and well as sovereignty.</li> <li>✓ Providing an understanding of Patent Law in diverse IP conventions through the legal perspective.</li> </ul>
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### **Learning Outcomes**

After successful completion of the course, the learners would:

- Understand and foundational principles of patent law
- Develop enhanced understanding of the international instruments relating to patents

- Analyse the contemporary scenario and trends relating to patents at both national and international levels
- Get acquainted with the procedure of obtaining patents, rights of a patent-holder and other commercial aspects pertaining to patents
- Be equipped with analytical knowledge that would enable them to carry out research in the area of patent law and jurisprudence

### EVALUATION COMPONENTS

End Term Examination	80 marks
Project	20 marks
Total	100 marks

### COURSE PLAN

S.No.	Topics	Lecture Sessions
1	INTRODUCTION	1-12
2	CONCEPT OF PATENTABILITY	13-21
3	PROCEDURE OF OBTAINING PATENT	22-35
4	RIGHTS OF PATENTEE	36-44
5	PATENT LICENSING	45-52
6	INFRINGEMENT AND REMEDIES	53-60

### DETAILED SYLLABUS

UNIT	CONTENT
	1. Origin of Patent: Meaning and Nature

<b>Module 1</b> <b>INTRODUCTION</b>	2. Rationale behind Patenting 3. International Instruments related to Patents
<b>Module 2</b> <b>CONCEPT OF PATENTABILITY</b>	1. Patentability Criteria: Novelty, Non-obviousness and Industrial Application 2. non-patentable inventions under the Indian Patents Act, 1970 3. Pharmaceutical Patenting and Ever-greening of Patents
<b>Module 3</b> <b>PROCEDURE OF OBTAINING PATENT</b>	1. Invention disclosure 2. Filing an application for Patent 3. Patent Prosecution 4. Examination and Opposition 5. Grant of Patent
<b>Module 4</b> <b>RIGHTS OF PATENTEE</b>	1. Rights of a Patent Holder 2. Use of patent and Exceptions 3. Surrender and Revocation of Patents 4. Patents of Addition
<b>Module 5</b> <b>PATENT LICENSING</b>	1. Principle of Working of Patents 2. Voluntary Licensing 3. Compulsory Licensing of Patents: TRIPS and Patents Act, 1970 4. Bolar Provisions in the Patents Act, 1970 5. Transfer of Technology
<b>Module 6</b> <b>INFRINGEMENT AND REMEDIES</b>	1. Infringement of Patents 2. Civil and Criminal Remedies

**READINGS:****CASE LAWS:**

- *Novartis v. Union of India and others, (2013) 6 SCC 1*
- *F. Hoffmann-La Roche Ltd. & Anr. v Cipla Ltd., 2012*
- *Natco Pharma Ltd. v/s Bayer Corporation, 2012*
- *Bayer Corporation v. Union of India, 2010 (43) PTC 12 (Del.) (DB)*
- *Graham v. John Deere Co. of Kansas City, 383 U.S. 1 (1966)*

**BOOKS**

- *Intellectual Property: Patents, Copyright, Trademarks and allied rights*; Cornish, W.R.; Universal Law Publishing
- *Indian Patent Law and Practice*, Kalyan C. Kankanala, Arun K. Narasani & Vinita Radhakrishnan, Oxford University Press
- *Patent law essentials: a concise guide*, Durham, Alan L, Quorum Books
- *Law relating to patents, trademarks, copyright designs, geographical indications*, Wadehra, B.L.; Universal Law Publishing
- *Intellectual property; patents, trademarks and copyrights*, Stim, Richard, Thomson Learning
- *Patents for future: future for mankind future for inventor & owner future for science & technology*, Zaveri, N.B., Vakils, Feffer & Simons
- *Licensing: the international sale of patents and technical knowhow*, Brooke, Michael Z., Gower Publishing
- *Patent law (along with supplement)*, Narayanan, P.; Eastern Law House





**GEOGRAPHICAL INDICATION AND PROTECTION OF PLANT  
VARIETIES & FARMER RIGHTS**

**SEMESTER II - LL.M, (SPECIALIZATION- IPR)**

**SYLLABUS (SESSION: JAN-JUNE)**

<b>Faculty Name</b>	Ms. Debmita Mondal	<b>Year/ Semester</b>	LLM 2 <sup>nd</sup> Semester
<b>Course Name</b>	Geographical Indication and Protection of Plant Varieties and Farmer Rights	<b>No. of Credits</b>	6
<b>Course Code</b>	NA	<b>Session Duration</b>	1 hour
<b>No of Contact Hours</b>	60 hours	<b>Pre-requisite</b>	Basic IPR
<b>Introduction, Course Objective &amp; Pedagogy</b>	<p>The course on Geographical Indication and protection of Plant Varieties and Farmers Rights deals with the legal structure which lays down the basic rules for trade in goods with GI protection. Course provides an introduction to geographical indications (GIs), explaining their basic features, use and protection as an intellectual property right. The course focuses primarily on the protection of GIs as an intellectual property right, it also addresses the economic and social dimensions of Geographical Indications and introduces a comparative look at GI law for better perspective. For the same, the course will concentrate on relevant international conventions and national legislation on GIs.</p> <p>Lastly, the course will provide insights about protection of Plant Varieties and Farmer's rights in India and internationally with the help of UPOV Convention and Indian national legislations. It will highlight the recent case studies and challenges from India.</p>		

	<p>The main objective of this course is to highlight the nuances of geographical indication protection as one of the intellectual property rights. Course Objective is to develop an understanding about:</p> <p><b>CO1-</b> the conceptualization of geographical indication as IP right;</p> <p><b>CO2</b> -the concepts of and relating to geographical indications and similar terms.</p> <p><b>CO3-</b> insight(s) of international legal structures for protection of geographical indications.</p> <p><b>CO4-</b> the object, process, rules and challenges of protecting geographical indication in India;</p> <p><b>CO5-</b> the laws relating to plant variety and farmers rights protection in India.</p> <p>. The contact hours will be utilized in catering a blend of instruction, discussion, and brainstorming sessions. The enrolled students will be encouraged to participate in classes via minor assignments in the form of quiz, MCQs or addressing an issue based on facts.</p>
<p><b>LEARNING OUTCOMES</b></p>	<p>Through the curriculum, the students will be introduced to the big picture of Geographical Indication as Intellectual Property and Law relating to it. At the end of the course, students will be able to:</p> <p><b>LO1-</b> Demonstrate an understanding of socio-legal reasons for geographical indication protection.</p> <p><b>LO2</b> –Be equipped with the knowledge of legal structures for protection of geographical indications.</p> <p><b>LO3</b> -Elaborate on the concept and issues in regards protection of plant varieties in India.</p>

**EVALUATION COMPONENTS**

<b>Evaluation Components</b>	<b>Distribution of Marks</b>
Project	20
End Term	80
Total	100

\*Note: Pass marks 50% of the final grade.

**COURSE PLAN**

<b>S.No.</b>	<b>Topics</b>	<b>Lecture Sessions</b>
1	INTRODUCTION OF GEOGRAPHICAL INDICATION	1-12
2	GLOBAL EFFORTS FOR PROTECTION OF GI	13-21
3	PROTECTION FOR GEOGRAPHICAL INDICATIONS IN INDIA	22-35
4	GEOGRAPHICAL INDICATIONS, TRADE AND DEVELOPMENT	36-44
5	PROTECTION OF PLANT VARIETY AND FARMERS' RIGHTS	45-52
6.	CASE STUDIES AND DISCUSSION	52-60

**DETAILED SYLLABUS**

<b>UNIT</b>	<b>CONTENT</b>
<b>Module 1 INTRODUCTION OF GEOGRAPHICAL INDICATION</b>	<ol style="list-style-type: none"> <li>1. Concept of GI.</li> <li>2. Different Terminologies relating to GI.</li> <li>3. Rationale of protection of GI- Whether GI is a private property?</li> <li>4. Various Forms of Protection for GI: <ul style="list-style-type: none"> <li>- Sui-Generis Legislations.</li> <li>- Trademark Approach.</li> <li>- Competition and Unfair Trade Policies.</li> </ul> </li> <li>5. Distinction of GI and Trademark: <ul style="list-style-type: none"> <li>- “First in time, first in right” Test.</li> </ul> </li> </ol>

	<ul style="list-style-type: none"> <li>- Source distinctiveness and differential distinctiveness</li> <li>- "Geographically descriptive " fair use defense in TM and its limitations.</li> <li>- Comparative study of USA and EU framework.</li> </ul>
<b>Module 2 GLOBAL EFFORTS FOR PROTECTION OF GI</b>	<ol style="list-style-type: none"> <li>1. Paris Convention for protection of Industrial Property, 1883.</li> <li>2. Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, 1891.</li> <li>3. Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration, 1958 and Geneva Act of 2015.</li> <li>4. Agreement on Trade Related Aspects of Intellectual Property (TRIPs), 1995.</li> <li>5. Role of Free Trade Agreements in protection of GI.</li> </ol>
<b>Module 3 PROTECTION FOR GEOGRAPHICAL INDICATIONS IN INDIA</b>	<ol style="list-style-type: none"> <li>1. Terminological Understanding of basic concepts.</li> <li>2. Registration of GI.</li> <li>3. Duration of protection, Renewal, Restoration and Cancellation of GI.</li> <li>4. Rights conferred by registration and its assignment and licensing.</li> <li>5. Conflict with prior mark.</li> <li>6. Infringement of GI and Remedies.</li> <li>7. India's Experience with GI Protection: Challenges, Regulatory Loopholes through Case Studies.</li> </ol>
<b>Module GEOGRAPHICAL INDICATIONS, TRADE AND DEVELOPMENT</b>	<ol style="list-style-type: none"> <li>1. GI: Old and New World.</li> <li>2. GI and Cross-border trade challenges.</li> <li>3. GI and local/ rural development.</li> <li>4. GI and protection of cultural heritage &amp; TK.</li> </ol>
<b>Module 5</b>	<ol style="list-style-type: none"> <li>1. Concept of Plant Breeding</li> <li>2. Need for protection of plant varieties</li> <li>3. Patent v. Plant Variety Protection (PVP) as IPs</li> </ol>

<p><b>PROTECTION OF PLANT VARIETY AND FARMERS' RIGHTS</b></p>	<ul style="list-style-type: none"> <li>- Conflicts and Coexistence.</li> </ul> <ol style="list-style-type: none"> <li>4. International Legal Framework on PVP           <ul style="list-style-type: none"> <li>- UPOV Convention.</li> <li>- PGFRA Treaty.</li> </ul> </li> <li>5. Overview of PVP and FR Act in India.           <ul style="list-style-type: none"> <li>- Types of Varieties protected</li> <li>- Conditions for protection</li> <li>- Registration Procedure and Rights for breeders</li> <li>- Farmers' Right and Research Exemption.</li> <li>- Concepts of Gene Funding, Benefit Sharing and Compulsory License</li> <li>- Infringement and Remedies.</li> </ul> </li> <li>6. Relationship between the Doha Declaration on TRIPS Agreement and the UN Convention on Biological Diversity (CBD).</li> </ol>
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### **READINGS:**

### **CONVENTIONS, STATUTES, RULES, AND REGULATIONS:**

1. Paris Convention for the Protection of Industrial Property, 20 March 1883.
2. Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, 1891.
3. Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April, 1994.
4. Council Regulation 2081/92 of 14 July 1992, on the protection of GIs and designations of origin for agricultural products and foodstuffs, 1992.
5. The Lanham Act Pub.L. 79-489, 60 Stat. 427
6. Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration, October 31, 1958, as revised, July 14, 1967, 923 U.N.T.S. 205 [hereinafter Lisbon Agreement], [www.wipo.int/treaties/en/text.jsp?file\\_id=285856/](http://www.wipo.int/treaties/en/text.jsp?file_id=285856/).
7. World Intellectual Prop. Org. [WIPO], Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications and Regulations under the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, WIPO Document LI/DC/19 (May 20, 2015), [hereinafter Geneva Act], [www.wipo.int/meetings/en/details.jsp?meeting\\_id=35202](http://www.wipo.int/meetings/en/details.jsp?meeting_id=35202).

8. Union for the Protection of New Varieties of Plants (UPOV), 1961, 1991.
9. International Treaty on Plant Genetic Resources for Food and Agriculture, 1983.
10. The Geographical Indications of Goods (Registration and Protection) Act, 1999.
11. The Protection of Plant Varieties and Farmers Rights Act, 2001.

### **CASE LAWS:**

1. Cor Cimex S.A. v. DM Enterprises & Distributors, No. 91178943, 2008 WL 5078739 (T.T.A.B. November 17, 2008)
2. Case C-132/05, Comm'n v. Federal Republic of Germany (Parmesan), 2008 E.C.R. I-957.
3. Case C-12/74, Commission v. Germany, 1975 E.C.R. 181.
4. Case C-3/91, Exportur SA v. LOR SA and Confiserie du Tech SA, 1992 E.C.R. I-5529.
5. Case C-3/91, Exportur SA v. LOR SA and Confiserie du Tech SA, 1992 E.C.R. I-5529
6. Case T-43/15 R, CRM Srl v. Comm'n, 2015 Order of the President of the General Court.
7. Ervin Warnick v. Townend & Sons [1979] A.C. 73.
8. Bollinger v. Costa Brava Wine Co Ltd [1960] RPC 16.
9. Wineworths Group Ltd v. Comite Interprofessionel du Vin de Champagne [1992] 2 NZLR 327 (CA).
10. Fage UK Ltd. v. Chobani UK Ltd. [2014] EWCA (Civ) 5.
11. Kraft Foods Italia v. Associazione fra produttori per la tutela del 'Salame Felino' and Others, 2014 [Unreported].
12. Bollinger v. Costa Brava Wine Co. Ltd. [1961] RPC 116 (Ch.) (Eng.).
13. Vine Prods. Ltd. v. Mackenzie & Co Ltd. [1969] RPC 1 (Ch.) at 4 (Eng.),
14. John Walker & Sons Ltd. v. Henry Ost & Co Ltd. [1970] RPC 151 (Ch.) (Eng.)
15. HP Bulmer Ltd. v. Bollinger S.A. [1978] RPC 79 (C.A.) (Eng.)
16. Erven Warnink Besloten Vennootschap v. J Townend & Sons (Hull) Ltd. [1979] AC 731 (HL) (Eng.).
17. Institut National des Appellations d'Origine des Vins et Eaux-de-Vie v. Andre Wines Ltd. (1990) 30 C.P.R. 3d 279 (Can. Ont. C.A.).
18. Dairy Bureau of Canada v. Annable Foods Ltd. (1993) 46 C.P.R. 3d 289, 309 (Can. B.C. Sup. Ct.).
19. New Zealand: Comite Interprofessionel du Vin de Champagne v. Wineworths Group, Ltd. [1991] 2 NZLR 432 (HC).

20. Otard, Inc. v. Italian Swiss Colony, 141 F.2d 706 (C.C.P.A. 1944).
21. 79 State of Idaho Potato Comm'n v. G & T Terminal Packaging, Inc., 425 F.3d 708, 721–22 (9th Cir. 2005).
22. Case C-478/07 Budějovický Budvar National Corporation v. Rudolf Ammersin GmbH (C-478/07) [2009] E.C.R. I-7721; 2009 E.T.M.R. 65, at 106–29 (Budweiser II).
23. Complaint by the United States, *EC – Trademarks and Geographical Indications for Agricultural Products and Foodstuffs*, WTO Doc. WT/DS174/R (adopted 20 April 2005).
24. Complaint by Australia, *EC – Protections of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs*, WTO Doc. WT/DS290/R (adopted 20 April 2005).
25. Bureau Nat'l Interprofessionnel du Cognac v. Int'l Better Drinks Corp., 6 U.S.P.Q.2d 1610, 1615 (T.T.A.B. 1988).
26. Institut Nat'l des Appellations d'Origine v. Brown-Forman Corp., 47 U.S.P.Q.2d 1875, 1877 (T.T.A.B. 1998).
27. Pillsbury-Washburn Flour Mills Co v. Eagle, 86 F. 608 (7th Cir. 1898).
28. McIlhenny Co. v. Ed. Bulliard, 10 Trademark Rep. 213, 215 (W.D. La. 1920).
29. Institut National Des Appellations D'Origine v. Brown-Forman Corp., 47 U.S.P.Q.2d 1875 (T.T.A.B. 1998).
30. Tea Board, India v. ITC Ltd. (2011) 48 PTC 169 (Cal).

## **BOOKS**

1. V.K. Ahuja, Law relating to Intellectual Property Rights (Latest Edn.), LexisNexis.
2. Ananth Padmanabhan, Intellectual Property Rights Infringement and Remedies, Lexis Nexis, 2012
3. Elizabeth Verkey, Law of Plant Varieties Protection, Eastern Book Company, 2007.
4. Gopalakrishnan and Agitha, Principles of Intellectual Property, Eastern Book Co., 2006
5. Wadehra B.L., Law Relating to Intellectual Property, 5th Edition (Reprint), Universal Law Publishing, 2016.

## **ONLINE AVAILABLE BOOKS** (In HNLU Digital Library/Open Access Platform)

1. Calboli, I., & Ng-Loy, W. (Eds.). (2017). *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific*. Cambridge: Cambridge University Press. doi:10.1017/9781316711002.  
<https://www.cambridge.org/core/books/geographical-indications-at-the-crossroads-of-trade-development-and-culture/3E2DD2994578FC243041D3EEFFEC39B3>.

### **ONLINE ARTICLES/BLOGS/REPORTS:**

1. Soumya Vinayan, Geographical Indications in India: Issues and Challenges - An Overview, 20 *J. WORLD INTELL. PROP.* 119 (2017).
2. Gautami Govindrajan & Madhav Kapoor, Why the Protection of Geographical Indications in India Needs an Overhaul, 8 *NLIU L. REV.* 22 (2018).
3. Tania Singla, Post-Registration Quality Control Measures for Geographical Indications in India: The Way Forward, 7 *INDIAN J. INTELL. PROP. L.* 103 (2014-2015).
4. Dev Gangjee, Quibbling Siblings: Conflicts between Trademarks and Geographical Indications, 82 *Chi.-Kent L. Rev.* 1253 (2007). Available at: <https://scholarship.kentlaw.iit.edu/cklawreview/vol82/iss3/6>
5. Prashant Reddy Thikkavarapu, The Overlap between the Patents Acts and the Plant Variety Protection & Farmer's Rights Act in India: A Seed of Doubt, 21 *J. WORLD INTELL. PROP.* 243 (2018).
6. Rohit Mooka & Silky Mukherjee, TRIPS Flexibilities and India's Plant Variety Protection Regime: The Way Forward, 5 *BRICS L.J.* 117 (2018).
7. Albrecht Conrad, The Protection of Geographical Indications in the TRIPS Agreement, 86 *TRADEMARK REP.* 11 (1996).
8. Irina Kireeva & Bernard O'Connor, Geographical Indications and the TRIPS Agreement: What Protection is Provided to Geographical Indications in WTO Members, 13 *J. WORLD INTELL. PROP.* 275 (2010).
9. Prabhash Ranjan, Recent Developments in India's Plant Variety Protection, Seed Regulation and Linkages with UPOV's Proposed Membership, 12 *J. WORLD INTELL. PROP.* 219 (2009).
10. N. S. Gopalakrishnan, An Effective Sui Generis Law to Protect Plant Varieties and Farmers' Rights in India: a Critique, 4 *J. WORLD INTELL. PROP.* 157 (2001).
11. Pradyot Ranjan Jena et al., Geographical Indication Protection and Rural Livelihoods: Insights from India and Thailand, 29 *Asian-Pac. Econ. Literature* 174 (2015).



**BLOGS/CHANNELS/PODCASTS:**

1. GIs for Food Stuffs: IP or RecIPe? <https://spicyip.com/2018/04/gis-for-food-stuffs-ip-or-recipe.html>.
2. WIPO, explained: How to Protect Geographical Indications.  
<https://youtu.be/CfI4oQu5PY0>
3. WIPO Director General on Geographical Indications.  
<https://youtu.be/R4RSG5RKGpk>
4. Geographical Indications and its registration process. Biotechnology Industry Research Assistance Council.  
<https://youtu.be/MgqD2BP8Ack>
5. Geographical Indications, NPTEL-IITM.  
<https://youtu.be/7k5rCsnlMSI>



**TELECOM LAW**  
**SEMESTER II | LL.M.**  
**(JANUARY- JUNE)**

<b>Faculty</b>	<b>Dr. Priyanka Dhar</b>	<b>Year/Term</b>	<b>1/LLM</b>
<b>Course Name</b>	<b>Telecom Law</b>	<b>Session Duration</b>	<b>1 hour</b>
<b>No. of Contact</b>	<b>5L per Week</b>	<b>Pre-requisite</b>	<b>None</b>
<b>Introduction, Course Objective and Pedagogy</b>	<p>Amongst the various human endeavors in the field of technology and science, the progress achieved by modern communication is enormous. Like other global democracies the Indian economy has also seen an immense growth since the development of Telecommunication sector. From the time of East India Company till many years after independence, the Indian government controlled exclusively all forms of communication in the country. More recently, due to change in governmental policies and institutional reforms the role of the government as principal provider of communication services has weakened gradually. In its place a multitude of privately owned telecom networks, television channels, and radio stations have emerged. These networks offer Indian consumers diverse options of telephony, broadcasting, entertainment and Internet use. Together with information technology, the communication sector has proved to be a key driving force of the Indian economy. Hence it is essential that there is presence of a robust and mature legal system to ensure sustained economic development especially in infrastructure sectors like communications. The global democracies are also matching up to the technological developments and creating better infrastructure to meet the requirements of their citizens. There is a global consensus that while development of infrastructure to harness technological development is very</p>		

	<p>important, it is also essential that there are constant regulatory reforms in the said sector as well. Also, an effective dispute resolution mechanism should be in place to resolve consumer issues and promote development of telecom sector which is a key driving factor for people to invest in this sector. Thus, present course curriculum is designed to present discussions, deliberations on certain legal issues that arise in the course of implementation of telecom projects and afterwards.</p> <p>The overarching object of course is to acquaint students with the in-depth knowledge of law related to Telecommunication Laws in India. In particular, this course seeks to achieve the following objectives:</p> <p><b>CO1-</b>To develop and provide the conceptual understanding of laws relating to Telecommunication in India.</p> <p><b>CO2-</b>To demonstrate the legal aspects of Telecommunication Laws in India.</p> <p><b>CO3-</b>To study the interface of telecommunications laws with other branches of law.</p> <p>The mode of teaching will essentially consist of:</p> <ul style="list-style-type: none"> <li>• Lectures with power point presentations;</li> <li>• Guided reading and critical reflection of case laws;</li> <li>• Class discussion</li> </ul>
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**LEARNING OUTCOMES:** On completion of this course, the students will be able to:

**LO1-** Determine the nature and scope of various laws relating to Telecom sector in India.

**LO2-**Students will learn this course from practical point of view and will get exposure to the manner of prosecuting applications/appeals before the appropriate authorities, responding to the office actions and determining the nature of enforcement of various laws.

**LO3-** Examine the primary Central statutes regulating the telecom sector.

**LO4-** Explore the historical roots of utility regulation.

**EVALUATION PARAMETERS:**

<b>Components of Course Evaluation</b>	<b>% of distribution</b>
Project	20 Marks
End Term Examination (SACE)	80 Marks
Total	100 Marks

**COURSE PLAN:**

<b>Module No.</b>	<b>Topics</b>	<b>Lecture Session</b>
I	Overview of Telecommunication Laws	1-10
II	Regulation in Telecom Sector in India	11-23
III	Telecom Sector and Dispute Resolution	24-35
IV	International Legal Regime in the Telecommunication Sector	36-45
V	Issues and Challenges in Telecommunication	46-60

**DETAILED SYLLABUS:**

<b>Module 1</b>  <b>OVERVIEW OF TELECOMMUNICATION LAWS</b>	<b>1.1. Understanding the evolution of Telecommunication Laws -</b> Nature, Scope and overview of developments in India <b>1.2. Indian Telecommunication Industry –</b> History, Constitutional aspects, Retention of Central Government Control <b>1.3. Telecom Policies-</b> National Telecom Policy, 1994 to National Digital Communications Policy, 2018. <b>1.4. Legislative Enactments and regulatory framework in India-</b> The Telegraph Act, 1885, C-DOT, TRAI, TDSAT,
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	WPC.
<b>Module 2</b>  <b>REGULATION OF TELECOM SECTOR IN INDIA</b>	<p><b>2.1 Licensing and Spectrum Allocation-</b> Licensing as per the Telecom Policies, Allocation, Allotment and recent issues</p> <p><b>2.2 Telecom Regulatory Authority of India-</b> Apex Court ruling and the evolution of TRAI, powers, tussles with the DoT on powers of the TRAI</p> <p><b>2.3 TRAI Act-</b> Purpose of the Act, Powers of the Authority, Members under the Act, Government Powers over the Authority</p> <p><b>2.4 Authority's Regulations Functions-</b> Directory roles, Statutory functions, Regulation making powers, Powers to enforce compliance</p> <p><b>2.5 Regulation of Cable Television:</b> Overview of the Cable Networks Act, TDSAT's roles in Cable Regulation.</p>
<b>Module 3</b>  <b>TELECOM SECTOR AND DISPUTES SETTLEMENT</b>	<p><b>3.1 Dispute Resolution-</b> Understanding the nature of disputes in the Sector, Current disputes, Resolution Mechanisms under the Act</p> <p><b>3.2 TDSAT-</b> Creation of the TDSAT, Adjudicatory and appellate powers, Chairperson, Dispute between various stake holders, Issues relating to Licensing and Interconnection</p> <p><b>3.3 Powers of the TDSAT-</b> Enforcing Orders, Appeals to the Apex Court, Jurisdiction of the TDSAT in hearing dispute and limitations</p> <p><b>3.4 Protection of Consumers-</b> Quality Services in the Sector, Consumer Rights Advocacy, Complain as well as Grievance Redressal Mechanism</p>

<p><b>Module 4</b></p> <p><b>INTERNATIONAL LEGAL REGIME IN THE TELECOMMUNICATION SECTOR</b></p>	<p><b>4.1 Evolution of Telecommunication laws in USA, UK and EU-</b> Conceptual framework, Historical legal framework, Current Polices, Regulators, Dispute resolution mechanism</p> <p><b>4.2 International Telecommunication Union (ITU)-</b> Evolution, Organizational Structure, Role, International efforts</p> <p><b>4.3 International Telecommunications and Law of the Sea-</b> Submarine Cables, Threats and Benefits, Contribution of the International Cable Protection Committee (ICPC)</p>
<p><b>Module 5</b></p> <p><b>ISSUES AND CHALLENGES IN TELECOMMUNICATION</b></p>	<p><b>5.1 Cable Network and Broadcasting:</b> Advertisement, consumer protection. Protection of minors (children); Indecency; piracy; Jurisdictional issues; Improving Existing Dispute Resolution Mechanisms.</p> <p><b>5.2 Emerging issues:</b> Future of Telecommunication Laws, Competition Law and Telecommunication sector, Enabling 5G in India- Regulatory issues and Challenges, OTT and live streaming services, Satellite Internet.</p> <p><b>5.3 Satellite communication:</b> Acquiring Orbit/Frequency Spectrum; Launching Satellite; Responsibility and Liability, Satellite Communications: The Legal Gap, GMPCS, Developing Countries Perspectives, Direct Broadcasting Satellites.</p>

### **READINGS:**

### **STATUTES**

- 1) Indian Telegraph Act, 1885
- 2) Indian Wireless Telegraphy Act, 1933
- 3) The Cable Television Networks (Regulation) Act, 1995
- 4) Cable Television Networks (Amendment) Rules, 2021

- 5) The Telecom Regulatory Authority of India Act, 1997
- 6) The Telecom Regulatory Authority of India (Amendment) Act, 2000
- 7) The Telecom Regulatory Authority of India (Amendment) Act, 2014.

### **REFERENCE BOOKS**

- 1) Vikram Raghavan, Communication Law in India (Legal aspects of Telecom, Broadcasting and Cable Services), 2007.
- 2) Anastassios Gentzoglani, and Anders Henten, eds. (2010), Regulation and the Evolution of the Global Telecommunications Industry, Edward Elgar.
- 3) Ian Walden, Telecommunications Law and Regulation, Oxford University Press, 2012, pp. 3-24; 277-546; 653-850.
- 4) Manish Yadav, Telecom Dispute Settlement in India, 2013.
- 5) R.U.S Prasad, Resolving Disputes in Telecommunications: Existing Country Practice & Future Challenges, Oxford University Press, 2010, pp. 1-187.
- 6) Sharon K. Black, Telecommunications Law in the Internet Age, Morgan Kaufmann Publishers, 2002, pp. 1-47; 327-426.
- 7) Christian Koenig, Andreas Bartosch, and Jens-Daniel Braun, EC Competition and Telecommunications Law: A Practitioner's Guide (International Competition Law Series), Kluwer Law International, 2002.
- 8) Francis Lyall, International Communications: The International Telecommunication Union and the Universal Postal Union, (1<sup>st</sup> ed.), Routledge, 2011.
- 9) Ashok Desai, India Telecommunication Industry: History, Analysis, Diagnosis (1<sup>st</sup> ed. 2006) Sage Publications.
- 10) Vikas Nehru, Global Wireless Spiderweb: The Invisible Threat Posed by Wireless Radiation, (July 2016).
- 11) Shafilluah Khan & Sakib Khan Pathan (ed.) Wireless Networks and Security: Issues, Challenges and Research Trends, Issues, Challenges and Research Trends, Springer, 2013.
- 12) Anjali Garg & Manisha Kabra, Regulatory reforms in India: Effectiveness, Efficiency and impacts, The Energy and Resources Institute, TERI, (Jan 2009).

### **ARTICLES**

- 1) Rory Macmillan, 'Reflections on Regulation and Dispute Resolution in the Indian Telecommunication Sector', Journal of Indian Law Institute, vo147, No 1, 2005.
- 2) Zaraq Zaroor, An Overview of Indian Telecom Sector, Abhinav National Monthly Refereed Journal of Research in Commerce & Management, Vol-4, issue-3, 62-69, ISSN-2277-1166 (March 2015).
- 3) Dr. Papori Baruah & Rashmi Baruah, Telecom Sector in India: Past, Present and Future, IJHSSS, Vol-1, issues-3, 147-156, ISSN: 2349-6959 (Online), ISSN: 2349-6711 (Print) (Nov. 2014).
- 4) Ms. Pritish & Dr. Taruna Saxena, An Analysis of the Indian Telecom Industry, IOSR-JBM, Vol-17, issue-10, 35-42, e-ISSN: 2278-487X, p-ISSN: 2319-7668. (Oct. 2015).
- 5) Azher Parvez & Satyanarayana Chary, Foreign Direct Investment (FDI) and Telecommunication Sector in India, Journal of Telecommunications System & Management, Vol-6, issue-1, 1-5, ISSN: 2167-0919 (Mar. 2017).
- 6) Ramesh Subramanian, the (Continuing) Evolution of India's Telecom Policy, Communication of the IIMA, Vol-8, issue-3, 33-48, (2008).
- 7) Gopika GG, Growth and Development of Telecom Sector in India-An Overview, IOSR-JBM, Vol-16, Issue-9, 25-36, (Sept 2014).
- 8) Paul Brusley, Dispute Resolution in Telecommunication-The Regulatory Perspective, Sweet & Maxwell Limited, Issue-1, 4-9, 2005.
- 9) Nishith Desai, The Indian Telecom Sector-Legal and Regulatory Framework, (July 2014).
- 10) Kapil Kumar, Key Challenges of Telecom Sector in India, International Journal of Engineering Research and Development, Vol-13, issue-9, 5-8, e-ISSN: 2278-067X, p-ISSN: 2278-800X, (Sept 2017).
- 11) Rajbinder Singh, Impact of Reliance JIO on Indian Telecom Industry: An Empirical Study, IJSRM, Vol-5, issue-7, ISSN (e): 2321-3418, 6469-6474, 2015.

### **LIST OF CASES**

- 1) Delhi Science Forum v. Union of India, 1996 SCC (2) 405
- 2) General Manager, Telecom v. M. Krishna, (2009) 8SCC 481
- 3) Union of India v. Association of Unified Telecom Service Providers of India (2011) 10 SCC 543
- 4) Center for PIL v. Union of India, (2011) 1 SCC 560
- 5) People's Union for Civil Liberties v. Union of India, (2013) 10 SCC 1



- 6) Vodafone International Holdings BV v. Union of India, (2012) 6 SCC 613.
- 7) Union of India v. Association of Unified Telecom Service Providers of India (2011) 10 SCC 543
- 8) Tata Teleservices Ltd v. Bharat Sanchar Nigam Ltd, (2008) 10 SCC 556
- 9) BSNL vs Telecom Regulatory Authority of India, (2014) 3 SCC 222
- 10) Star India Private Ltd. v. Department of Industrial Policy and Promotion, (2019)2SCC 104
- 11) Star India P. Ltd. v. The Telecom Regulatory Authority of India,146 (2008) DLT 455
- 12) Aircel Digilink India v. Union of India, (2005) SCC Online TDSAT 105
- 13) Viom Network Ltd. v. S Tel Private Ltd, 2013 SCC Online Del 4511
- 14) V-Con Telecom Towers Pvt. Ltd. v. Tata Tele service Ltd, (2018) SCC Online TDSAT 758.
- 15) AUSPI v. Union of India, 2006 SCC Online TDSAT 13
- 16) AUSPI v. Union of India, (2011) 10 SCC 553
- 17) Union of India v. ASSOCHAM, 2019 SCC Online SC 1393
- 18) Union of India v. Association of Unified Telecom Service Providers of India, (2020) 3 SCC 525
- 19) BSNL v. Telecom Regulatory Authority of India, (2014) 3SCC 222
- 20) Bharti Airtel v. TRAI 2018 SCC Online TDSAT 624
- 21) BSNL v. TRAI (2014) 3 SCC 222
- 22) CCI v. SAIL (2010) 10 SCC 744.
- 23) Cellular Operators' Association of India v. Telecom Regulatory Authority of India, (2016) 7 SCC 703.

**The list of cases is merely enumerative, and more cases will be discussed during the course of lecture**



## CYBER FORENSICS AND CYBER CRIME

### SEMESTER – II | LL.M.

#### SYLLABUS (SESSION JAN-JUNE)

<b>Faculty Name</b>	Prof.(Dr.) Yogendra Kumar Srivastava	<b>Year/ Semester</b>	LLM 2 <sup>ND</sup> SEMESTER
<b>Course Name</b>	Cyber Forensics & Cyber Crime	<b>No. of Credits</b>	4
<b>Course Code</b>	NA	<b>Session duration</b>	1 hour
<b>No of Contact Hours/ Week</b>	1 hour/ 5 days a week	<b>Pre-requisite</b>	-
<b>Introduction, Course Objective &amp; Pedagogy</b>	<p>The development in the field of Law, Science and Technology has proven to be a breakthrough for humans in all walks of life. Amongst all the developments and advancements in the field of technology and science, the Internet is revered as messiah of mankind considering the liberating effect it has brought into our lives. While the list of benefits that are attached to the advent of the Internet are numerous one cannot ignore the impact of its development and growth on the criminal law setup in the global democracies.</p> <p>The way in which the Internet is being used by individuals and organizations to commit illegal activities has become a challenge for</p>		

	<p>the law enforcement agencies to apprehend and successfully prosecute considering the jurisdictional issues involved in such crimes.</p> <p>Cybercrimes represent the latest generation of crimes which challenge the very existence of the conventional criminal law and questions the suitability of the already existing legal regime to the new branch of crime.</p> <p>Given the speed of technological progress, while the global democracies find it difficult to match up and step up their game in terms of providing a safer online platform, the criminals are faster to respond to the changes and are way technologically ahead of all in terms of finding new avenues for commission of crime in the cyber world. Cyber forensics has been growing as a field of science which can be used successfully not only to apprehend these cyber criminals but also to facilitate the court in successfully bringing the offender to justice.</p> <p>In this backdrop, the present course curriculum is designed to present discussions, deliberations on certain legal issues that arise due to the use of technology by individuals for committing crimes against individuals, property as well as the governments and also find viable solutions as to how these miscreants can be apprehended successfully with the use of technology.</p> <p>The overarching object of course is to acquaint students with the in-depth knowledge of issues related to Cybercrime and the applicable regulatory regime. Also the concepts of Cyber forensics and its impact on related areas of study would also be analyzed. In particular, this course seeks to achieve the following objectives:</p> <p style="padding-left: 40px;"><b>CO1-</b>To develop and provide the conceptual understanding of issues surrounding cybercrimes and related laws in India and in other International Jurisdictions.</p> <p style="padding-left: 40px;"><b>CO2-</b>To develop a critical understanding and approach to handle issues relating to Cyber Crime.</p>
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	<p><b>CO3-</b>To demonstrate the functioning of Cyber forensics as an important tool to investigate Cyber Crimes.</p> <p><b>CO4-</b>To understand the various facets of Forensic Science and Cyber Crime vis-a-vis Intellectual Properties and Information Technology.</p> <p><b>Pedagogy:</b></p> <p>Considering that the classes will be conducted through online mode the mode of teaching will as of now essentially consist of:</p> <ul style="list-style-type: none"> <li>• Lectures with power point presentations.</li> <li>• Guided reading and critical reflection of case laws.</li> <li>• Classroom discussion/debates</li> </ul>
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**LEARNING OUTCOMES: -**

Through the curriculum, the students will be introduced to the various facets of cyber crimes and cyber forensics. On completion of this course, the students will be able to:

**LO1** the course shall inform and educate the learners about the essentials of various crimes committed by using the cyber space.

**LO2** the course shall bring awareness in the learners about the key issues involving the cybercrimes and the laws related to different jurisdictions.

**LO3** the course shall impart education to the learners to examine nexus between cyber forensics and cyber crimes.

**LO4** the course shall help the learners to develop an analytical and critical perspective about the existing legal framework to deal with the cases related to cyber crimes and cyber forensics vis-à-vis IP, IT and Cyber Forensic matters.

**EVALUATION COMPONENTS**

<b>Components of Course Evaluation</b>	<b>% Distribution</b>
End Term Examination	80%
Individual Projects and Presentation	20%
<b>Total</b>	<b>100%</b>

**COURSE PLAN**

<b>S.No.</b>	<b>Topics</b>	<b>Lecture Sessions</b>
1	INTRODUCTION	1-4
2	VARIOUS FACETS OF CYBER CRIME	5-12
3	CYBER FORENSICS	13-17
4	ACQUISITION AND ADMISSIBILITY OF DIGITAL EVIDENCE	18-21
5	IP, IT AND CYBER FORENSICS	22-28
6	REVISION	29-30

**DETAILED SYLLABUS**

<b>UNIT</b>	<b>CONTENTS</b>
<b>Module 1</b>	<b>1. Introduction into crime related to the Internet</b>
<b>INTRODUCTION</b>	(a) Meaning and definition of cyber space

	<p>(b) Concept of Cyber Crime</p> <p>(c) Challenge to Laws</p> <p>(d) Jurisdiction in Cyber Space</p> <ul style="list-style-type: none"> <li>• Concept of Cyber Space</li> <li>• Subject Matter Jurisdiction</li> <li>• Personal Jurisdiction</li> <li>• Determining jurisdiction and applicable law for online disputes</li> </ul> <p>2. Budapest Convention on Cyber Crime</p> <p>3. Additional Protocol to the Convention on Cybercrime Concerning the Criminalisation of Acts of a Racist or Xenophobic Nature Committed Through Computer Systems (2003)</p> <p>4. Second Additional Protocol to the Convention on Cybercrime on Enhanced Cooperation and Disclosure of Electronic Evidence (2022)</p> <p>*</p> <p><i>*NB: This protocol was opened for signature on 12 May 2022 and had not entered into force as of December 2022.</i></p> <p><b><u>ESSENTIAL READINGS</u></b></p> <ul style="list-style-type: none"> <li>• Talat Fatima, <i>Cyber Crimes</i>, EBC, 2nd Ed., 2016</li> <li>• Syed Asifuddin v. State of Andhra Pradesh, 2006 (1) ALD (Cri) 96; 2005 CriLJ 4314</li> <li>• Diebold Systems Pvt. Ltd. vs The Commissioner, ILR 2005 KAR 2210</li> </ul>
<p><b>Module 2</b></p> <p><b>VARIOUS FACETS OF CYBER CRIME</b></p>	<p><b>1. <u>Crimes against Individuals</u></b></p> <p>(a) Hate Speech</p> <p>(b) Harassment and Stalking</p> <p>(c) Identify Theft and Evasion of Digital Privacy</p> <p>(d) Cyber Forgery</p>

	<p>(e) Consumer related crimes</p> <p>2. <b><u>Crimes against property</u></b></p> <p>(a) Cyber Trafficking</p> <p>(b) Cyber Vandalism</p> <p>(c) Intellectual Property Crimes in cyber space</p> <p>(d) Hacking Computer System</p> <p>(e) Internet Time Theft</p> <p>(f) Hacking into computer system</p> <p>3. <b><u>Crime against Government</u></b></p> <p>(a) Cyber Terrorism</p> <p>(b) Attack on protected systems</p> <p>(c) Cyber Laundering</p> <p>(d) E-payments and Internet Banking: crimes and regulations</p> <p><b><u>ESSENTIAL READINGS</u></b></p> <ul style="list-style-type: none"> <li>• Rakesh v. Central Bureau, Delhi District Court, 2011 5 February, 2011</li> <li>• Maqbool Fida Husain v. Raj Kumar Pandey, Delhi HC decided on 8/5/2008</li> <li>• State of Tamil Nadu v. SuhasKatti,Decided by CMM, Egmore, decided on Nov. 5, 2004</li> <li>• Shreya Singhal v U.O.I, SC decided on 24/03/2015</li> <li>• Internet &amp; Mobile Association of India vs. RBI [W.P. Civil 528 &amp;373 of 2018]</li> <li>• Manohar Lal Sharma vs. Union of India &amp;Ors. [W.P CrI. No. 314 of 2021]</li> <li>• DhyandevKachurji Wankhede vs. Nawab Malik IAL 25975-2021 IN SUIT (L) 25974-2021</li> </ul>
<b>Module 3</b>	<p>1. <b><u>Defining cyber forensics</u></b></p>

<p><b>CYBER FORENSICS</b></p>	<p>(a) Why is Cyber Forensic Important (b) Techniques forensic Investigators use</p> <p><b>2. Types of cyber forensics</b></p> <p>(a) Database Forensics (b) Email Forensics (c) Malware Forensics (d) Mobile Forensics (e) Network Forensics</p> <p><b>3. Steps in cyber forensics</b></p> <p>(a) Data Collection (b) Analysis (c) Presentation</p> <p><b>4. Block Chain as Forensic tool</b></p> <p><b>ESSENTIAL READINGS</b></p> <ul style="list-style-type: none"> <li>• <a href="https://www.techtarget.com/searchsecurity/definition/computer-forensics">https://www.techtarget.com/searchsecurity/definition/computer-forensics</a></li> <li>• <a href="https://www.youtube.com/watch?v=ENrjn-ID1e8">https://www.youtube.com/watch?v=ENrjn-ID1e8</a></li> <li>• Manohar Lal Sharma vs. Union of India &amp;Ors. [W.P CrI. No. 314 of 2021]</li> <li>• Harsh Chugh vs. U.O.I. Writ Petition Civil Diary No. 10980/2020</li> </ul>
<p><b>Module 4</b></p> <p><b>ACQUISITION AND ADMISSIBILITY OF DIGITAL EVIDENCE</b></p>	<p><b>1. Acquisition and handling of Digital Evidence</b></p> <p>(a) Introduction (b) Meaning of Digital Evidence (c) Principles of Digital Evidence (d) Digital Evidence handling</p>



	<p><b>2. Analysis and admissibility of Digital Evidence</b></p> <p>(a) Electronic Evidence and the Indian Evidence Act, 1872</p> <p>(b) Evidences and the Indian Supreme Court</p> <p>(c) Admissibility of Digital Evidence</p> <p><b>ESSENTIAL READINGS</b></p> <ul style="list-style-type: none"> <li>• Karnika Seth, <i>Computers Internet and New Technology Laws</i> (2016)</li> <li>• Anvar P.V v. P.K.Basheer&amp;Ors. (2014) 10 SCC 473</li> <li>• ShafhiMohd. Vs. S/O H.P. (2018) 2 SCC 801</li> <li>• Arjun Pandit Rao Khotkarv. Kailash KushanraoGorantyal, 2020 SCC Online SC 571</li> </ul>
<p><b>Module 5</b></p> <p><b>IP, IT AND CYBER FORENSICS</b></p>	<p><b>1. Tools of DRM for enforcement of copyright</b></p> <p>(a) What is DRM</p> <p>(b) How does DRM work</p> <p>(c) What are different types of DRM technologies and methods and their usage</p> <p>(d) DRM and its existence across Copyright Laws in various countries</p> <p><b>2. Smart Contracts</b></p> <p>(a) Smart Contracts Defined</p> <p>(b) How Smart Contracts work</p> <p>(c) Benefits of Smart Contract</p> <p>(d) Applications of Smart Contracts</p> <p><b>3. Crypto currencies</b></p> <p>(a) Introduction</p> <p>(b) Rationale behind crypto</p> <p>(c) Regulation of crypto currencies across the world</p> <p>(d) EU, UK, CHINA &amp; USA</p>

	<p>(e) Regulation of Cryptocurrency in India</p> <p><b>4. Cloud and Virtual Technology Security</b></p> <p>(a) Introduction</p> <p>(b) Security Requirements of Virtualisations</p> <p>(c) Attacks on Virtualisation</p> <p>(d) Security Solutions</p> <p><b>ESSENTIAL READINGS</b></p> <ul style="list-style-type: none"> <li>• Karnika Seth, <i>Computers Internet and New Technology Laws</i> (2016)</li> <li>• Kamath Nandan, <i>Law Relating to Computers Internet &amp; E-commerce - A Guide to Cyberlaws &amp; The Information Technology Act, Rules, Regulations and Notifications along with Latest Case Laws</i> 5thEd. (2016)</li> <li>• Noel Harper &amp;Ors. Vs. U.O.I &amp;Anr. [W.P. (Civil) No. 566/2021]</li> <li>• Jeevan Jyothi Charitable Trust &amp;Ors. Vs. U.O.I [W.P. (C) No. 751/2021]</li> <li>• FeridAllani vs. U.O.I &amp;Ors. [W.P. (C) 7/2014 decided on 12<sup>th</sup> Dec., 2019]</li> </ul>
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### READINGS

#### **STATUTES, RULES AND REGULATIONS:**

1. The Information Technology Act, 2000
2. The Information Technology Amendment Act, 2008
3. The Information Technology (Use of Electronic Records and Digital Signatures) Rules, 2004
4. The Information Technology (Intermediaries Guidelines) Rules, 2011
5. Budapest Convention on Cybercrime

**CASE LAWS**

1. Anvar P.V v. P.K.Basheer&Ors. (2014) 10 SCC 473
2. Arjun Pandit Rao Khotkarv. Kailash KushanraoGorantyal, 2020 SCC Online SC 571
3. Rakesh v. Central Bureau, Delhi District Court, 2011 5 February, 2011(Delhi Blast case terror e-mail sent by hacking Wi Fi in Mumbai)
4. Aveek Sarkar v. State of West Bengal (SC) Criminal Appeal no. 902 of 2004 decided on 3/2/2014
6. Maqbool Fida Husain v. Raj Kumar Pandey, Delhi HC decided on 8/5/2008
7. Vaibhav Jain v.Vice Chancellor Devi Ahilya Vishwavidyalaya, decided on 3rdJan 2002 , available at Indian Kanoon - <http://indiankanoon.org/doc/521882/>
8. State of Tamil Nadu v. SuhasKatti,Decided by CMM, Egmore, decided on Nov. 5, 2004 available at <http://www.prashantmali.com/cyber-law-cases;>  
<http://www.legalserviceindia.com/lawforum/index.php?topic=2238.0> 51
9. Syed Asifuddin v. State of Andhra Pradesh, 2006 (1) ALD (Cri) 96; 2005 CriLJ 4314
10. Diebold Systems Pvt. Ltd. vs The Commissioner, ILR 2005 KAR 2210
11. Vinod Kaushik v. Madhvika Joshi, WP(C) 160/2012, Delhi High Court, order dt. 27/01/2012available at  
<https://it.maharashtra.gov.in/Site/Upload/ACT/Madhvika%20Vs%20Kaushik-highcourt.PDF>
12. Chander Kalani v. SBI Bank, complaint no. 1 of 2014 decided on 12/01/2015 available  
at[https://it.maharashtra.gov.in/Site/Upload/ACT/DIT\\_Adjudication\\_Chander%20Kalani\\_Vs\\_SBI\\_Ors-12012015.PDF;](https://it.maharashtra.gov.in/Site/Upload/ACT/DIT_Adjudication_Chander%20Kalani_Vs_SBI_Ors-12012015.PDF)
13. State of A.P. through Inspector of Police, Cyber Crimes P.S., CID, Hyderabad v. PrabhakarSampath, Add. CMM Hyderabad, decided on 31/03/2015, CC 489 Of 2010 available at:[www.prashantmali.com/cyber-law-cases](http://www.prashantmali.com/cyber-law-cases)
14. NAASCOM v. Ajay Sood, 119 (2005) DLT 596
15. Shreya Singhal v U.O.I, SC decided on 24/03/2015
16. My Space Inc. v. Super Cassettes Industries Ltd., Delhi (DB), FAO(OS) 540/2011, C.M.APPL.20174/2011, 13919 & 17996/2015 decided on 23 December, 2016 available at<http://indiankanoon.org/doc/12972852/>
17. Amway India Enterprises Pvt. Ltd. v. 1Mg Technologies Pvt. Ltd, (Del) I.A. 11335/2018CS(OS) 410/2018 decided on July 8, 2019, available at[http://indiankanoon.org/doc/145401736/;](http://indiankanoon.org/doc/145401736/)

18. Amazon Seller Services v. Modicare, Del(DB) decided on 31/01/2020 available at:<http://indiankanoon.org/doc/43335747/>
19. Satyam Infoway Ltd v Sify net solutions Pvt. Ltd., AIR 2004 SC 3540
20. Aqua Minerals v. Pramod Barse, 2001 PTC 619 (Del)
21. Internet & Mobile Association of India vs. RBI [W.P. Civil 528 &373 of 2018]
22. Manohar Lal Sharma vs. Union of India &Ors. [W.P CrI. No. 314 of 2021]
23. Neeraj Mandal @ Rakesh vs. S/O U.P. Crim. Misc. Bail Application No. 20529 of 2021
24. ShafhiMohd. Vs. S/O H.P. (2018) 2 SCC 801
25. DhyandevKachurji Wankhede vs. Nawab Malik IAL 25975-2021 IN SUIT (L) 25974-2021
26. Carpenter vs. US 138 S. Ct. 2206 (2018)
27. K.S. Puttaswamy (Retd.) &Anr. Vs. UOI &Ors. (2017) 10 SCC 1
28. Selvi&Ors. Vs. S/O Karnataka 2010 7 SCC 263
29. U.S. vs. Jones 565 U.S. 400 (2012)
30. Harsh Chugh vs. U.O.I. Writ Petition Civil Diary No. 10980/2020
31. Shubham Awasthi &Anr. Vs. U.O.I [W.P. (Civil) Nos. 776/2021
32. X vs. U.O.I. [W.P. (CrI.) 1082/2020
33. Noel Harper &Ors. Vs. U.O.I &Anr. [W.P. (Civil) No. 566/2021]
34. Jeevan Jyothi Charitable Trust &Ors. Vs. U.O.I [W.P. (C) No. 751/2021
35. FeridAllani vs. U.O.I&Ors. [W.P. (C) 7/2014 decided on 12<sup>th</sup> Dec., 2019]

## **BOOKS**

### **Essential Readings**

1. Karnika Seth, *Computers Internet and New Technology Laws* (2016)
2. Pavan Duggal, *Cyber Law : The Indian Perspective*, Saakshar Law Publication, 2<sup>nd</sup> Ed., 2004
3. Talat Fatima, *Cyber Crimes*, EBC, 2nd Ed., 2016
4. S K Verma, Raman Mittal, *Legal Dimensions of Cyberspace*, ILI, 2004

### **Reference Readings**

1. Yatindra Singh, *Cyber Laws*, Universal Law Publishing, 6<sup>th</sup> Ed., 2016
2. Dr Farooq Ahmad, *Cyber Law in India*, New Era Law Publication, 4<sup>th</sup> Ed., 2011
3. Sushma Arora, *Cyber Crime and Laws*, Taxmann, 2016

4. J P Mishra, *Cyber Law*, Central LawPublication, 2nd Ed., 2014
5. Kamath Nandan, *Law Relating to Computers Internet & E-commerce - A Guide to Cyberlaws & The Information Technology Act, Rules, Regulations and Notifications along with Latest Case Laws* 5<sup>th</sup>Ed. (2016)
6. Prashant Mali, *Cyber Law and Cyber Crimes*, 2nd Ed.(2015)
7. Debrati Halder & H Jaishanker, *Cyber Crimes Against Women*, Sage Publications 1st Ed.(2017)
8. Vakul Sharma, *Information Technology Law & Practice* 6<sup>th</sup>Ed. (2018)

### **ONLINE ARTICLES**

1. D. E. Sorkin, “Technical and Legal Approaches to Unsolicited Electronic Mail” available at <http://www.sorkin.org/articles/usf.pdf>
2. C. Palmer, “Ethical Hacking” available at <http://ishwer.zxq.net/hacking/ebook/Ethical%20hacking.pdf>
3. M. Collier, “Voice Over IP (VoIP) Denial of Service (DoS)” available at <http://download.securelogix.com/library/dos.pdf>
4. Sarah Gordon, “Cyberterrorism” available at <https://www.symantec.com/avcenter/reference/cyberterrorism.pdf>
5. V. Pegueros, “Cybercrime and Identity Theft” available at <http://imannorthernlights.imanet.org/042712/Cybercrime.pdf>
6. Jay Mazoomdar, “Explained: How Pegasus spyware infects a device; what data may be compromised” available at <https://indianexpress.com/article/explained/pegasus-whatsapp-spyware-israel-india-7410890/>
7. “Pegasus spyware controversy: The story so far (a timeline of events)” available at <https://www.freepressjournal.in/india/pegasus-spyware-controversy-the-story-so-far>
8. Nishith Desai, E-commerce in India – Legal, tax and regulatory analysis available at [http://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Research%20Papers/E-Commerce\\_in\\_India.pdf](http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/E-Commerce_in_India.pdf)
9. Hemali Shah and Aashish Srivastavat “Signature Provisions in the Amended Indian Information Technology Act 2000: Legislative Chaos”, 43 Comm. L. World Rev. 208 2014 available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2748441](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2748441)
10. Christopher Reed, “Legally binding electronic documents: Digital Signatures and Authentication 35(1) International Lawyer 89-106 available at <http://www.jstor.org/stable/40707597>

11. “Cyber Laws of India”, [www.iibf.org.in/documents/Cyber-Laws-chapter-in-Legal-Aspects-Book.pdf](http://www.iibf.org.in/documents/Cyber-Laws-chapter-in-Legal-Aspects-Book.pdf)(Book on IT security of IIBF published by Taxmann Publishers)
12. Clay Wilson, “Cyber Crimes”, in Franklin D. Kramer, Stuart H. Starr and Lerry K. Wentz (Eds.), *Cyberpower and National Security*, University of Nebraska Press: Potomac Books, available at <http://www.jstor.com/stable/j.ctt1djmhj1.23>
13. Michael Gislere *et. Al.*, “Legal Aspects of Electronic Contracts”, available at <http://kavehh.com/my%20Document/Essex/Digital%20signature/legal%20aspect%20of%20Electronic%20Contracts.pdf>
14. Mayuri Patel and Subhasisaha, “Trade Mark in Digital Era”, 13 JIPR 118-128 (March 2008) available at <http://nopr.niscair.res.in/bitstream/123456789/425/1/JIPR%2013%282%29%20%282008%29%20118-128.pdf>
15. Frosio, Giancarlo, *Internet Intermediary Liability: WILMap, Theory and Trends* (October 16, 2017). 13(1) *Indian Journal of Law and Technology* (2017) ; Centre for International Intellectual Property Studies, Research Paper No. 2017-10. Available at SSRN: <https://ssrn.com/abstract=3053966>.
16. Amlan Mohanty, *New Crimes under the Information Technology Amendment Act*, 7 *Ind. J. L. & Tech.* 103 (2011) available at Westlaw India
17. [https://www.unodc.org/documents/Cybercrime/AdHocCommittee/Second\\_session/Stein\\_Schjlborg\\_contribution.pdf](https://www.unodc.org/documents/Cybercrime/AdHocCommittee/Second_session/Stein_Schjlborg_contribution.pdf)



## SOCIAL MEDIA AND LAW

### SEMESTER II | LL.M.

#### SYLLABUS (SESSION JAN-JUNE)

<b>Faculty</b>	Dr Deepak Kumar Srivastava	<b>Class/ Semester</b>	II
<b>Course Name</b>	Social Media and Law	<b>Each Lecture</b>	60 Minutes
<b>Total expected Lecture</b>	60	<b>Credit</b>	
<b>Introduction</b>	<p>Upon fruitful completion of this course, students will have an improved information on the effect that arising technologies— explicitly long-range interpersonal communication stages, for example, Facebook and Twitter— are having on the general set of laws, meaningful zones of law, and the lawful calling. Students will acquire information on how web-based media is influencing principal thoughts of locale; procedural concerns, for example, administration of cycle; and considerable territories of law. In addition, students will acquire abilities in the disclosure of web-based media content just as its evidentiary use. At last, students will accomplish knowledge of a lawyer's moral commitments in regard to the utilization of web-based media, just as with the utilization of web-based media in promoting one's practice. The instructing strategies will incorporate Lectures, PowerPoint introductions, and narratives.</p>		

<b>Course Objectives</b>	<ol style="list-style-type: none"> <li>1. To provide a review of the substantive legal issues which arise in connection with the use of social media by companies, employees, students and the government.</li> <li>2. To shift the students' perspective from users of social media to social media lawyers.</li> <li>3. To provide an understanding of the ethical and professional issues which arise from the use of social media in the judicial process and legal practice.</li> </ol>	
<b>Learning Outcomes</b>	<ol style="list-style-type: none"> <li>1. Upon successful completion of this course, students will have an enhanced knowledge of the impact that emerging technologies – specifically social networking platforms such as Facebook and Twitter would make.</li> <li>2. Students will understand the role of intermediaries and their liabilities in case of a privacy breach.</li> <li>3. In addition, students will gain skills in the discovery of social media content which will use as a piece of evidence.</li> </ol>	
<b>Evaluation Components</b>	End-Term Examination	80
	Project	15
	Viva voce	05
	<b>Total</b>	<b>100</b>
<b>COURSE PLAN</b>		
<b>S.No.</b>	<b>Module</b>	<b>Lecture Sessions</b>
1	Module I	1-8
2	Module II	9-16
3	Module III	17-26
4	Module IV	27-35
5	Module V	36-44
6	Module VI	45-52
7	Module VII	53-60
<b>DETAILED SYLLABUS</b>		



**MODULE –I**  
**INTRODUCTION TO**  
**SOCIAL MEDIA AND**  
**ITS IMPACT ON**  
**SOCIETY**

- **What is Social Media-** shift in understanding the medium, various kinds of social media.
- **The Evolution of Social Media?** - Identify four roles the media performs in our society, recognize events that affected the adoption of mass media, explain how different technological transitions have shaped media industries, modern Society
- **Convergence of Media-** convergence in contemporary life, five types of convergence identified by Henry Jenkins, recognize how convergence is affecting culture and society
- **The Role of Social Values-** limitations on free speech that are based on social values, propaganda in mass media, explain the role of the gatekeeper in mass media.  
**Social Media and Its Messages-** determine the influence of tastemakers in traditional media, Identify the ways the digital age is undermining the traditional role of tastemakers, determine how Internet culture now allows creators to bypass gatekeepers and determine the potential effects this will have.
- **Media Effect Theories-** Identify the basic theories of mediaeffects, explain the uses of various media effects theories.
- **Identity-** Identity work in networked publics, crafting a profile, Creating an Identity performance.
- **Privacy-** sharing publicly, navigating conflicting norms, achieving privacy by controlling the social situation, public by default, private through effort, social steganography, living with surveillance, privacy as a process.
- **Online & Offline Relationships-** ‘authenticity’ and ‘mediation’: the big concerns, ‘frame’ and ‘group’:

	<p>approaches to understand sociality, from intimacy to anonymity: scalable sociality, online identity: extended and new dimensions of daily life.</p> <ul style="list-style-type: none"> <li>• <b>Does it Make People Happy-</b> studies on social media and happiness, capacity and aspiration, enduring social values, temporary pleasure, social media and added stress.</li> <li>• <b>Inequality-</b> can it solve division, E biases in technology, racism in a networked age, segregation in everyday life, myspace vs. face book, networks matter.</li> <li>• <b>Effects of the Internet and Globalization-</b> on popular culture and Interpersonal communication, describe the effects of globalization on culture, Identify the possible effects of news migrating to the Internet, define the Internet paradox.</li> </ul>
<p style="text-align: center;"><b>MODULE –II</b> <b>INTERSECTION OF</b> <b>GOVERNMENT,</b> <b>SOCIETY AND</b> <b>SOCIAL MEDIA</b></p>	<ul style="list-style-type: none"> <li>• Social Media &amp; Democracy- evolution of public Sphere, democracy of public sphere, social media, democracy &amp; public sphere, Facebook as a public sphere, democracy in the age of google, Facebook and WikiLeaks*.</li> <li>• Issues Concerning Democracy, National Sovereignty, Personal freedom- cyberspace and national sovereignty, democracy and cyberspace, personal freedom, cyberspace and its Impact on specific rights and freedoms.</li> <li>• Digital Democracy- Its possible effects, explain how the Internet has changed citizens’ role in the political process, determine the differences between traditional campaigning and digital campaigning. False news, echo chambers, political harassment, unequal participation.</li> <li>• Media and Government- Facebook versus the FTC, government regulation on social media, describe the role of the FTC, explain the major duties of the federal communications Commission (FCC), describe deregulation and its effect on the media landscape.</li> </ul>

	<ul style="list-style-type: none"> <li>• Censorship and Freedom of Speech- explain the FCC's process of classifying material as indecent, obscene, or profane, describe how the Hay's Code affected 20th-century American mass media</li> </ul>
<p style="text-align: center;"><b>MODULE III</b> <b>OFFENCES RELATED</b> <b>TO SOCIAL MEDIA</b></p>	<ul style="list-style-type: none"> <li>• Social Networking Sites &amp; Crime: Is Facebook more than just a place to procrastinate.</li> <li>• Provisions under IT ACT,2000.</li> <li>• The Hackers (Authorized Access/ Unauthorized Access with Dishonest or Fraudulent Intent.</li> <li>• Cyber Stalking.</li> <li>• Creating Impersonating/ Fake accounts on social media.</li> <li>• Sending offensive messages through communication service, etc.</li> <li>• Buying Illegal things.</li> <li>• Challenge to the constitutionality of section 66A: Shreya Singhal V. UOI.</li> <li>• Publishing of obscene Information in electronic Form.</li> <li>• Definition of obscenity, test for obscenity in India, publication of obscene Information in electronic form, applying the miller test, The Information technology &amp; cyber obscenity, the information technology act &amp; cyber obscenity.</li> <li>• Combating child obscenity, convention on right of the child, Palermo protocol, ILO convention 182 on the worst form of child labour, convention on cybercrime, India's position with reference to international document, Punishment for publishing or transmitting of material depicting children in sexuality act, etc., in electronic form (Sec.67B of IT ACT).</li> <li>• Cyber terrorism through social media, why do terrorist rely on cyber space &amp; social media, use of social media for countering terrorist activity, united nation counter terrorism resolution, national security, Interception, blocking,</li> </ul>

	<p>protected system (Sec.69-70B, IT ACT), Its Interface with freedom of speech, and privacy &amp; right to be forgotten.</p> <ul style="list-style-type: none"> <li>• Social media &amp; data protection.</li> <li>• Breach of confidentiality &amp; privacy- privacy in the technology driven world (Cookies, Guid, Web Bugs, Email &amp; Document Bugs, Spyware, Online Digital Profiling), right to erasure.</li> </ul>
<b>MODULE IV FREEDOM OF SPEECH AND EXPRESSION IN CYBERSPACE</b>	<ul style="list-style-type: none"> <li>• National sovereignty &amp; freedom of expression, reasonable restriction, clear &amp; present danger, the Issue in online defamation, Ingredients, it all begins with publication, Indian perspective, Issue of Jurisdiction.</li> </ul>
<b>MODULE-V INVESTIGATION, ADMISSIBILITY OF EVIDENCE AND ARTIFICIAL INTELLIGENCE</b>	<ul style="list-style-type: none"> <li>• Investigation procedures on social media, social media monitoring &amp; Intelligence platforms, monitoring tools, jurisdiction in social media, no geographical limits, international law &amp; jurisdiction, personal jurisdiction,</li> <li>• U.S. approach, the “Effect Test” &amp; online Interaction, basis of jurisdiction, cause of action &amp; contractual obligations, Indian cases on personal jurisdiction in social media.</li> </ul>
<b>MODULE VI MISINFORMATION, DISINFORMATION, AND ONLINE PROPAGANDA</b>	<ul style="list-style-type: none"> <li>• Fake News / Disinformation, concept, essential Ingredients, how it works, role of social media platforms in disseminating fake news and its impact, challenges in tackling, government responses to disinformation on social media platforms (References from India, E.U, U.K, Russia, Australia etc., legislation against fake news, IT Act 2000, IPC,1860, disaster management Act, 2005, Role judiciary in curbing the fake news/ disinformation.</li> </ul>
<b>MODULE VII SEDITION, PREVENTIVE DETENTION LAWS USE AGAINST SOCIAL MEDIA</b>	<ul style="list-style-type: none"> <li>• The misuse of sedition and preventive detention laws in India to regulate speech on social media, Indian courts on social media, sedition being misused, critical social media post and sedition.</li> </ul>

<b>USERS</b>	
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## References

### Books and Articles

#### Articles

1. Bartash, Jeffry. "Amazon Drops Kindle Price to \$189," MarketWatch, June 21, 2010, <http://www.marketwatch.com/story/amazon-drops-kindle-price-to-189-2010-06-21>.
2. Brett, Andy. "The New York Times Introduces an iPad App," TechCrunch, April 1, 2010, <http://techcrunch.com/2010/04/01/new-york-times-ipad/>.
3. Goldman, Jim. "Apple Sells 1 Million iPads," CNBC, May 3, 2010, [http://www.cnbc.com/id/36911690/Apple\\_Sells\\_1\\_Million\\_iPads](http://www.cnbc.com/id/36911690/Apple_Sells_1_Million_iPads).
4. Guglielmo, Connie. "Apple iPad's Debut Weekend Sales May Be Surpassing Estimates," Businessweek, April 4, 2010, <http://www.businessweek.com/news/2010-04-04/apple-ipad-s-debut-weekend-sales-may-be-surpassingestimates.html>.
5. Helft, Miguel. "Tech's Late Adopters Prefer the Tried and True," New York Times, March 12, 2008, <http://www.nytimes.com/2008/03/12/technology/12inertia.html>.
6. Mokey, Nick. "Tech We Regret," Digital Trends, March 18, 2009, <http://www.digitaltrends.com/how-to/tech-weregret/>.
7. O'Hear, Steve. "Report: The iPad Won't Go Mass Market Anytime Soon," TechCrunch, May 12, 2010, <http://eu.techcrunch.com/2010/05/12/report-the-ipad-wont-go-mass-market-anytime-soon/>.
9. Oliver, Sam. "Preorders for Apple iPad Slow After 120K First-Day Rush," Apple Insider, March 15, 2010, [http://www.appleinsider.com/articles/10/03/15/preorders\\_for\\_apple\\_ipad\\_slow\\_after\\_120k\\_first\\_day\\_rush.html](http://www.appleinsider.com/articles/10/03/15/preorders_for_apple_ipad_slow_after_120k_first_day_rush.html).
10. Rogers, Everett M. Diffusion of Innovations, 4th ed. (New York: The Free Press, 1995).
11. Whitney, Lance. "Survey: 40 Percent in U.S. Have No Broadband," CNET, February 16, 2010, [http://news.cnet.com/8301-1035\\_3-10454133-94.html](http://news.cnet.com/8301-1035_3-10454133-94.html).
12. Wortham, Jenna. "The Race to Be an Early Adopter of Technologies Goes Mainstream, a Survey Finds," New York Times, September 1, 2009, <http://www.nytimes.com/2009/09/02/technology/02survey.html>.

#### Books:

- 1 Larissa Hjorth, Understanding Social Media, Second Edition, Sage
- 2 Jean Burgess, The Sage Handbook Of Social Media, First Edition, Sage
- 3 Jeremy Harris Lipschultz, Social Media Communication, Concepts, Practices, Data, Law And Ethics, Routledge
- 4 Daxton Stewart, Social Media And The Law: A Guidebook For Communication Students And Professionals, 2nd Edition Routledge
- 5 Brian Simpson, Young People, Social Media And The Law, Routledge
- 6 Laura Scaife, Handbook Of Social Media And The Law, Routledge
- 7 Patterson, Philip, Painter, Chad Media Ethics: Issues And Cases Rowman & Littlefield
- 8 Humphreys, Ashlee, Social Media: Enduring Principles, Oxford University Press
- 9 Nathaniel Persily, Social Media And Democracy (Src Anxieties Of Democracy) Cambridge University Press
- 10 Lipschultz, Jeremy Harris, Social Media Communication, Routledge
- 11 Fuchs, Christian, Social Media: A Critical Introduction, Sage

- 12 Mary T. Chayko, Super Connected: The Internet, Digital Media, And Techno-Social Life Third Edition, Sage
- 13 Silvio Waisbord Media Sociology: A Reappraisal, Rawat
- 14 Robert Hassan And Julian Thomas, The New Media Theory Reader, Rawat

#### Cases:

- SYED ASIFUDDIN V. STATE OF ANDHRA PRADESH, 2006 (1) ALD (CRI) 96; 2005 CRILJ 4314
- SANJAY KUMAR V STATE OF HARYANA P &H CRR NO. 66 OF 2013
- STATE OF A.P. THROUGH INSPECTOR OF POLICE, CYBER CRIMES P.S.,
- CID, HYDERABAD V. PRABHAKAR SAMPATH, ADD. CMM HYDERABAD, DECIDED ON 31/03/2015, CC 489 OF 2010
- NAASCOM V. AJAY SOOD, 119 (2005) DLT 596
- AVEEK SARKAR V. STATE OF WEST BENGAL (SC) CRIMINAL APPEAL NO. 902 OF 2004 DECIDED ON 3/2/2014
- STATE OF TAMIL NADU V. SUHAS KATTI, DECIDED BY CMM,
- SHREYA SINGHAL V U.O.I, SC DECIDED ON 24/03/2015
- MY SPACE INC. V. SUPER CASSETTES INDUSTRIES LTD., DELHI (DB), FAO(OS) 540/2011, C.M. APPL.20174/2011, 13919 & 17996/2015
- GOOGLE INDIA PVT LTD V. M/S VISAKA INDUSTRIES LTD, A P HIGH COURT CRL P NO, 7207 OF 2009 DT 19/4/2011
- SANJAY DHANDE V. ICICI BANK AND VODAFONE DECIDED ON 16/01/2014 COMPLAINT NO. 30 OF 26TH SEP.
- CHANDER KALANI V. SBI BANK, COMPLAINT NO. 1 OF 2014 DECIDED ON 12/01/2015

*Note: The list of cases has not covered all the cases, during lecture and on the basis of the decisions of the courts new case laws will be added and discussed in the classes.*