

**MAHATMA GANDHI UNIVERSITY**

**School of Indian Legal Thought**

**OBE Syllabus for One Year LLM**

**2020**

**FACULTY OF LAW**

**BRANCH - INTELLECTUAL PROPERTY RIGHTS**

**MAHATMA GANDHI UNIVERSITY**  
**School of Indian Legal Thought**

**Syllabus for One Year LLM**

**FACULTY OF LAW**

**BRANCH – INTELLECTUAL PROPERTY RIGHTS**

**VISION**

**Vision of Mahatma Gandhi University**

“Mahatma Gandhi University envisions excelling in the field of higher education and catering to the scholastic and developmental needs of the individual, through continuous creation of critical knowledge base for the society’s sustained and inclusive growth a sense of social justice”

**MISSION**

M1	<ul style="list-style-type: none"><li>To conduct and support undergraduate, postgraduate and research-level programmes of quality in different disciplines of legal studies</li></ul>
M2	<ul style="list-style-type: none"><li>To foster teaching, research and extension activities for the creation of new knowledge for the development of law and society</li></ul>
M3	<ul style="list-style-type: none"><li>To help in the creation and development of humanpower that would provide intellectual leadership to the community specifically marginalised section in the society.</li></ul>
M4	<ul style="list-style-type: none"><li>To provide skilled humanpower to the professional, industrial, administrative, hospital management and service sectors in the country so as to meet global demands and standards.</li></ul>
M5	<ul style="list-style-type: none"><li>To help promote the diverse cultural heritage of the nation and preserve the environmental sustainability, plurality and quality of life</li></ul>
M6	<ul style="list-style-type: none"><li>To cater to the holistic and comprehensive development of the region through legal interventions and academic leadership</li></ul>

**Commented [A1]:** Shall we include UG here?

## GRADUATE ATTRIBUTES OF MAHATMA GANDHI UNIVERSITY

### **Graduate Attribute 1: Interdisciplinary Knowledge, Skills and Attitude**

MGU graduates should be able to acquire interdisciplinary and cross disciplinary knowledge base, skills and attitudes as a consequence of the learning they engage with their programme of study. These qualities should equip students to live and work in a rapidly changing and complex globalized world.

### **Graduate Attribute 2: Equity, Sustainability, Diversity and Inclusiveness**

MGU graduates should acquire the spirit of equity, sustainability, diversity and inclusiveness during their course of study. They should acquire all the core ethical values to enable them to act as compassionate and dignified citizens

### **Graduate Attribute 3: Societal Interaction/Community Service**

MGU graduates should have the ability to acquire knowledge to disseminate it and actively engage with the world through community service.

### **Graduate Attribute 4: Net Working and Collaboration**

MGU graduates should acquire skills to be able to collaborate and build academic network with educational institutions, research organizations and industrial units in India and abroad.

### **Graduate Attribute 5: Lifelong Learning**

MGU graduates should be lifelong learners for the pursuit of continuous knowledge upgrading for either personal or professional reasons. This should enhance social inclusion, active citizenship, personal development, self-sustainability as well as competitiveness and employability to adapt with transformability of the society.

### **Program Education Objectives (PEO)**

PEO1	To make LL.M graduates conceptualize, critically analyze and acquire In-depth knowledge of law by imbibing in them the unique ability of synthesizing knowledge towards adding value in the areas law towards an advanced legal scholarship
PEO2	To promote lateral thinking by way of enabling LL.M graduates to see at the things from different perspectives there by making them to come out with significant solutions to address the complex legal problems of the current world.

PEO3	To inculcate a spirit of enquiry, so that Law Graduates search for facts and truths by developing methodologies that supports critical analysis and decision making. Enables the students to develop new perspectives through new methodologies to improve their understanding of transformative potential of law in an unjust world.
PEO4	To ignite the passion for legal research by orienting them in the application of research methodology and instill ability to recognize cause-and-effect relationships, define problems, formulate hypotheses, test hypotheses, analyse, interpret and draw conclusions from data, establish hypotheses, predict cause-and-effect relationships; and make them learn to select and apply in complex decision making processes and develop their capacity to intervene fruitfully in the law making and law implementing processes
PEO5	To inculcate a spirit of Ethics and Social Commitment in the personal and professional life of law graduates so that they add value to the society and take a lead role to address the issues of the marginalised sections in the society through legal interventions
PEO6	Compare the jurisprudential aspects between various legal systems across the globe and to develop best legal practices for adaptable for the nation.

PEO to Mission Statement Mapping

Commented [A2]: No idea ☹️ so not comments ☺️

MISSION STATEMENTS	PEO1	PEO2	PEO3	PEO4	PEO5	PEO6
M1	3	3	2	3	1	1
M2	1	2	2	3	3	2
M3	1	3	2	2	3	2
M4	3	1	3	2	3	2
M5	1	1	1	2	3	1
M6	3	3	2	3	1	3

Correlation: 3- High, 2-Medium, 1-Low

#### **PROGRAM SPECIFIC OUTCOME**

PO1 Demonstrate a solid grounding in the preliminary understanding of intellectual property law and develop in-depth as to how intellectual property rights ensures social justice

PO2 To construct a fundamental and systematic or coherent understanding of intellectual property rights, and its linkages with related disciplinary areas.

PO3 Demonstrate a comprehensive understanding of the legal aspects of the structure, history and values underlying and cotemporary debates in intellectual property rights in India

PO4 Identify complex situations that frequently present legal issues to the stakeholders of intellectual property rights and to develop in-depth understanding of the legal, social and economic factors associated with them

PO5 To acquaint, train and equip students with a comprehensive knowledge about intellectual property rights its bases and relationships with the human rights, constitutionality and competition law

PO6 To Demonstrate the ability to use the knowledge of intellectual property rights in formulating and tackling public health problems and identifying and applying appropriate health care principles, best practices and methodologies to resolve a wide range of problems associated to our diverse health care system like access to medicine and vaccines

PO7 Develop written and oral communication skills consistent with the conventions of the legal discipline and the high expectations of academic integrity.

## Structure of the Curriculum

### SILT

Branch: **Intellectual Property Rights**

#### Semester 1

S/no	Compulsory/ Elective	Course Title	Internal Marks	Marks for End Semester Examination	Credits	Marks
1	Common Compulsory course	Research Methodology, Teaching And Legal Writing	40	60	3	100
2	Common Compulsory course	Comparative Public laws/ Systems of Governance	40	60	3	100
3	Common Compulsory course	Law and Justice in a Globalizing world	40	60	3	100
4	SP1	Intellectual Property Rights- Conceptual Analysis	40	60	3	100
5	SP2	Law of Patents	40	60	3	100
6	SP3	Law Relating to Geographical Indications, Traditional Knowledge and Trade Secrets	40	60	3	100

Total 18 credits 600

**Semester 2**

	Compulsory/ Elective	Course Title	Internal Marks	Marks for End Semester Examination	Credits	Marks
1	SP4	Law relating to copyrights , and designs	40	60	3	100
2	SP5	Law relating to trademarks and passing off	40	60	3	100
3	Elective	Law,Science, Technology	40	60	3	100
4	Dissertation and Viva Voce				6	200 (Dissertation-175+ Viva Voce-25)
TOTAL					15	500
<b>GR AND TOTAL</b>					<b>33</b>	<b>1100</b>

## 1.SILT - RESEARCH METHOD, TEACHING AND LEGAL WRITING

### SEMESTER I

#### (Common Compulsory Paper) (CREDITS - 3)

##### Introduction and Course Objective

*The course objective is to familiarize the research methods used in legal research. Research methodology includes the philosophy and practice of the entire research process and use of the legal source material. The course also includes different types of research methods and different legal research and legal writing techniques in order to equip students for further legal research. In addition, the course covers the processing and presentation techniques of primary and secondary data in socio-legal research and the development of research topics for LL.M. Master's thesis.*

##### Course Outcomes (CO)

On successful completion of this Course, the students will be able to:

CO1 - Present a complex socio legal issue in a coherent and engaging manner and also to create the proper ways of citation, put away evaluate and create Blue Book, ILI Format and OSCOLA etc.

CO2 - Conduct effective doctrinal as well as empirical legal research by using fundamental tools of legal research.

CO3 - Understand and create accurate research methods for a legal health care issue.

CO4 - structure a research proposal to write a dissertation and to design research process.

CO5 - Write research papers/notes and case comments.

##### Mapping of course outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5	PO6	Po7
CO 1				✓	✓		
CO 2				✓	✓		



CO 3				✓	✓		
CO 4				✓	✓		
CO 5					✓		

### Course Content

<p><b>Module: I -</b></p>	<p><b>Research as a social science and scientific research</b></p> <p>Qualities of scientific research, meaning of research – nature and utility of research - pure and applied research - value of research – problems of objectivity in research – the research process – multidisciplinary approach to research - Notion of Research and knowledge -Specific Characteristics of Research - Types of Research -Doctrinal, Non-Doctrinal -Exploratory, Descriptive, Experimental -Qualitative, Quantitative - Longitudinal-Impact -Case Study -Attitude Measurement - Projective</p>
<p><b>Module: II</b></p>	<p><b>Formulation of problem in research</b></p> <p>Research problem identification- validation of research problem - formulation of research question - hypothesis, their nature and role – concepts and their role in investigation - research design- Hypothesis difference between proposition, hypotheses and theory. Types of hypotheses. Testing of hypothesis, and Operationalisation of the Hypotheses- Objectives of Study</p>

<p><b>Module: III</b></p>	<p><b>Doctrinal research - data collection</b> Doctrinal sources – primary and secondary sources –case study method – observation and interview - case books – writings – international documents – judgments of international bodies and superior courts of different countries– legislation – statutory instruments and judicial decisions</p>
<p><b>Module: IV</b></p>	<p><b>Non-doctrinal research</b></p> <p>Empirical research – census method of data collection – sMethodology - Sampling, Estimation: Types of sampling; Sampling distribution; Estimation; Confidence intervals for means; Confidence intervals for proportions.– optimum sampling – different methods for collection of data – interview, preparation of questionnaires – classification of data</p>
<p><b>Module: V</b></p>	<p><b>Statistical analysis of data and reporting</b></p> <p>Tabulation and graphical presentation of data –Use of Statistics in Social Sciences - Drawing of Inferences - Analysis/Interpretations – Jurimetrics - What is Impact? -Measuring of Impact— standard deviation – elements of probability study and its use in research – presentation of research reports – style of presentation - practical</p>

	experience in collection of data and analysis of data using computer and internet.
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### **Core Readings:**

1. Pauline V. Young, *Scientific Social Survey and Research*, Prentice Hall,(1966).
2. William J. Grade and Paul K. Hatt, *Methods in Social Research*, McGraw-Hill Book Company, London (1952).
3. H.M.Hyman, *Interviewing in Social Research*, University of Chicago, (1965).
4. Payne, *The Art of Asking Questions*, Princeton University Press (1980).
5. Erwin C. Surrency, B.Felf and J. Crea, *A Guide to Legal Research*, Oceanea Publications, (1966).
6. Morris L. Cohan, *Legal Research in Nutshell*, West Publishing Co., (1996).
7. *The Blue Book: A Uniform System of Citations*, Harvard Law Review Association, (2000).
8. *Legal Research and Methodology*, ILI Publication, (2001).
9. Manheim, *Sociological Research: Philosophy and Methods*, Doresy Press, (1997),Chs.6-17.
10. Morris L. Cohen, *How to Find the Law*, University of Michigan, (1989) Chs.1,13,17&18.
11. Peter Goodrich, *Reading the Law*, B. Blackwell, (1986) Ch.2.
12. John A Yogis, *Michalelosipeaea*, Philip. W. Whitehead, *Legal Writing and Research Manual*, Lexis NexisButterworths, (2004).

### **Suggested Readings:**

1. A.K. Phophalia, *Modern Research Methodology*, Paradise Publishers, 2010.
2. *Action Research in Crime Prevention*”, Report on an International Seminar on Use of Research as a Basis for Social Defency Policy and Planning, Denmark 20-23 Aug. 1973, pp. 28-37, 59-62, United Nations (1975).
3. Anwarul Yaqin, *Legal Research and Writing Methods*, LexisNexis Butterworths Wadhwa, Nagpur, 2008

4. Bailey, *Methods of Social Research*, pp. 18, 31-66 (1978)
5. Bakshi, P.M. "Legal research of Law Reform" in *Legal Research and Methodology*, 121, 217 (1983).
6. Baxi, U., "The Travails of Stare Decesis in India in" *Legal Change: Essay in Honor of Professor Julius Stone* ( 1983, A .R. B lack S hield E dn.) Butterworths, Sydney Australia.
7. Baxi, U., *Crisis of Indian Legal System*, 244-288 (1982).
8. Baxi, U., *Socio-Legal Research in India: A programmsschrift, Occasional Monograph* (1975). Department of Law, University of Delhi.
9. Baxi, U., *Towards Sociology of Indian Law* (1986).
10. *Blue Book the Uniform System of Citation*, (17th Ed. 2000).
11. C.R. Kothari, *Research Methodology: Methods & Techniques*, New Age International Publishers, 2006.
12. Eherllich, Ugen, *Fundamental Principles of the Sociology of Law*, 1-36.
13. Frederic Schauer, *Thinking like a Lawyer*, Harvard University Press, 2009
14. Friedman and Macaulay, *Law and the Behavioral Sciences*, pp. 308 -315, 372 - 399(1969)
15. George, Gadbois J r, ( ii) " Indian Supreme Court Judges: A Portrait", 3 *Law and Society Review*, 317-335 (1963).
16. George, Gadbois J r, ( iv) *The Supreme Court of India: A Preliminary Report of an Empirical Study*" 4 *Jr. of Constitutional and Parliamentary Studies*, 53-54 (1970).
17. George, Gadbois Jr, (i) "Participation in Supreme Court Decision Making" 24 *JILI* p. 1 (1982).
18. Gerald D .Berreman, " Ethnography: Method and Product" in V .K. Srivastava, *Methodology and Fieldwork* (Edit) 2004 Oxford.
19. Gibson, Colin S., " Legal Impact Analyses: The Ideal and the Practicable" in *Legal Research and methodology*, ILI, at 663.
20. Gupta and Deepa Gupta, *Research Methodology*, PHI, 2013
21. Jain, S.N., " Doctrinal and Non-doctrinal Research" in *Legal Research and Methodology*, ILI, 167 (1983)
22. Jain, S.N., "Legal Research and Methodology" in 14 *JILI* 487 (1972)
23. Jones, Ernest M., "Some Current Trends in Legal Research" in 15 *J our Leg. Edn.* 21 (1962-63).
24. Lindsay Prior, *Using Documents in Social Research*, Sage Publication, 2003.

25. M.N. Borse, Handbook of Research Methodology, Modern Methods And New Techniques, Srinivas Publication,2005.
26. Manual of Style for authors, Editors and Copy Writers, University of Chicago (13<sup>th</sup> ed. 1982).
27. Mark Abrahamson, Social Research Methods pp 197-331 (1983).
28. Michael G. Maxfield and Earl Babbie, Research Methods for Criminal Justice and Criminology, Thompson Learning, 2001.
29. Nanlin, Foundations of Social Research, pp. 15-4 (1976).
30. Pedekar, V.H. How to Write Assignments Research Paper, Dissertations and Thesis,(1982).
31. Peter Clough And Cathy, But Brown, A Students' Guide For Research Methodology, Sage Publication, 2002.
32. Price and Bitner, Effective Legal Research, 311-380.
33. Ram Ahuja, Research Methods, pp 52-91 (2001).
34. Robert Watt, Concise Legal Research, (4th Edt.) 2001.
35. Sadhu and Singh, Research Methodology in Social Sciences, (1983).
36. Sadhu and Singh, Research Methodology in Social Sciences, pp 1-34 (1983).
37. Stone, J., Social Dimensions of Law and Justice, 91-93.
38. Ullaman, W., The Medieval Idea of Law, 1-6 (1946).
39. Winston Jackson, Research Methods: Rules for Survey Design and Analysis, PHI,1988

## **2. SILT - COMPARATIVE PUBLIC LAW**

### **(Semester – 1) (Common Compulsory Paper- 3)(Credits 3)**

#### **Course Objective:**

*Public Law was first defined by Romans as res publica which meant Public Good. Public Law regulates the relationship between individual and the State. The three Constitutions identified for the comparative study (Constitution of United States of America, 1787, the Constitution of India, 1950, and the Constitution of South Africa, 1996) have differences as well as similarities in various aspects.*

*The aim of the course is to develop an in-depth understanding of Constitutions of the United States of America, India and South Africa in theory and practice. A comparative study of the fundamental constitutional doctrines of various legal systems will help the student to appreciate the strength and weakness of a particular legal system.*

**Course Outcome:**

After completing this paper, the students will be able to:

CO 1 - Understand the evolution of basic doctrines and its transformation into the foundations of the given Constitutions.

CO 2 - Understand about various forms of state and forms of government in theory and in practice.

CO 3 - Understand theoretically the methodology of comparing various legal systems in order to appreciate the strength and weakness of that system from its socio-economic and political background.

CO 4 - Evaluate the role of judiciary in interpreting and upholding constitutional rights.

CO 5 - Analyse the role of public law in the era of globalisation.

**Mapping of Learning Outcomes with program outcomes**

	PO 1	PO 2	PO 3	PO 4	PO 5	PO6	PO7
CO 1	✓						
CO 2		✓					
CO 3			✓				
CO 4					✓		
CO 5						✓	

**Course Content:**

<b>Module I</b>	Origin and development; Nature and Scope of Public Law- Distinction between Public Law and Private Law- Relevance, Significance and Types of Constitutions- § Comparative Study of Constitutions: Advantages & Problems in comparison
<b>Module II</b>	Constitutions of the United States, India and South Africa: An Overview- Constitutionalism – Essential Features-Doctrine of Separation of Powers – Application in US, India and South Africa- Rule of Law – Application in US, India and South Africa
<b>Module III</b>	Federalism- Models of Federalism- Application in US, India and South Africa-Constitutional Amendments in US, India and South Africa- Theory of Basic Structure- Origin and Development- Modes of Constitutional Review – Judicial Review – Limitations
<b>Module IV</b>	Constitutional Rights and Duties- Remedies for the violation of Constitutional Rights- Role of Judiciary in upholding Constitutional Rights- Growth and Development of Social Action Litigations
<b>Module V</b>	Implementation of International Obligations-Application of international law in the municipal-Legal systems of India, USA and South Africa-Role of Constitutions in the transformation of the society- Changing Role of Public Law in the era of Globalisation

**Suggested Readings:**

1. D. D. Basu, Comparative Federalism, (Wadhwa, 2008).
2. D. D. Basu, Comparative Constitutional Law, (Wadhwa, 2008).
3. Prof.Dr.A.Lakshminath, Comparative Law and Select Legal Systems, (Hind Law House,2011).
4. Granville Austin, The Indian Constitution: Cornerstone of a Nation, (Oxford University Press, 35<sup>th</sup> Impression, 2019).
5. Hilaire Barnett, Understanding Public Law,(Cavendish,2010).
6. Elisabeth Zoller, Introduction to Public Law: A Comparative Study, (MartinusNijhoff,2008).
7. Christopher Forsyth, et. al., Effective Judicial Review: A History of Indian Experience, (Oxford University Press, 2010).
8. Granville Austin, Working A Democratic Constitution: Cornerstone of a Nation, (Oxford University Press, 14<sup>th</sup>Impression, 2019).
9. David Strauss, The Living Constitution (Oxford University Press, 2010).
10. Dr.Subhash C Kashyap, Framing of Indian Constitution (Universal Law, 2004).
11. Elizabeth Giussani, Constitutional and Administrative Law (Sweet and Maxwell, 2008).
12. Erwin Chemerinsky, Constitutional Law, Principles and Policies (3rd ed., Aspen, 2006).
13. M.V. Pylee, Constitution of the World (Universal, 2006).
14. Mahendra P. Singh, Comparative Constitutional Law (Eastern Book Company, 1989).
15. Neal Devins and Louis Fisher, The Democratic Constitution (Oxford University Press, 2010).
16. Sudhir Krishna Swamy, Democracy and Constitutionalism in India – A Study of the BasicStructure Doctrine (Oxford University Press, 2009).



### 3. SILT - JUSTICE IN A GLOBALISED WORLD

#### Common Compulsory Paper

(Semester – 1) (Credits 3)

##### Introduction and Course Objective

In the era of globalization, no country of this world is untouched with its effect. This course builds on the understanding of law, justice and international law gained by students at the undergraduate level and this paper intent to provide them as an advanced knowledge. This course will discuss the debates surrounding globalization, justice, its changing meaning and the impact that it has on many fields of law. It will provide an understanding of how law and legal institutions have to change in order to maintain pace with the global rules. The shrinking policy space at the national level is also be discussed. The course will end with the demand for possible change in international law and global institutions heard from different quarters

##### Course Outcomes

After the successful completion of the course, the students will be able to:

CO1.Analyse the concept of Globalization and Its Impacts.
CO2.Understand the process of globalization and its impact on international as well as municipal law.
CO3.Analyse the concept and emerging issues of Law and Justice in a globalizing world
CO4.Evaluate the effect of globalization on law and justice nationally and internationally.
CO5.Analyse and suggest the reform in international law and working modalities of international institutions

**Mapping of Learning Outcomes with program outcomes**

	PO 1	PO 2	PO 3	PO 4	PO 5	PO6	PO7
CO 1	✓						
CO 2	✓						
CO 3					✓		
CO 4				✓			
CO 5							✓

**COURSE CONTENT**

<b>MODULE I</b>	<p><b>GLOBALIZATION: MEANING, REACH AND FORM</b></p> <p>Concept of state- different phases of growth- The concept of globalization – historical perspective- phases of colonialism- contemporary globalization- features, reach - specific emphasis on legal changes in the areas of environmental justice, labour, finance and trade, emergence of transnational law.</p>
<b>MODULE II</b>	<p><b>LAW AND GLOBALIZATION</b></p> <p>The impact of globalisation on nation states and their sovereignty- Treaty making power in India-legal changes in India and globalisation- Indian judicial process and globalization - Impact of Federalism and Democratic Law Making. Impact of globalization on Human Rights, Economic, social and cultural rights, human rights and human development, Trade Law Globalization and Free Market Impact on welfare state - Natural Resources Environment Displacement for Development Problem of Unemployment.</p>

<b>MODULE III</b>	<p><b>INTERNATIONAL INSTITUTIONS AND GLOBALIZATION</b></p> <p>Growing role of international institutions; globalization and the free market- democratic deficit in international institutions; international financial institutions, ILO, WTO; Environmental organizations, Global Administrative law, erosion of sovereignty- International Rule of Law</p>
<b>MODULE IV</b>	<p><b>GLOBALIZATION AND UNIVERSAL VALUES</b></p> <p>Concept of Global Justice, Cosmopolitanism Globalization and Social Justice/ Global Distributive Justice. Poverty and global justice, climate justice, economic justice labour justice, fair trade and marginalized group, justice delivery and globalization; Global constitutionalism</p>
<b>MODULE V</b>	<p><b>ENSURING JUSTICE IN A GLOBALIZED WORLD.</b></p> <p>Access to justice- legal literacy, legal aid, lokadalats, role of law commission, public opinion -lobbying subject committees and select committees</p>

#### **REFERENCES**

1. ANDHYARJUINA T.R. JUDICIAL ACTIVISM AND CONSTITUTIONAL DEMOCRACY (Tripathi 1992)
2. ANTHONY MCGREW, DAVID HELD (EDS.), GOVERNING GLOBALIZATION: POWER, AUTHORITY AND GLOBAL GOVERNANCE (Polity Press 2002).
3. CARDOZO THE NATURE OF JUDICIAL PROCESS (Yale University Press 1995)
4. FRIEDMAN- LAW IN A CHANGING SOCIETY (2<sup>nd</sup> Ed UNIVERSAL BOOK TRADERS 1996)
5. ISHWARA BHATT-LAW AND SOCIAL TRANSFORMATION (EBC, 2012)
6. JAYAKUMAR N.K. JUDICIAL PROCESS IN INDIA (APH Publishing Corporation 1997).
7. JULIUS STONE SOCIAL DIMENSIONS OF LAW AND JUSTICE (Universal Law Publishing Company 1999)

8. LAKSHMI NATH, PRECEDENT IN INDIAN LEGAL SYSTEM EBC (3<sup>rd</sup> ed, Lexis Nexis, 2009).

9. RUPERT CROSS PRECEDENT IN ENGLISH LAW (4<sup>th</sup> ed Oxford 1991)

#### **4. SILT- INTELLECTUAL PROPERTY RIGHTS-CONCEPTUAL ANALYSIS**

**(Semester – 1) (Branch CORE) (Credits 3)**

**COURSE TITLE:INTELLECTUAL PROPERTY RIGHTS-CONCEPTUAL ANALYSIS**

**CREDITS:3**

**SEMESTER: I**

**AIM:**

- To study the Economic and Constitutional Perspective of Intellectual Property Rights.
- To get a clear idea about the origin and development of WIPO and TRIPS Agreement
- To understand whether there is a conflict or convergence on IPR and Human Rights
- To get a basic introduction to all Conventions, Agreements and Treaties In the field of Intellectual Property
- Tracing out the Interface Between Intellectual Property Rights and Competition Policy

**COURSE OUTCOME**

- To trace out the origin and development of IPR and to do a comparative approach on the economic and constitutional perspective on IPR.
- To study on the origin and development of conventions of WIPO and TRIPS

- To Explore the relationship between patents, copyrights, trademarks vis a vis human rights and to understand whether fundamental right is a safeguard for the coherence of intellectual property law?
- To get a basic introduction to all Conventions, Agreements and Treaties in The Field of Intellectual Property
- To understand the relationship between intellectual property law, competition law and economic approach; principles of competition policy applied to patents, copyrights and trademarks-

#### Course Content

Module 1	<p><b>BASICS OF INTELLECTUAL PROPERTY RIGHTS</b></p> <p>History of intellectual property rights-Comparative Perspective-Concept of Property- An Overview- States role in property relation -Institution of Property and the Constitution-protection of property and Indian penal code- -interpersonal nature of intellectual property rights - different forms of property copyright, patent, trademark, Geographical indication, new plant varieties, traditional knowledge and genetic resources.</p>
Module 2	<p><b>INTELLECTUAL PROPERTY PROTECTION AS A QUID PRO QUO FOR DEVELOPMENT</b></p> <p>Economic Base of Intellectual property Rights - Theories- natural right justification- lockean principles-ingredients of lockean principle with their ip equivalent-personality theory-distributive justice theory- Third party effect in individual claim-connecting Rawls theory of social justice to intellectual property rights-distributional concern in Intellectual property Rights –the distributive mechanism in actual Intellectual property Rights law- Social benefit of intellectual property - development and its different aspects – relevance of access to information/knowledge and technology for development need for balancing IP protection with dissemination/transfer of information/technology - SMEs in the context of IP and development.</p>

Module 3	<p><b>CONSTITUTIONAL AND HUMAN RIGHTS PERSPECTIVE OF INTELLECTUAL PROPERTY RIGHTS.</b></p> <p>Constitutional Dimensions of Intellectual Property Rights- Constitutionalization of Intellectual Property Rights- IPR and Human Rights Conflict or Convergence? Theoretical Approach- Art.27(1) of UDHR-Art.15(1) © of ICCPR-Art.10(1), (2) of ECHR-Art.7 &amp; 8(1) of TRIPS-Exploring the relationship between patents, copyrights, trademarks vis a vis human rights-Is fundamental rights a safeguard for the coherence of intellectual property law?</p>
Module 4	<p><b>DEFINING INTELLECTUAL PROPERTY RIGHTS</b></p> <p>The difficulty of defining intellectual property-The importance of defining intellectual property-the symbolic strength of intellectual property-the strategy employed by corporations and industry bodies –a critique-common methods of defining intellectual property- definition by enumeration- defining intellectual property as a type of property-stipulative definition-intuitive definition and intangibility-the inadequacy of common definitional methods Constructing intellectual property’s institutional facts-intellectual property as a legal fiction- intellectual property’s conceptual building blocks-ideational object-intellectual property object-documented form-creator-originality-critique-overlapping IPR</p>
Module 5	<p><b>Intellectual Property Rights and Development</b></p> <p>Copyright - meaning and scope - requirements for protection - originality, idea/expression dichotomy - inbuilt mechanisms for balancing copyright protection with societal interest - eligibility (minimum standards) for protection, term, limitations and exceptions, doctrine of exhaustion.</p> <p>Patent – standards of Patentability – subject matter of protection - limitations and exceptions, doctrine of exhaustion – Trademark – standards – consumer deception.</p>

	Concept of collective property - GI and TK - difference from formal IP regime - beneficiaries of protection - as opposed to modern creators/innovators, traditional creators/innovators
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**Mapping of Course Outcomes with program outcomes**

	PO 1	PO 2	PO 3	PO 4	PO 5
CO 1	✓	✓		✓	
CO 2		✓		✓	
CO 3				✓	
CO 4				✓	
CO 5				✓	

## ASSESSMENT

**Continuous Assessment:** (40%)

**End-semester Assessment:** (60 %)

## READING LIST:

### BOOKS: -

1. ALEXANDRA GEORGE-CONSTRUCTING INTELLECTUAL PROEPRTY(CUP2012)
2. PHILIP.W. GRUBB, *PATENTS FOR CHEMICALS, PHARMACEUTICALS AND BIOTECHNOLOGY FUNDAMENTALS OF GLOBAL LAW, PRACTICE AND STRATEGY* (4<sup>TH</sup> ED., OUP 2006)
3. *HALSBURYS LAWS OF INDIA VOL 20(2)*
4. GREGORY.A. STOBBS-*SOFTWARE PATENTS* (2<sup>ND</sup> ED., WOLTERS KLUWER)
5. PAUL.L.C. TORREMANS, *IP AND HUMAN RIGHTS* (WOLTERS KLUWER 2008)
6. ALFREDO ILARDI AND MICHAEL BLAKENEY-*INTERNATIONAL ENCYLOPAEDIA OF IP TREATIES* (OUP., 2004)
7. GUSTAVO GHIDINI, *IP AND COMPETITION LAW THE INNOVATION NEXUS* (EE., 2007)
8. TIMOTHY M. SWANSON, *IP RIGHTS AND BIODIVERSITY CONSERVATION* (CUP., 1998)
9. WILLIAM VAN CAENEGEM-*INTELLECTUAL PROPERTY LAW AND INNOVATION*(CAMBRIDGE.,2007)
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11. WILLIAM R. CORNISH, *IP IN THE NEW MILLENNIUM* (CUP., 2005)
11. RICHARD HACON, *EUROPEAN PATENT LAW* (KLUWER LAW INTERNATIONAL) (2007)
12. *INTELLECTUAL PROPERTY MANUAL*, LEXIS NEXIS BUTTERWORTHS.



13. RICHARD A SPINELLO, INTELLECTUAL PROPERTY RIGHTS IN NETWORKED WORLD THEORY AND PRACTICE
14. PETER VANDEN BOSSCHE- THE WORLD TRADE ORGANIZATION TEXT CASES AND MATERIALS CAMBRIDGE UNIVERSITY PRESS, 2013
15. JOHANNA GIBSON INTELLECTUAL PROPERTY, MEDICINE AND HEALTH (ASHGATE, 2009)
- 16.HOLGER HESTERNEYER, HUMAN RIGHTS AND THE WTO(OUP,2008)
- 17.ROBERT P. MERGERS, JUSTIFYING INTELLECTUAL PROPERTY (HARVARD UNIVERSITY PRESS) (2011)
18. MATTHEW FISHER, FUNDAMENTALS OF PATENT LAW- INTERPRETATION AND SCOPE OF PROTECTION (HART PUBLISHING COMPANY) (2010)
- 19.DOUGLAS A. IRWIN, THE GENESIS OF GATT. CAMBRIDGE UNIVERSITY PRESS
20. R.S BHALLA, THE INSTITUTION OF PROPERTY: LEGALLY, HISTORICALLY AND PHILOSOPHICALLY REGARDED, EASTERN BOOK CO., (1984)
- 21 PENNERS, THE IDEA OF PROPERTY IN LAW, CLARENDON PRESS, OXFORD (1997)
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- 23 COPINGER&SKONE JAMES ON COPYRIGHT, SWEET & MAXWELL, (LATEST EDITION)
- 24 TERREL ON THE LAW OF PATENTS, SWEET & MAXWELL, ILLUSTRATE (18<sup>TH</sup>EDN. 2019)
- 25 KERLY'S LAW OF TRADEMARKS AND TRADE NAMES, SWEET & MAXWELL, (LATEST EDITION)

- 26 SILKE VON LEWINSKI (ED.), INDIGENOUS HERITAGE AND INTELLECTUAL PROPERTY: GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE, KLUWER INTERNATIONAL, (2008)
- 27 LATHA R NAIR AND RAJENDRA KUMAR, GEOGRAPHICAL INDICATIONS: A SEARCH FOR IDENTITY, BUTTERWORTHSWADHWA, (2005)
- 28 SUSAN SELL ET.AL, WHO GOVERNS THE GLOBE? CAMBRIDGE UNIVERSITY PRESS, (2010)

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17. John Odell (ed.), Negotiating Trade: Developing countries in the WTO and NAFTA, Cambridge University press, (2006)
18. . Gustavo Ghidini, Intellectual Property and Competition Law: The Innovation Nexus, Edward Elgar, (2006)
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20. Susan K Sell, Private Power, Public law ; The Globalisation of IPR, Cambridge University press, (2006)

## **5. SILT- LAW OF PATENTS**

**(Semester – 1) (Branch CORE) (Credits 3)**

**COURSE TITLE: LAW OF PATENTS**

**CREDITS:3**

**SEMESTER: I**

### **Introduction and Course Objectives**

*Technological developments are the order of today's world. It is undoubtedly the obligation of every State to create an environment which fosters such innovations which includes the patent system. At the same time access to these innovations is a more important interest that the law needs to protect. The objective of this paper is to expose the students to the nuances of the patent law regime. This will be done through the exploration of what gets protected under the patent regime and the scope of such protection. One of the major areas of concern raised because of patents is access to medicines. The paper focuses on this issue on how the law and policy has to be construed to ensure there is adequate access to medicines and medical devices.*

### **Course Outcomes**

After the successful completion of the course, the students will be able to:

CO 1: Discuss patent as a mechanism to foster human rights.

CO 2: Explain the concept of right to health in the context of access to medicines and related products.

CO 3: Analyse the extent to which health related products can be accommodated into the patent regime.

CO 4: Evaluate the functioning of the systems within the patent regime which foster access to medicines.

CO 5: Develop patent policies which are sensitive to health and related issues.

**Mapping of Course Outcomes with program outcomes**

	PO 1	PO 2	PO 3	PO 4	PO 5
CO 1	✓	✓		✓	
CO 2		✓		✓	
CO 3				✓	
CO 4				✓	
CO 5				✓	

<b>Module 1</b>	<p><b>NATURE AND FUNCTION OF THE PATENT SYSTEM</b></p> <p>Historical origin – rationale of protection –Nature and function of the patent system – economic rationales – incentive to invent – incentive to disclose – patents as tool for economic development – the internationalization of patent law – Articles 27-34 TRIPS -first to file versus first to invent system – Mashelkar Committee Report role in fostering human rights like access to scientific information – invention related to living entities – their ownership and further use - classification of pharmaceutical patents.</p>
<b>Module 2</b>	<p><b>Subject matter and Standards</b></p> <p>Patentable subject matter in India – What may be patented? –Notion of invention – what are not inventions – challenges posed by new technological developments – test of novelty – inventive step – capable of industrial application Patentable inventions and exceptions to patentability – Comparative perspective with specific reference to EPC and USA-<i>Bilski v. Kappos</i> 130 S. Ct. 3218, 561 US, 177 L. Ed. 2d 792 (2010).– Inventions not Patentable – <i>Diamond V. Chakrabarty</i>, 447 U.S 303 (1980), <i>O’Reilly v. Morse</i>,</p>

	<p>56 U.S 62, <i>Lab. Corp of America v. Metabolit labs</i>, 126 S.Ct. 98 (2006) in re <i>Nuijten</i> (CAFC, Sept. 20,2007)- Natural substances and living things <i>Parke-Davis C. v. H.K Mulford &amp; Co.</i>, 189 F. 95 (SDNY 1911) <i>Funk Bros. Seed Co. v. Kalo Inoculat Co.</i> 333 U.S 127 (1948) – Patentable subject matter in India – exceptions to patentability S.3 and S.4 of Indian Patent Act</p>
<b>Module 3</b>	<p><b>Concept of Access to medicine</b></p> <p>Justifications for pharmaceutical patents – application of patent standards in pharmaceutical inventions.</p>
<b>Module 4</b>	<p><b>Other measures to ensure access to medicines</b></p> <p>Specific compulsory licenses – Bolar exceptions – protection of test data – alternative to patents. educational use – governmental use – compulsory licence – parallel import</p>
<b>Module 5</b>	<p><b>Patents and Biotechnology</b></p> <p>Challenges in patentability standards and patentable subject matter created by biotechnology – novelty, non-obviousness and utility of biotechnology inventions – statutory requirements and judicial interventions in USA and UK.</p> <p><b>Patent Act, 1970 and Biotechnology</b> Excluded subject matters – patentability standards – Guidelines for the examination of Biotechnology patents in India. <b>Modern Biotechnology and challenges for Patent Law</b> Biotech patents and their implications on development – recombinant technology - stem cell research - synthetic biology - effect of research tools and upstream patents on development.</p>

#### ASSESSMENT

**Continuous Assessment:** (40%)

**End-semester Assessment:** (60 %)

## READING LIST

1. Phoebe Li, *Health Technologies and International Intellectual Property Law: A Precautionary Approach*, Routledge Research in Intellectual Property, 2014. See Part I, Chapter 1.2 and Chapter 5.
2. Joo-Young Lee, *A Human Rights Framework for Intellectual Property, Innovation and Access to Medicines*, Routledge Publishers, 2015, see Chapters 2 to 4 and 7.
3. JakkritKuanpoth, *Patent Rights in Pharmaceuticals in Developing Countries: Major Challenges for the Future*, Edward Elgar Publishing Ltd, 2011.
4. Thomas Pogge, Matthew Rimmer, Kim Rubenstein (Eds), *Incentives for Global Public Health: Patent Law and Access to Essential Medicines*, Cambridge University Press, 2010.
5. E. Wyndham Hulms, "The History of Patent System under the Prerogative and at Common Law, 12 L.Q. R.141, 13 L.Q.R. 313 & 16 L.Q.R. 44
6. Hughes J. "Philosophy of Intellectual Property" 77 *The George Town Law Journal* 285
7. Peter Drahos, *A Philosophy of Intellectual Property*, Dartmoth, (1996)
8. Terrel on the law of Patents, Sweet & Maxwell (18th Edn. 2019)
9. The Paris Convention 1883
10. Bodenhausen, *Guide to the Application of Paris Convention for the Protection of Industrial Property*, WIPO (2004)
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13. Terence P. Stewart, *GATT Uruguay Round: Negotiating History*, Kluwer Law International (1999)
14. Reichman, Jerome, *Of Green Tulips and Legal Kudzu: Repackaging Rights in Subpatentable Innovations*, 2003
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18. Aaron Xavier Fellmeth, "Secrecy, Monopoly, and Access to Pharmaceuticals in International Trade Law: Protection of Marketing Approval Data Under the TRIPS Agreement" 45 *Harvard International Law Journal* 443 (2004)
19. Amy Kapczynski, "Harmonization and Its Discontents: A Case Study of TRIPS Implementation in India's Pharmaceutical Sector" 97 *California Law Review* 1571 (2009)
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23. Canada – patent protection of pharmaceutical Products WT/DS 114/R 8.
24. Graham Dutfield, "Delivering Drugs to the Poor: Will the TRIPS Amendment Help?" *American Journal of Law and Medicine* 1, (2008)
25. Frederick M. Abbott, "The WTO Medicines Decision: World Pharmaceutical Trade and the Protection of Public Health" 99 *American Journal of International Law* 317 (2005)
26. Janice M. Mueller, "The Tiger Awakens: The Tumultuous Transformation of India's Patent System and the Rise of Indian Pharmaceutical Innovation" 68 *University of Pittsburgh Law Review*, 491 (2007)
27. K M Gopakumar, "Twenty Years of TRIPS Agreement and Access to Medicine : A Development Perspective", *Indian Journal of International Law* , 55(3), 367-404 (2015)
28. Gopakumar K.M. "Product Patents and Access to Medicines in India: A Critical Review of the Implementation of TRIPS Patent Regime," *The Law and Development Review*, De Gruyter, vol. 3(2), pages 326-368 (2010).
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40. Graham Dutfield, Intellectual Property Rights and the Life Science Industries: Past, Present and Future (Latest Edition)

#### Useful websites

1. UNDP HIV/AIDS [http://www.undp.org/content/undp/en/home/librarypage/hiv-aids.html?rightpar\\_publicationlisting\\_start=10](http://www.undp.org/content/undp/en/home/librarypage/hiv-aids.html?rightpar_publicationlisting_start=10)
2. South Centre <https://www.southcentre.int/>
3. WHO PHI <http://www.who.int/phi/en/>
4. WHO CIPIH Background Papers <http://www.who.int/intellectualproperty/studies/en/>
5. WIPO [http://www.wipo.int/policy/en/global\\_health/](http://www.wipo.int/policy/en/global_health/)
6. WTO <https://www.wto.org/>
7. Program on Information Justice and Intellectual Property <http://www.pijip.org/>

8. ICTSD <http://www.ictsd.org/>
9. IPRS online <https://www.iprsonline.org/>
10. Commission on Intellectual Property Rights <http://www.iprcommission.org/>
11. IMAK <http://www.i-mak.org/>
12. TWN [www.twn.my](http://www.twn.my)
13. MSF <http://www.msfacecess.org/>
14. KEI <http://www.keionline.org/>
15. Health GAP <http://www.healthgap.org/>
16. IFPMA <http://www.ifpma.org/>
17. American Enterprise Institute <https://www.aei.org/>

AIPLA <http://www.aipla.org/Pages/default.aspx>

**Suggested Readings :**

1. Rochelle C. Dreyfuss, Jane Nielsen and Dianne Nicol, Patenting nature: A Comparative Perspective, *Journal of Law and the Biosciences*, 2018.
2. Hughes J. "Philosophy of Intellectual Property", 77 *The George Town Law Journal* 285.
3. M.D. Trevan, S Boffey, K.H. Goulding and P. Stanbury, *Biotechnology; The Biological Principles*, Tata Mc Graw Hill (1987)
4. Terence P. Stewart, *GATT Uruguay Round: Negotiating History*, Kluwer Law International (1999)
5. Reichman, Jerome, *Of Green Tulips and Legal Kudzu: Repackaging Rights in Subpatentable Innovations*, 2003

**6. SILT- LAW RELATING TO GEOGRAPHICAL INDICATIONS, TRADITIONAL  
KNOWLEDGE AND TRADE SECRETS**

**(Semester – 1) (Branch CORE) (Credits 3)**

**Course Title: Law Relating to Geographical Indications, Traditional Knowledge and Trade Secrets**

**CREDITS:3**

**SEMESTER: I**

**AIM:**

The programme aims to provide you with an advanced knowledge of substantive intellectual property law such as Geographical Indications, Trademarks, Trade secrets, unfair competition etc. and of the place and role of intellectual property within domestic, regional and international contexts.

**COURSE DESCRIPTION:**

This programme enables you to develop a fully rounded understanding of all of the major intellectual property rights such as Geographical Indications, Trademarks, Trade secrets, unfair competition, their role in society and the impact of intellectual property (IP) on global economics and development. The programme also focuses on global policy-making and the framework of international treaties that govern intellectual property law. It also offers an additional practical perspective, enabling you to develop your understanding of the legal aspects of managing intellectual property.

**Course Objectives**

*The notion of property particularly intellectual property is that it is a private right vested on 'a' person in rem. But much of the knowledge we use on a day today basis has been generated*

*not by any particular individual but the society and so is its application. The purpose of this paper is to expose the students the certain kinds of property, not in the whole traditional sense, which has been created generations before and still in use and contributes much to the present generation. The paper also makes one critically examine the extent to which information per se can be protected within the IP regime and also how products of nature.*

### **Course Programme Outcomes**

After the successful completion of the course, students will be able to:

PO1 - Understand the concept of collective property

PO2 - Evaluate the distinction between the different forms of collective property and their rationale

PO3 -To understand and appreciate the present protection available to these different forms.

PO4 - To evaluate the relevance of protection of these properties to a developing country like India

PO5 -Construct policies for better protection of collective properties from developing country perspective.

### **Mapping of CourseOutcomes with program outcomes**

	<b>PO 1</b>	<b>PO 2</b>	<b>PO 3</b>	<b>PO 4</b>	<b>PO 5</b>
<b>CO 1</b>	✓	✓		✓	
<b>CO 2</b>	✓	✓		✓	
<b>CO 3</b>		✓		✓	
<b>CO 4</b>		✓		✓	
<b>CO 5</b>		✓		✓	

## Course Content

<b>MODULE 1</b>	<b>Notion of Collective property</b>  Rationale of protection – justification to include within intellectual property regime–right to common heritage and bio-diversity
<b>Module II – Geographical Indications</b>	Historical Background-Introduction-.- Geographical Indications- An Overview - Meaning of Geographical Indication – Geographical Indications as a form of Intellectual Property Right - Indication of Source-Appellations of Origin – Geographical Indications and Other forms of Intellectual Property Rights – Comparison with Trademark and Traditional knowledge –Protection of Geographical Indications – Paris Convention – The Madrid Agreement – The Stresa Convention on Particular Varieties of Cheese – The Lisbon Agreement for the Protection of Appellations of Origin – Bilateral and Plurilateral Agreements – NAFTA – GATT - TRIPS – Emerging Issues – TRIPS Art 22 and 23 Comparison – Art.23 Controversy – Art 24- Negotiations under TRIPS – Protection of Geographical Indications in other Economy – US – UK – European Union Need to Protect Geographical Indications –Indian Perspective – Initiatives taken by Indian Judiciary – Definition of Geographical Indications – Comparison with Art.22 of TRIPS – Registration of Geographical Indication – Effect of Registration – Infringement and Remedies – Penalties – Power of Registrar – Conflicts and Controversies on GIs – Contemporary Issues – Protecting Indigenous knowledge -

<b>Module III - Genetic Resources</b>	Meaning of Genetic Resource – issues of patenting – protection through plant variety – access and benefit sharing – benefit sharing mechanism
<b>Module IV – Traditional Knowledge and traditional cultural expressions</b>	Concept – available kinds of protection – challenges of protection – issues of identifying subject matter, standards and owner – notions of prior informed consent and benefit sharing– <b>Traditional Cultural Expressions</b> Concept – challenges of protection – issues of identifying subject matter, standards and owner
<b>Module V</b>	<b>TRADE SECRETS-</b> What is trade secrets-Importance of Trade Secrets-Protection of Trade Secrets A Comparative Perspective-Confidential Information- Application of Confidential Information to Employer Employee relationship- Remedy available to a Trade Secrets Owner-Position in U.K. Position in US- The Indian standards relating to Trade Secrets

**ASSESSMENT**

**Continuous Assessment:** (40%)

**End-semester Assessment:** (60 %)

## READING LIST

### GEOGRAPHICAL INDICATION

#### BOOKS

1. DEV GANJEE, RELOCATING THE LAW OF GEOGRAPHICAL INDICATIONS (2012).
2. BERNARD O'CONNOR, THE LAW OF GEOGRAPHICAL INDICATIONS<sup>35</sup> (Blisset Group, Great Britain 2007).
3. CARLOS M CORREA, GEOGRAPHICAL INDICATIONS IN OXFORD COMMENTARIES ON THE GATT? WTO AGREEMENTS IN A COMMENTARY ON THE TRIPS AGREEMENT 240 (Oxford University Press, 2007).
4. COERPER, THE PROTECTION OF GEOGRAPHICAL INDICATIONS IN THE USA, WITH PARTICULAR REFERENCE TO CERTIFICATION MARK, INDUSTRIAL PROPERTY 232, (July August ,1990)
5. C.BASAVAIHAH, INTELLECTUAL PROPERTY RIGHTS in M.Ashok Kumar and Mohd.Iqbal Ali (Ed.) INTELLECTUAL PROPERTY RIGHTS 119 (Serial publications, 2008).
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7. DR.G.B. REDDY, INTELLECTUAL PROPERTY RIGHTS AND THE LAW 50 (3<sup>rd</sup> ed.,2003)
8. Dr. PrabuddhaGanguli, *GI its evolving contours*, available at [www.iips.ac.in](http://www.iips.ac.in) accessed on 9.10.2010 at 9.00pm.
9. DR SREENIVASULU N.S, "PROTECTION OF GEOGRAPHICAL INDICATIONS IN INDIA" IN DR. SREENIVASULU N.S. (Ed.); in INTELLECTUAL PROPERTY RIGHTS, (2<sup>nd</sup> ed., 2011).
10. DR. S.R. MYNENI, LAW OF INTELLECTUAL PROPERTY, (5<sup>th</sup> ed., 2009).

11. F.DE ZULUETA, THE INSTITUTES OF GAIUS, (Clarendon Press Oxford, 1946).
12. F.I.SCHECHTER, THE HISTORICAL FOUNDATIONS OF THE LAW RELATING TO TRADE MARKS, (Harward University Press, Cambridge, 1925).
13. GERVAIS DANIEL, THE TRIPS AGREEMENT: DRAFTING HISTORY AND ANALYSIS 128 (Sweet and Maxwell, 1998).
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15. I. KANT, CRITIQUE OF PRACTICAL REASON AND OTHER WORKS ON THE THEORY OF ETHICS, (Longman and Green and Co, 1879).
16. J.LOCKE, SECOND TREATISE OF GOVERNMENT, 27 (Blackwell, 1976).
17. LATHA R NAIR AND RAJENDRA KUMAR, GIS: A SEARCH FOR IDENTITY (Lexis Nexis Butterworth publications, 2004).
18. MANU LUV SHAHALIA, PERSPECTIVES IN I.P LAW MANY SIDES TO A COIN IN GEOGRAPHICAL INDICATIONS AND ENVIRONMENTAL LAW (Universal law publishing co.pvt. ltd., 2003).
19. MARSHA A. ECHOLS, GEOGRAPHICAL INDICATIONS FOR FOOD PRODUCTS INTERNATIONAL LEGAL AND REGULATORY PERSPECTIVES 115 (Wolters Kluwer, 2008).

#### ARTICLES

1. A.K. Ganguli, "Right to Property: Its Evolution and Constitutional Development in India" 48 *JILI* 489 (2006).
2. A. Brudner, "Hegel and the Crisis of Private Law" 10 *CLR* 949 (1989).
3. A. Brudner, "The Unity of Property Law", 4 *CJLJ* 3 (1991).
4. Albert Conrad, "The Protection of GI in the TRIPS Agreement". 86 *T.M.R.* 11(1996).



5. Addor Felix and Alexandra Grazoli, "Geographical Indications beyond Wines and Spirits: A Roadmap for a Better Protection for GIs in the WTO TRIPS Agreement" 5(6) *JWIPRS* 882 (2002).
6. C. Niranjan Rao, "Geographical Indications in the Indian context: A case study of Darjeeling Tea" 40 *EPW* available at <http://www.jstor.org/stable/4417300> accessed on 17.3.2011 at 11.30am.
7. David Downes, "How Intellectual Property Could be a Tool to Protect Traditional Knowledge" 25 *Colum.J.Envntl.L.* 253 (2000).
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10. Irene Calboli, "Expanding the protection of Geographical Indications of origin under TRIPS: "old" debate or "new" opportunity?" *MIPLR* 10 (2006)
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19. Marshal A.Echols, "Geographical Indications for Foods, TRIPS and the Doha Development Agenda" 47 *JAL* 199 (2003).
20. Michael Blakeney, "Proposals for the International Regulation of Geographical Indications" 4 *JWIPRS* 629 (2001).
21. Michael Halewood, "Indigenous and Local Knowledge in International Law: A Preface to *Sui Generis* Intellectual Property Protection", 44 *McGill L.J.* 953 (1999).
22. MontenLina, "GI of origin: Should they be protected and why? An analysis of the issue from the US and EU perspectives", *Santa Clara computers and High technology Law Journal*, 2006 available at [http://www.accessmylibrary.com/com/2/summary\\_0286\\_14995630\\_ITM](http://www.accessmylibrary.com/com/2/summary_0286_14995630_ITM) accessed on 27.3.11 at 8.00pm.
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#### **ACT AND RULES:**

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#### **ASSESSMENT**

**Continuous Assessment:** (30%)

**End-semester Assessment:** (70 %)

### **7.SILT- LAW RELATING TO COPYRIGHTS AND DESIGNS**

**(Semester – 2)**

**(Branch CORE) (Credits 3)**

**COURSE TITLE: LAW RELATING TO COPYRIGHTS AND DESIGNS**

**CREDITS: 3**

**SEMESTER: 2****AIM:**

The course aims to make conversant the students about the idea of copyright, its international and national legal scenario. The insight into the copyright law of India describing the classes of copyrightable works coupled with exclusive rights and the limitations to these rights on various grounds helps to augment the knowledge. The idea into the moral rights of a copyright owner and relevance of protection of designs in the modern age forms another core area of the study.

**COURSE DESCRIPTION:**

The students will be introduced to the concept of copyright from traditional to contemporary aspects. An effective understanding of the exclusive, moral and economic rights of copyright owners through analysis of various legislations and understanding judicial pronouncements will be made. In depth study on the basis of critical reading, oral presentations coupled with group discussions and written assignments form the part of the course.

**Course Objective**

*It is impossible to imagine a day without watching television or listening to music or reading a book or accessing news. This goes to show how on a day-to-day basis we are depended on copyrighted work. This makes it necessary to streamline works for which copyright protection can be afforded along with how the right has to be construed to protect public interest. To ensure this, the paper looks into the rationale of copyright protection, what and when works would be protected and whether this goes in sync with the rationale of copyright. The paper further examines how public interest and access is protected through copyright mechanism and how intermediaries who facilitate this are dealt under the law.*

**Course Outcome**

After the successful completion of the course, the students will be able to:

CO 1 - Understand the relevance of copyright as an instrument for protecting human rights.

CO 2 - Examine the existing structure of the Indian copyright regime

CO 3 - Analyse and assess how and when new technology-based works need to be afforded copyright protection.

CO 4 - Understand the role of the different actors in the various copyright-based industries and how their interest needs to be balanced.

CO 5 - Construct balanced copyright policy with the evolution of new technologies

**Mapping of Course Outcomes with program outcomes**

	PO 1	PO 2	PO 3	PO 4	PO 5
CO 1	✓	✓		✓	
CO 2		✓		✓	
CO 3		✓	✓	✓	
CO 4		✓	✓	✓	
CO 5			✓	✓	

Module 1	<p><b>Evolution of Copyright</b></p> <p>Historical origin – rationale of protection – role in fostering human rights like access to information, promotion of education, cultural life – role as a development agent</p>
Module II	<p><b>Subject matter and standard</b></p> <p>Concept of originality – idea/ expression dichotomy – works covered – challenges to protection of <b>SPECIAL CATEGORIES OF WORK</b> sound recording, computer programs and computer generated works.- Computer Software (Software As a “Literary Work”, Protection of the Code Itself, Protection of Structure and “Look and Feel”, Compilations and Databases, Historical and Factual Material, Utilitarian Works and</p>

	Industrial Design, “Useful Articles”, Separability of Form and Function, Sui Generis Protection for “Mask Works” and Vessel Hulls, Architectural Works, Sound Recordings, Fictional Characters). <b>EXCLUDED WORKS:</b> Intangible Expression: Unfixed Works, The Idea/Original Expression Continuum- Doctrine of Merger and Scenes à Faire.
<b>Module III</b>	<b>Rights and ownership</b>  Rights – economic and moral – scope – availability in digital context; Authorship and Ownership – relation with creativity – automatic transfer
<b>Module IV</b>	<b>Limitations and Exception</b>  Scope of personal use, educational use, protection of cultural life – other mechanisms to foster/ hamper access – protection of intermediaries who facilitate access.
<b>Module V – Related rights</b>	Relation to copyright – protection to performers – rationale and scope; protection to broadcasting organisation – rationale and scope – role in facilitation of access.

**READING LIST:**

**BOOKS**

1. P. NARAYANAN, COPYRIGHT AND INDUSTRIAL DESIGNS, EASTERN LAW HOUSE (2012)
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**ARTICLES:**

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10. Pamela Samuelson *et.al*, "A Manifesto Concerning the Legal Protection of Computer Programmes", 1994 Columbia Law Rev. 2308.
11. Scoping study on copyright and related rights and public domain, CDIP/4/3/REV./STUDY/INF/1, CDIP/7/INF/2

#### **CASES:**

1. Feist publications inc. v. Rural Telephone Service Co. 499US340 (1991)
2. Sony of America v. Universal City Studios 464 US417 (1984)
3. Whelan Associates v. JaslowDentalabs 797 F.2d 1222 (1986)
4. Computer Associates v. Altai, Inc. 982 F.2d 693 (1992)
5. Sega Enterprises Ltd. V. Accolade Inc. 977 F.2d 1510 (1992)
6. Borland Case (1995)

#### **ASSESSMENT**

**Continuous Assessment:** 40%)

**End-semester Assessment:** (60 %)

## **8.SILT- LAW RELATING TO TRADEMARKS AND PASSING OFF**

**(Semester – 2) (Branch CORE) (Credits 3)**

**COURSE TITLE: LAW RELATING TO TRADEMARKS AND PASSING OFF**

**CREDITS: 3**

**SEMESTER:2**

### **AIM:**

- To understand the concept of trademark.
- To examine methodically and in detail the mode of trademark registration and the various rights and liabilities of registered trademark users.
- To understand the Indian law on trademark and passing off and comparative analysis of legislations and judicial pronouncements of various jurisdictions.

### **COURSE DESCRIPTION:**

The course intends to provide a detailed idea on the concept of trademarks. The course provides a comparative analysis mode of learning of the concept through critical analysis of legislations and case laws. The mode of registration, the rights of authors and the measures against infringing activities in the tangible and intangible world gives an insightful knowledge to the subject. Oral presentations coupled with group discussions and written assignments form the part of the course.

### **Course Objectives**

*Trademarks are one form of IP which can be associated with the daily lives of consumers. Products are bought and services are availed, more if they bear a popular trademark. It is also an IP subject matter which keeps on traversing new horizons and poses complex issues in the digital world. This paper focuses on the fundamentals of trademark protection at the national and international level. It covers all aspects of trademark protection, including registration and enforcement, as well as the new contours of trademark protection.*

### **Learning Outcomes**

After the course, the student will be able to:

CO1 - Understand the evolution of trademarks as a form of IP

CO2 - Understand the relevance of trademarks protection in a market economy

CO3 - Understand the basic principles of trademark protection both internationally and in India

CO4 - Analyse the new dimensions which may arise in the scope of trademark protection

CO5 - Apply in real life the provisions dealing with registration and enforcement of trademarks

**Mapping of Learning Outcomes with program outcomes**

	PO 1	PO 2	PO 3	PO 4	PO 5
CO 1	✓	✓		✓	
CO 2	✓	✓		✓	
CO 3		✓		✓	
CO 4		✓	✓	✓	
CO 5		✓		✓	

<b>Module I</b>	<b>Evolution of Trademarks</b>  Historical origin –Property nature of trademarks-Rationale of protection –Marks-Different Types- Concept of Trademark Comparative analysis- Lanam Act of US, Trademark Act 1994 of U.K and Indian Legislation
<b>Module II-Standards for Protection of Trademarks</b>	Distinctiveness-Grounds for Refusal of Trademark Protection-Well-known trademarks-Paris Convention for Protection of Industrial Property, 1883-TRIPS Agreement, 1994-Trademark Law Treaty, 1994
<b>Module III-</b>	<b>Registration and Assignment of Trademark</b>

	Registration of trademark-Procedure for filing of trademarks in India-Madrid Agreement concerning the International Registration of Marks, 1891-Madrid Protocol as amended in 2006-Transfer of rights-Assignment and Licensing
<b>Module IV-</b>	<b>Enforcement of Trademark Rights</b>  Infringement-Passing off-Dilution-Defences against infringement-Civil and Criminal Remedies
<b>Module V-</b>	<b>New Dimensions of Trademark Protection</b>  Non-Conventional Trademarks-Issues in Digital world-Domain Name Disputes-Disparagement and Comparative Advertisement- Trademarks and Competition-Ambush marketing.  Passing off –law – new dimensions

## READING LIST

### BOOKS

1. MANISH ARORA, GUIDE TO TRADEMARK LAW, UNIVERSAL LAW PUBLICATION CO. (2007)
2. LIONEL BENTLEY (ET.AL) (ED), TRADEMARKS AND BRANDS- AN INTER DISCIPLINARY CRITIQUE, CAMBRIDGE UNIVERSITY PRESS (2008)
3. B.L WADHERA, LAW RELATING TO PATENTS, TRADEMARK, COPYRIGHT, DESIGNS AND GEOGRAPHICAL INDICATIONS, UNIVERSAL LAW PUBLISHING COMPANY (2012)
4. W.R CORNISH, INTELLECTUAL PROPERTY: PATENTS, COPYRIGHT, TRADEMARK AND ALLIED RIGHTS (2004)

5. David I. Bainbridge, *Information Technology and Intellectual Property Law*, 7<sup>th</sup> ed., Bloomsbury Professional, UK (2019).
6. Lionel Bently and Brad Sherman, *Intellectual Property Law*, 4<sup>th</sup> ed., Oxford University Press (2014).
7. Sherri L. Burr, Edmund W. Kitch and Harvey S. Perlman, *Modern Intellectual Property and Unfair Competition Law*, 6<sup>th</sup> ed., (2014).
8. Daniel C.K. Chow and Edward Lee, *International Intellectual Property Law-Problems, Cases, and Materials*, 2<sup>nd</sup> ed., (2012).
9. Lionel Bently Jennifer Davis and Jane C. Ginsburg, *Trade Marks and Brands*, Cambridge University Press (2008).
10. Catherine Colstone and Jonathan Galloway, *Modern Intellectual property Law*, 3<sup>rd</sup> ed., Routledge, (2005).
11. Phillip Johnson, *Ambush Marketing and Brand Protection-Law and Practice*, 2<sup>nd</sup> ed., Oxford University Press, (2011).
12. K C Kailasam and RamuVedaraman, *Law of Trademarks-Including International Registration under Madrid Protocol & Geographical Indications*, 4<sup>th</sup> ed., Lexis Nexis (2017)

**Suggested Reading:**

1. Barton Beebe and C. Scott Hemphil, *The Scope of Strong Marks: Should Trademark Law Protect the Strong More than the Weak?*, 92 NEW YORK UNIVERSITY LAW REVIEW 1339-1398 (2017).
2. Mark A. Lemley, *Fame, Parody, and Policing in Trademark Law*, Mich. St. L. Rev. 1 (2019).
3. Patricio Saiz, *Trademarks in Branding: Legal issues and Commercial Practices*, 60:8, 1105-1126, DOI: [10.1080/00076791.2018.1497765](https://doi.org/10.1080/00076791.2018.1497765) (2018).

**ASSESSMENT**

**Continuous Assessment:** (40%)

**End-semester Assessment:** (60 %)

## 9.SILT- LAW, SCIENCE, TECHNOLOGY

(Semester – 2) (Branch Elective) (Credits 3)

### Course Objective:

We live in an era of scientific development. The alarming rate of scientific development in the field of bio-medical technologies and biotechnologies calls for drastic alterations in existing laws and calls for new legislative interventions. Many concepts and terms have to be re-defined and newly defined over the period of technological advancement. The development in information technology poses serious problems and challenges the rapid changes made by science and technology will have to be reflected in law to make it meaningful and realistic in the time we live in. This course is intended to make students conscious of various tensions and conflicts between scientific advancement in bio-medical technologies and role of law in addressing these conflicts. Thus the focus of the course work will be the legal problems arising due to developments in as the area of technological advancement with specific focus on bio medical technology to identify the changes needed in the law for the better transformation of the society.

### Course Outcome

Following are the goals of the course for students to understand generally:

*CO1: to improve the conceptual understanding of existing knowledge about the inter-relationship between law and science & technology in general in a society where complex web of relationships exists*

*CO2: to evaluate the existing role of the legal system and policies regarding science & technology with a critical lens on the multi-layered social hierarchies and its reflections in the field of scientific and technological advancements*

*CO3: To examine how law will be effective in addressing the social conflicts and dilemmas created by new technological interventions and scientific advancements in the context of changing social and moral and ethical dilemmas.*

*CO4: Distinguish and discuss the role of state power in promoting and protecting the interests of the marginalised and poor for the betterment and protection of human rights of the people*

CO5: To identify, distinguish, and discuss the nuances of scientific and technological processes to this about development of a better legal framework to regulate and govern these areas.

**MAPPING OF COURSE OUTCOMES WITH PROGRAM OUTCOMES**

	PO 1	PO 2	PO 3	PO 4	PO 5	PO6	PO7
CO 1	✓						
CO 2				✓			
CO 3							✓
CO 4			✓				
CO 5					✓		

Unit	Contents
<b>Module I</b>	<p><b>Interface of Science, Technology and Law</b></p> <ul style="list-style-type: none"> <li>Emerging Technologies and contemporary development in science a brief idea- Genetic Engineering, Bio- technology and Human Health, Genetic Markers: Diagnostic biotechnology, Genetic screening: Uses and abuses of amniocentesis, Cloning of human beings</li> <li>Introduction to the concept of Science and Human Rights</li> <li>Legal Order and Scientific and Technological Innovation</li> </ul>
<b>Module II</b>	<p><b>Biotechnology, Agro-business and Biological Diversity in India- Discussion of Scope of Legal interventions</b></p> <p>Plant Genetic Resources in Nature: Abundance of biological diversity</p> <ul style="list-style-type: none"> <li>The Genetic mutation of Seed: Seed industry at global level: Indian Seeds Act,1966</li> </ul>



- Biotechnology and Biological Diversity, The Impact of Biotechnology on Biological Diversity: Erosion of plant genetic resources
- Patenting of new plant varieties, The green revolution and biotechnology.
- Legal Regulation of Biotechnology, Regulation of government sponsored research Regulation of release of genetically mutated micro-organisms
- Comparative perspective, Progress of biotechnology and legal regulation in India.

**Module III**

**Development of Science and Technology on Human Rights: discussion of legal implications**

- Right to human health and impact of development in medical science
- Scientific and Technological Researches and its Impact on ethics, morality
- Human Development vis-à-vis Human Rights
- Conflicts, Confrontation and resolution.
- Freedom of information, Freedom for Scientific Research, Controls and Constraints
- Advanced Medical Technology and Medical Care - Organ transplantation Experimentation on human beings - Euthanasia (mercy killing) - Gene therapy - Issue of Human Rights Ethics in Scientific and Technological Development

<b>Module IV</b>	<b>Impact of Scientific and Technological Progress on Human Rights</b> <b>Normative Response of the International Community Right to life</b> <ul style="list-style-type: none"> <li>• Right to privacy</li> <li>• Right to physical integrity</li> <li>• Right to information</li> </ul>
<b>Module V</b>	<b>Impact of Scientific and Technological Progress on Human Rights</b> <b>Right to benefit from scientific and technology progress</b> <ul style="list-style-type: none"> <li>• Right to adequate standard of living</li> <li>• Rights of indigenous people</li> <li>• Limits of National Law- Possibility of meta-legal frameworks</li> </ul>

**Suggested Readings** (Not Complete)

1. [The right to health care in several European countries](#) Exter, Andre Den Hermans, Herbert Description: Hague, Kluwer Law International 1999 ISBN: 90-411-1087-9 Books
2. [Comparative health care law](#) Cruz, Peter de Description: London, Cavendish ISBN: 1-85941-5881 Books
3. [Medical care law](#) Rathbun, Katherine C Richards, Edward P Description: Maryland, An Aspen Publication 1999 : x,520 ISBN: 0-8342-1603-5Reference
4. [Legal framework for health care in India](#) Verma, SK Description: New Delhi, Lexis Nexis 2002 ISBN: 81-87162-58-9 Books
5. [Accessing Health Care : Healy, Judith](#) Description: Oxford University Press, : xvii,378p. Books

6. Dunu Roy, *WHAT IS SCIENCE?*, Science Today, October (1979).
7. Imrana Qadeer & Arathi P.M, *Words, Ideas and Ideology in the Shifting Sand of Market*, Indian Journal of Gender Studies (2016).
8. Sahra Gibbon & Carlos Novas, *Biosocialities, genetics and the social sciences*, Routledge, (2007).
9. Ananth Padmanabhan, R. Shashank Reddy, & Shruti Sharma, *Modern Biotechnology And India's Governance Imperatives*, Carnegie Endowment for International Peace Publication Department, (2017)
10. K. I. Varaprasad Reddy , *Biotech regulation in India: Problems and promises*, Biotechnology Journal, (2009).
11. Bhuvan Bhaskar Jha & Ashutosh Shankar, *Evaluating the Law On Regulation Of Genetically Modified Crops In India*, Jamia Law Journal, (2017).
12. Dr. Vibha Ahuja & Dr. Geeta Jotwani, *The Regulation of Genetically Modified Organisms in India*,
13. Lori B. Andrews, Jane E. Fullarton, Neil A. Holtzman & Arno G. Motulsky, *Assessing Genetic Risks Implications For Health And Social Policy*, National Academies of sciences, (1994).
14. Rajan, K. S. (2006). *Biocapital: The constitution of postgenomic life*. Duke University Press
15. Rajan, K. S. (Ed.). (2012). *Lively capital: Biotechnologies, ethics, and governance in global markets*. Duke University Press.
16. Fischer, M. M., Dumit, J., Rajan, K. S., & Thompson, C. (2010). *Asian biotech: Ethics and communities of fate*. Duke University Press.