



Central University of Kerala

DEPARTMENT OF LAW

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Meeting of the Board of Studies in Law is held on 13-04-2018 at the Dept. of Law, Central University of Kerala, Thiruvalla Campus at 11.00 am.

Present

1. Prof. K.C Sunny- Professor and Dean , Department of Law, CUK (Chairman) -
2. Dr. Gireesh Kumar .J – Asst: Prof: HoD(i/c), Dept. of Law, CUK. (Member)
3. Dr. David Ambrose - (Member)
4. Dr. Balakrishnan K - (Member)
5. Dr. Lakshmi G.R - (Member)
6. Dr Bismi Gopalakrishnan

Dr. David Ambrose intimated his inconvenience and meeting was held in his absence.

#### **Agenda of the meeting**

1. Preparation and approval of regulations, course structure and syllabus of P.G Diploma in laws (NRI) proposed to be introduced in the 2018-19 academic session. (Appendix-2)
2. Revision and introduction of new courses and approval of syllabus for LLM Curriculum from 2018 June session onwards. (Appendix-1)
3. Any other item with the permission of the chair.

#### **Deliberations**

##### **AGENDA 1**

Prof. K.C Sunny has welcomed all the members and briefed the agenda items to the house.

Dr. Gireesh Kumar J has detailed the first agenda item, i.e. preparation and approval of course structure and syllabus of PG Diploma in Laws (NRI Laws) with the following explanations.

**Course title-** Post Graduate Diploma Programme- One Year Post Graduate Diploma in Law PGDI NRI Laws

**Academic Year-** 2018-19

**Eligibility for Admission-** Any Degree

**Intake-** 40

**Course Structure-** Two Semesters having 26 credits with 5 papers

Name of the paper	Semester
<b>Paper 1-</b> Introduction to Legal Process	<b>FIRST SEMESTER</b>
<b>Paper2-</b> Introduction to NRI Laws	
<b>Paper 3-</b> Immigration Laws	

<b>Paper 4 –</b> NRI and Family Laws	<b>SECOND SEMESTER</b>
<b>Paper5-</b> Laws relating to NRI Investment	
<b>Paper 6-</b> Project Work	

The house has approved the rules, course structure and syllabus of the above PG Diploma and resolved to place it before the Academic Council.

#### **AGENDA 2**

Prof. K.C Sunny briefed the house about the agenda item 2, i.e. revision and introduction of new courses and approval of syllabus for LL.M curriculum from 2018 June session onwards.

Courses to be introduced to the LL.M curriculum from 2018 June session onwards

Name of the Course	Papers to be approved	Semester
Intellectual Property Rights	General Principles of Intellectual Property	First
	Law of Copy Rights, Industrial Design and Layout Design of Integrated Circuit	Second
	Law of Patents with Law on Protection of Bio Diversity, Farmers Rights and Traditional Knowledge	Third
	Law of Trademarks	Third
Constitutional Law	Constitution and Governance	Third
	Centre State Relations	Third
Criminal Law	Jurisprudence of Punishment	Third
	Crime Against Women and Children	Third

Dr. Bismi Gopalakrishnan has suggested some modifications in the syllabus Centre State Relations and Intellectual Property Rights.

Dr. Lakshmi G R pointed out that since a course on IPR is introduced for the first time in the Department, it shall be made a bit lighter.

Prof.K.C. Sunny has suggested inclusion of Geographical Indication also within the components of Traditional Knowledge and IPR.

Dr. Bismi has pointed out the need for the inclusion of emerging rights in IPR also along with the area of Trademark

Dr Gireesh Kumar highlighted the importance of the detailed analysis of judicial decision within and beyond the prepared syllabus of the courses mentioned above particularly in the course on Centre State Relations to make the students more familiar with the judicial perspective.

Dr. Lekshmi made a suggestion for including topics such as Prostitution and Child Pornography as crimes under Unit 2 and 3 respectively for the course Crime against Women and Children.

Dr. Bismi suggested for including Feminist Jurisprudence and concept of gender Justice in Unit 1 of the Course Crime against women and children. She has also pointed out that topics such as assertion of rights of women in India by looking into its development from ancient period to Pre and Post independence era should also be included under Unit 1 of the said course.

Dr. Bismi made another suggestion regarding the inclusion of the topics such as PNDT, Female foeticide and infanticide under Unit2. An additional suggestion has also made by her regarding the inclusion of the topics such as sensitization regarding crimes against women- Role of Universities, UGC, other educational institutions and NGOs

### **Resolutions**

The syllabus of the new courses to be introduced in the LL.M curriculum has been prepared and submitted by the faculty members as follows.

1. Constitution And Governance-Dr.K.C.Sunny
2. Centre State Relations –Dr.Gireesh Kumar .J
3. Jurisprudence of Punishment-Dr.Jayasankar.K.I
4. Crime against Women and Children-Dr.Meera .S
5. General Principles of Intellectual Property-Mrs.Aathira Raju

The above courses and syllabus are discussed in detail in the meeting and approved with modifications by the members

The house has also approved the syllabus and course plan of proposed PGDL to be introduced as above with modifications and suggestions put forward by the Board of Studies. Further, the house resolved that the proposed courses and syllabus as modified by the suggestions of the esteemed members may be sent to the University for placing it before the Academic Council for approval.

The meeting ended at 12.30 pm

Prof. K.C Sunny

Dr Gireesh Kumar J

Dr. Lakshmi G.R

Dr Balakrishnan K

Dr Bismi Gopalakrishnan

## **Course I: Introduction to Legal Process**

This course intends to provide an idea regarding the role of the law in maintaining social control and making social change. It also intends to provide a clear picture regarding sources of law, legal systems, law and ethics, constitutional system of governance and administration of justice

### **Unit I- Law and Society**

- Law as a means of Regulation of Human Conduct
- Social Functions of Law – Social Control, Social Change
- Society, polity and Legal system
- Law and Justice
- Law and Ethics

### **Unit II- Classification of Law**

- Municipal Law and International Law
- Public Law and Private Law
- Civil Law and Criminal Law
- Substantial Law and Procedural Law

### **Unit III- Sources of Law**

- Legislations
- Law making in Parliamentary Democracy- law Making Process
- Custom - Essential conditions for valid test
- Precedent-Ratio Decidendi -Obiter Dicta-Binding nature of Precedent
- Judicial Creativity and Judicial Activism

### **Unit IV- Legal Systems**

- Common Law System
- Civil Law System
- Other legal System

### **Unit V- Constitutional system of governance and Administration of Justice**

- Court System in India
- Supreme Court
- High Courts
- Subordinate Judiciary
- Tribunals
- Legal Profession in India

#### **Books for reference**

- D. Bark and Colin Padfield, Law Made simple (Twelfth Edition)  
Granville Williams, Learning the Law (Fifteenth Edition)  
*N.K., Jayakumar Lectures in Jurisprudence (Third edition)*

## **Course II: Introduction to NRI Laws**

This course aims at giving the students an insight into the basic concepts related to NRI like nationality, citizenship, domicile. It also intends to trace the history of migration of Indian Population to Foreign countries and different status assigned by India to the migrants like Overseas Citizens, Non Resident Indians and the legal issues in relation to the migrants.

### **Unit I- Introduction**

- Emergence of National States and Migration of People
- Concept of Citizenship
- Nationality, Domicile and Citizenship

### **Unit II- Identity Issues of Migrant Populations**

- Identity attached to Domicile
- Domicile of Origin
- Domicile of Choice
- Nationality and Domicile

### **Unit III- Concept of Residence of a Nation and Non-Residence of a Nation**

- Concept of Alien and enemy alien
- Concept of Dual Citizenship
- Overseas Citizenship
- Diaspora Studies
- Non Residence and Overseas Citizens of India

### **Unit IV- Migration of Indian People**

- Migration in Colonial Period
- Migration as a result of Partition
- Migration after Independence
- Migration in the globalized era

### **Unit V-NRI laws in India**

- Recognition of Persons of Indian Origins (PIOs)
- Overseas Corporate Bodies (OCBs)
- Laws governing NRIs in India
- Law relating to Immovable property in India by NRIs
- - Application of Provisions under the Foreign Exchange Management Act (FEMA) and the Income Tax Act-
- NRIs and Issues Related to Family

### **Reference Materials**

1. THE OTHER INDIANS, Lal, Vinay, HarperCollins India
2. Investing and Taxation for NRI's Made Easy, Subhash Lakhotia, 2012
3. NRI: Now, Returned to India, Amar Vyas
4. Migrant Integration between Homeland and Host Society Volume 2: edited by Anna Di Bartolomeo, Sona Kalantaryan, Justyna Salamońska, Philippe Fargue
5. Migration, Citizenship, and Development: Diasporic Membership Policies and Overseas Indians in the United States, Daniel Naujoks OUP India, 25-Jul-2013

## Course V: Law relating to NRI investments

This course aims at giving the students an insight into the basic concepts and legal provisions dealing with NRI Investment Laws. It also intends to provide a clear picture regarding types of investment available for NRIs, banking accounts, real estate investment, taxation and agencies facilitating NRI investment.

### **Unit I NRI Investments**

- Non Resident Indians, Person of Indian Origins (PIOs), PIO Scheme, Overseas Corporate Bodies (OCBs)
- Repatriable investments-FDIs: Investments in Indian companies under Automatic Route and Government route, Foreign Portfolio Investment Scheme, Transfer or Issue of Security by a Person Resident Outside India Regulations 2000, FDI Prohibitions
- Non Repatriable investment – Investment in immovable property, Partnership, Gift, Loan, Inheritance, RBI Guidelines Nature of Foreign Exchange Management Act 1999, Notifications issued under the Act, Restrictions on citizens of certain countries

### **Unit II- Banking Laws**

- Types of Bank Accounts
- NRE or Non Resident External Accounts
- NRO or Non Resident Ordinary Accounts
- FCNR or Foreign Currency Non Resident

### **Unit III- Real estate sector**

- Types of properties to invest in,
- Permission for purchase of residential/commercial property,
- Loans/funding,
- Sale of properties and repatriation,
- Foreign Exchange Management Act (FEMA) and real estate

### **Unit IV- Taxation**

- Taxation rules for NRIs-
- Income Tax Act 1961
- Exemptions from Tax
- Tax deductions
- Tax returns
- Undisclosed Foreign Income and Assets Bill, 2015
- Double tax avoidance agreements (DTAAs)

### **Unit V- Agencies facilitating NRI investment**

- Reserve Bank of India (RBI),
- Securities and Exchange Board of India (SEBI),
- Authority for Advance Rulings (AAR),
- Secretariat for Industrial Assistance (SIA),
- Ministry of Commerce & Industry
- Office of the Chief Commissioner (Investments & NRIs)

### **Reference Materials**

1. Jigar Patel, NRI Investments and Taxation: A small guide for Big Gains
2. Subhash Lakhota, Tax Planning for NRIs
3. A N Shanbagh, In the wonderland of investment for NRIs
4. V.S Datey, FEMA & FDI: Ready Reckoner
5. S. Rajaratnam & B.V. Venkataramaiah, Treatise on Double Taxation Avoidance Agreements
6. Dr. D.K. Jain & CS. Ishan Jain, Guide to NRIs & PIOs (Non Resident Indians & Persons of Indian Origin) - Policies, Procedures & Taxation

## **Course IV: NRI and Family Law**

This course aims at giving the students an insight into the basic concepts and legal provisions dealing with Family Law applicable to NRIs. It mainly deals NRI laws relating to marriage, divorce, maintenance, custody of children and adoption.

### **Unit I- NRI Marriage**

- Concept and meaning of Marriage
- Non- Residence Marriages
- Marital laws and Validity of NRI Marriages
- Private International Laws
- Law Commission Report
- Choice of Law Rules
- Doctrine of *Lex loci celebration*
- Doctrine of *Lex domicile*
- Rule of Renvoi
- Jurisdiction of Courts- Recognition and enforcement of foreign judgment –Conflict of laws- Role of National Women’s Commission- NRI Cells-

### **Unit II- Divorce and Maintenance**

- Issues and Challenges
- Grounds for divorce
- Divorce and maintenance under personal laws
- Family courts-ex parte decree and foreign courts
- validity of ex- parte decree in India courts
- Property rights
- NRI divorce legal consultancy
- Role of NGO’s

### **Unit III- Custody of Children**

- Definition of Children
- Citizenship of a child
- Rights of women and custody of child
- Maintenance of Child-
- Conflict of laws
- Guardianship under personal law
- Role of Courts

### **Unit IV- Adoption**

- Definition and meaning of adoption
- International conventions
- Personal Laws and adoption
- Child Welfare Committee
- GOI’s guidelines
- Central Adoption Resource Authority
- Ministry of women and Child Development
- Role of NGO’s

### **Reference Materials**

1. Usha Tandon, Validity of Marriage under International Private Law, [http:// papers.ssrn.com](http://papers.ssrn.com)
2. Marriage to Overseas Indians a Guidance Booklet, Ministry of Overseas Indian Affairs (2007)
3. Report of National Women’s Commission on Problems relating to NRI Marriages



## Course III: Law Relating to NRI Emigration

This course aims at giving the students an insight into the basic concepts and legal provisions dealing with NRI, the basic constitutional provisions of the country read along with the recent legal development and related legal matters of Indian Diaspora.

### **Unit-1. Basic concepts and origin.**

- Historical Evolution of Migration of Indians
- Migration of Indians in Ancient, Medieval and Modern Era
- Social Factors leading to Migration of Indians
- Economic Aspects of Migration of Indians

### **Unit-2. Indian Constitution and Migration**

- Constitutional Provisions on Citizenship and Migration
- Changing Dimensions of Migration of Indians
- Migration as a Means of the Nation's tolerant Tradition
- Sovereignty, Rule of Law and Migration

### **Unit- 3. Legal Framework on Migration of Indians**

- Origin and Development of Migration Laws
- The Emigration Act, 1983, the Foreigners Act of 1946 and the *Passports Act, 1967*
- Powers and Functions of the Protector of Emigrants
- Judicial Response to Migration Laws in India
- Need for Reforms in Law relating to Migration

### **Unit- 4. Recent Developments on Migration of Indians**

- Developments on Educational Migration
- Development on Employment Migration
- Consequences of Illegal Migration
- Social Economic and Political Problems of Migration
- Migration and Family Disputes.

### **Reference Materials**

1. Immigration Laws, Dr. Kanu Priya Goyal, LexisNexis, 1<sup>st</sup> Ed. 2015
2. Immigration Law Handbook, [Phelan](#) and [Gillespie](#), 1<sup>st</sup> Ed. 2015
3. Jain, Prakash, C (1990). Racial Discrimination against Overseas Indians: A Class Analysis, New Delhi: Concept Publishing Company.
4. Jain, Ravindra K. (1993), Indian Communities Abroad. New Delhi: Manohar
5. N. Jayaram and Yogesh Atal (eds), The Indian Diaspora: Dynamics of Migration, pp.15-43. Delhi: Sage Publications.
6. Khadria, Binod. 2009. India Migration Report 2009: Past, Present and the Future. New Delhi: Cambridge University Press.
7. Sociological Bulletin. (1989), Special Issue on 'Indians Abroad'(Guest ed.: S.L. Sharma), 38(1).
8. Emigration, Immigration, and Diaspora Relations in India, By Daniel Naujoks, Indian Emigration/Immigration