



SEMESTER-VIII

B.A./B.B.A. LL.B. (Hons.)

PAPER CODE: LB 805 (SPA-1)

COURSE TITLE: Legal Philosophy including Theories of Justice

CREDITS-04

Module-1

The Concept of Rights and Duties: Jurisprudential (Legal) Analysis

- 1.1 Bentham on Legal Rights
- 1.2 Hohfeld's Contributions (Jural Relations)
- 1.3 Article 32 of the Constitution in Hohfeldian Scheme of Rights
- 1.4 Criticism of Hohfeld's Analysis
- 1.5 Status of Socio-Economic Rights under scheme of Jural Relations

Module-2

Philosophical Analysis of Rights and Duties

- 2.1 The Modern Liberal and Marxist Conceptions of Right
- 2.2 Unique Characters of Liberal Right
- 2.3 Rights Vs. Suffering
- 2.4 Cultural Characteristics of Rights
- 2.5 Rights, Development and Wellbeing: Emerging Dimensions of the Concept of Right

Module-3

Liability and Personality

- 3.1 General Principles of Civil and Criminal Liability
- 3.2 Theories of Legal Person
- 3.3 Person: Status on Animals, Unborn Child, Idols etc.,
- 3.4 Corporation Aggregate and Corporation Sole
- 3.5 Specific Cases of Supreme Court on Application

Module-4

Property, Possession and Ownership

- 4.1 John Locke & Roscoe Pound (Views on Property)
- 4.2 Jeremy Waldron on Private Property and Socio-Technological Developments in 21st Century,
- 4.3 *Salmond* on Possession
- 4.4 A.M. Honore on Ownership
- 4.5 Private Property in Land in Ancient/Medieval India

Prescribed/Suggested Readings:

1. Hart, H.L.A., "Bentham on Legal Rights", in A.W.B. Simpson (ed.), *Oxford Essays in Jurisprudence, Second Series*, Oxford: Clarendon Press, (1973).
2. Hohfeld's Contributions to the Science of Law, Walter Wheeler Cook (ed.), *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays* by Wesley Newcomb Hohfeld, pp. 1-15 and pp. 27-73 (1919).
3. Jural Relations, R.W.M. Dias, *Jurisprudence*, pp. 23-43 (1994).
4. Chhatrapati Singh, "The Inadequacy of Hohfeld's Scheme: Towards a more Fundamental Analysis of Jural Relations", 27 JILI. 117 (1985).
5. Upendra Baxi, "Laches and the Rights to constitutional Remedies: *Quis Custodiet Ipsos Custodes?*", Alice Jacob (ed.), *Constitutional Developments since Independence* (1975).
6. Bhiku Parekh, "The Modern Conception of Right and Marxist Critique" in Upendra Baxi (ed.), *The Right to be Human*, pp. 1-22 (1987).
7. Allen Buchanan, "What is so Special about Rights," *Social Policy & Philosophy*, pp. 61-75 (1984).
8. Ronald Dworkin, *Taking Rights Seriously*, Chapter 7, pp. 184-205.
9. Amartya Sen, "Culture and Human Rights", in *Development as Freedom*, Chapter 10, pp. 227-48 (2000).
10. P.J. Fitzgerald, Liability in *Salmond on Jurisprudence*, pp. 349-410 (1966); P.J. Fitzgerald, Civil and Criminal Justice in *Salmond on Jurisprudence*, pp. 91-106 (1966).
11. Joel Feinberg, "The Rights of Animals and Unborn Generations" in *Philosophy & Environmental Crisis* by William T. Blackstone (ed.), pp. 43-68 (1974).
12. R.W.M. Dias, Theories of the Nature of 'Legal Person' in *Jurisprudence*, pp. 265-270 (1994).
13. Roscoe Pound, "Property" in *An Introduction to Legal Philosophy*, New Haven, Oxford University Press, pp. 191-235 (1930).
14. Jeremy Waldron, "Property and Ownership", *Stanford Encyclopaedia of Philosophy*, 2012.
15. John Locke, Of Property, Chapter 1 in C. B. Macpherson (ed.) *Property: Mainstream and Critical Positions*, University of Toronto Press, pp. 15-29 (1978).
16. O. Kahn-Freund, Introduction, Chapter 1 in Karl Renner, *The Institutions of Private Law and Their Social Functions*, Agnes Schwarzschild (Trans.) (Routledge 1949).
17. P.J. Fitzgerald, Possession in *Salmond on Jurisprudence*, pp. 265-295 (1966).
18. A.M. Honore, "Ownership" in A.G. Guest (ed.) *Oxford Essays in Jurisprudence*, Oxford University Press, (1961).
19. Lallanji Gopal, "Ownership of Agricultural Land in Ancient India" *Journal of the Economic and Social History of the Orient*, Vol. 4, No. 3 (Dec., 1961), pp. 240-263.

Amal
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Dean Academic Affairs,
H.P. National Law University,
Shimla - 171014