

## LL.M Part – I Examination

Paper I – Legal theory and Judicial Process

Paper II – Law and Social Transformation in India

Paper III – Indian Constitutional Law – The New Challenges.

Paper IV – Legal Education and Research Methodology

Paper V – Practical Examination :- Research Methodology

Paper writing base on :

- a. Doctrinal research 25 marks
- b. Non – Doctrinal research 25 marks
- c. Class room teaching (12 lecture in a year) 25 marks
- d. Viva in voice 25 marks

Note :

1. The topic will be same for doctrinal and non – doctrinal writings and will be write in one file in two part i.e. part (a) and Part (b).
2. All students have to take 12 classes of LL.B. for 25 marks under class room teaching. Teaching will be assessed by the senior faculty members.
3. Viva voice will be taken by one internal and one external examiner on the date notified by the university. Viva will be based on paper writing to examine the knowledge of research methodology.

Paper I – Legal Theory and Judicial Process

Concept of Dharma in Indian Legal System

Definition, Nature and Scope of Jurisprudence

Analytical Legal Positivism (Bentham, Austin, Kelsen and Hart)

Historical School (Savigny and Henry Maine)

Philosophical School (Kant and Hegel)

Sociological School (Lhering, Ehrlich and Pound) and Post Sociological Developments.

American / Scandinavian Realism (Holmes, Llewellyn and Cardozo)

Natural Law School (Grotius, Hobbes, Locke, Rousseau and Stammler)

Marxian Theory of Law (Karl Marx)

Critical Legal Study

Feminism (Kathrine T Bartlett)

Fairness of Justice (John Rawls)

Law and Morality (Hart – Fuller Debate)

Sources of Law

Rights and Duties

Legal Person

Ownership and possession

Criminal Justice and Theories of Punishment

Property

Liability Including, Vicarious Liability and Absolute Liability.

Compensatory Justice and Distributive Justice

Nature of Judicial Process.

- i) Judicial process as an instrument of social ordering
- ii) Judicial process and creativity law-common law model, Legal Reasoning and growth of law, change and stability
- iii) The tools and techniques of judicial creativity and precedent
- iv) Legal development and creativity through legal reasoning under statutory and codified systems.
- v) Nations of judicial review
- vi) Role in constitutional adjudication – various theories of judicial role
- vii) Tools and techniques in policy – making and creativity in constitutional adjudication.
- viii) Varieties of judicial and juristic activism
- ix) Problems of accountability and judicial law making

Judicial Process in India.

- i) Indian debate on the role of judges and on the nature of judicial review
- ii) The independence of judiciary and the political nature of judicial process
- iii) Judicial activism and creativity of the supreme court – the tools and techniques of creativity
- iv) Judicial process in pursuit of constitutional goals and values – new dimensions of judicial activism and structural challenges.
- v) Institutional liability of courts and judicial activism – scope and limits.
- vi) Principles of constitutional interpretation.

## The concept of Justice

- i) The concept of justice or dharma in Indian thought
- ii) Dharma as the foundation of legal ordering in Indian thought
- iii) The concept and various theories of justice in the western thought
- iv) Various theoretical base of justice : The liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

## Select Bibliography

W.Friedmann – Legal Theory

Ross : On Law and Justice

Hart : Law liberty and mortality

Devlin : The enforcement of Mortality

Stone : Legal System and lawyers reasoning's

Hall : living law of democratic society

Pattersone :Juris prudence

Julius Stone : The province and functions of Law, Part – II, Chs 1-8-16(2000),  
Universal New Delhi

Cardozo : The nature of Judicial process (1995), Universal New Delhi

Henry J Abraham : The judicial process (1998) oxford

J Stone : Precedent and the law : Dynamics of common Law growth (1985),  
Butterworths

W Friedmann : Legal Theory (1960), Stevans London

Bodenhecuner : Jurisprudence – The Philosophy and Method of the Law (1997)  
Universal, Delhi.

J Stone : Legal systems and Lawyer's reasonings (1999) Universal, Delhi

U Baxi : The Indian Supreme Court and politics (1980), Eastern, Lucknow

Rajeev Dhavan : The Supreme Court of India, A Socio Legal Critique of its Juristic  
Techniques (1977), Tripathi, Bombay

John Rawls : A Theory of Justice (2000) Universal, Delhi

Edward 11 Levi and Introduction to legal reasoning (1970), University of Chicago

## Paper II – Law and Social Transformation in India

- 1 (A) Concept of Social Change and Social Transformation
  - i) Relation between law and public opinion

- ii) Law as an instrument of social change
  - iii) Law Tradition and culture, impact of common law on India tradition & Culture.
  - iv) Sociological School and its applicability in India
  - v) Principles of Social legislation
- (B) Religion and the law
- i) Religion its meaning and relationship with law
  - ii) Evaluation of religion as an integrative and divisive factor
  - iii) Concept of secularism in Indian perspective
  - iv) Religious minorities and the law
- 2 (A) Language and the Law
- i) Multi linguistic culture and its impact on policy in governance
  - ii) Role of Language in society
  - iii) Formation of linguistic states critical evaluation
  - iv) Constitutional guarantee to linguistic minorities
  - v) Language policy and the constitution : official language
- (B) Community and the Law
- i) Caste as a socio cultural reality and role of caste as a divisive and Integrative factor
  - ii) Non discrimination on the ground of caste
  - iii) Acceptance of caste as a factor to undo past injustices – an objective analysis
  - iv) Protective discrimination , scheduled castes, tribes and backward classes
  - v) Reservation policy, statutory commissions and problems of national integration
- 3 (A) Regionalism and the Law
- i) Role of Regionalism as a divisive and integrative factor
  - ii) Concept of India as one unit
  - iii) Right of Movement residence and business, impermissibility of state or regional barriers
  - iv) Equality in matters of employment : the slogan “Sons of the soil” and its practice

- v) Admission to educational institutions : Preference to residents of a state
- (B) Women and the Law :
  - i) Position and role of women in Indian society
  - ii) Crimes against women
  - iii) Gender injustice and its various forms, causes and remedies
  - iv) Women's commission
  - v) Empowerment of women : Constitutional and other legal provisions
- 4 (A) Children and the Law
  - i) Child Labour
  - ii) Sexual exploitation
  - iii) Adoption, Maintenance and related problems
  - iv) Children and education a constitutional mandate
- (B) Modernization and the Law
  - i) Modernisation as a value : constitutional perspectives
  - ii) Modernisation of social institutions through law
  - iii) Reform of Family law
  - iv) Agrarian reform – industrialization of agriculture
  - v) Criminal Law : Plea bargaining , compounding and payment of compensation to victims
  - vi) Civil Law (ADR) confrontation v. consensus, mediation and conciliation , Lok adalat
  - vii) The jurisprudence of sarvodaya – Gandhiji, VinobaBhave
  - viii) Socialist thought on law and justice, an enquiry through constitutional debates on the right to property.
  - ix) Marxist Legal Theory

#### Select Bibliography

Marc Calanter (ed) : Law and society in modern India (1997) oxford

Robert Lingat : The classical Law of India (1998) oxford

U Baxi : The crisis of the Indian Legal System (1982) Vikas New Delhi

U Baxi (ed) : Law and poverty critical essay (1988), Tripathy Bombay

Manushi : A Journal about women and society

Duncan Derret : The state, religion and law in India (1999) Oxford University Press New Delhi

H M Seervai : Constitutional law in India (1999) Tripathi

DD Basu : Shorter constitution of India (1996), Prentice Hall of India (P) Ltd., New Delhi.

Sunil Deshta and Kiran Deshta : Law and Menace of child Labour (2000) Anmol Publication Delhi

Savitri Gurasekirare : Children Law and Justice (1997) Sage

Indian Law Institute : Law and Social Change : Indo – American reflection (1988) Tripathi Mumbai

J B Kriplani : Gandhi His Life and Thought 1970, Ministry of Information and Broadcasting Government of India

M P Jain Outlines of Indian Legal History (1993) Tripathi Bombay

Aguas Flavia : Law and Gender Inequality : The politics of women's rights in India (1999) Oxford

### Paper III – Indian constitutional Law : The New Challenges

#### 1 Freedom

- (A) i) Creation of New states
- ii) Allocation and share of resources
- iii) The inter state of disputes on resources
- iv) Rehabilitation of internally displaced persons and center's responsibility
- v) Freedom of trade commerce and intercourse
- vi) Service under Union
- vii) Emergency Provisions
- viii) Federal Comity
- ix) Special status of certain states, Tribal areas, Scheduled areas

#### 2 (A) State Meaning and scope in modern perspective

(B) Right to equality : Privatization and its impact on affirmative action

(C) Freedom of press and challenges of new scientific development

- i) Freedom of speech
- ii) Right to strike, hartal and bandh
- iii) Emerging regime of new right and remedies – right to education

right to information and right to privacy, right to health

- iv) Reading directive principles and fundamental duties into fundamental rights
- v) Compensation jurisprudence
- vi) Right to life and liberty and criminal jurisprudence
- viii) Commercialisation of education and its impact

### 3 Stresses and strains of Governance

- i) Right of Minorities
- ii) Secularism and religious fanaticism
- iii) Separation of powers : Stresses and strain
- iv) Judicial activism and judicial restraint
- v) PIL implementation
- vi) Judicial independence
- vii) Appointment, transfer and removal of judges
- viii) Accountability executive and judiciary
- ix) Tribunals : Need necessity and constitutionality

### 4 Democratic process

- i) Nexus of politics with criminals and the business
- ii) Election : Mechanism and procedure
- iii) Election commission status
- iv) Electoral reforms : Accountability, Transparency, Free and fair, Election and remedies
- v) Coalition Government, Stability, Durability, Corrupt Practice
- vi) Grassroot democracy, Democratic decentralization and local self government

### Select Bibliography

No specific bibliography is suggested for this course since the course materials depends upon the latest developments. These developments in the areas specialized in course can be gathered from the recent material such as case law, changes and amendments of laws, critical comments, studies and reports, articles and research papers and lastly contemporary emerging ethos impacting on constitutional values.

## Paper IV – Legal Education And Research Methodology

- 1
  - i) Objectives of Legal Education
  - ii) Lecture method of teaching merits and demerits
  - iii) The problem method
  - iv) Discussion method and its suitability at postgraduate level teaching
  - v) The seminar method of teaching
  - vi) Examination system and problems in evaluation external and internal assessment
  - vii) Student participation in, law school programmes, organization of seminars, publication of journal and assessment of teachers
  - viii) Clinical legal education legal aid, legal literacy, legal survey and law reform
- 2 Research Method
  - i) Socio Legal Research
  - ii) Doctrinal and non doctrinal
  - iii) Relevance of empirical research
  - iv) Induction and deduction
  - v) Identification of problem of research what is a research problem
  - vi) Survey of available literature and preparation of bibliography
  - vii) Legislative materials including subordinate legislation notification and policy statements.
- 3
  - i) Decisional materials including foreign decisions, methods of discovering the rule of the case
  - ii) Juristic writings a survey of juristic literature its relevance in selection of problems in India and foreign periodicals
  - iii) Compilation of list of reports or special studies conducted relevant to the problems
  - iv) Formulation of the research problem
  - v) Devising tools and techniques for collection of data
  - vi) Methods for the collection of statutory and case material and juristic literature
  - vii) Use the historical and comparative research material
  - viii) Use of observation studies



- ix) Use of questionnaires / interview
  - x) Use of case studies
  - xi) Sampling procedures, design of sample, types of sampling to be adopted
  - xii) Use of scaling techniques
- 4
- i) Jurimetrics
  - ii) Computerize research – A Study of legal research programmes such as lexis and west law coding
  - iii) Classification and tabulation of data use of cards for data collection rules for tabulation, explanation of tabulated data
  - iv) Analysis of data qualitative and quantitative
  - v) Report writing

#### Select Bibliography

High brayal, Negel Duncan and Richard Crimes : Clinical Legal Education : Active learning in, your law school (1998), Blackstone Press Ltd, London

S K Agarwal (ed) : Legal Education in India (1973), Tripathi Bombay

N R MadhavaMenon (ed) : A handbook of clinical Legal Education (1998)

Eastern Book Company, Lucknow

M O Price H bitmer and Bysicwicz : Effective Legal Research (1978)

Pauline V Young : Scientific Social Survey and Research (1962)

William J Grade and Paul K Hatt Methods in Social Research McGraw-Hill book company London.

H M Hvman interviewing in Social research (1965)

#### Paper V – Practical Examination

The practical examination shall be conducted at the end of January on research methodology, law teaching and clinical work. There shall be 25 marks each for doctrinal research and 25 marks each for law teaching and clinical work for making the practical examination objective and meaningful, the following division of marks shall be taken.

1 Research Methodology

i) Doctrinal research (25 marks)

Each student is assigned in advance a separate topic and asked to collect materials a period of 5-7 days can be set a part for carrying out this assignment in the library. The materials indicated or collected during the assignment shall be evaluated by a group of faculty members.

ii) Non – Doctrinal research (25 marks)

Here the students are asked to go out of the class room and library and make an empirical study of a problem which has social, economic, moral or political dimension. Field data can be collected through any model of data collection. The results are to be assessed by a team of faculty members.

2 Law teaching (25 marks)

A topic is assigned to the student in advance. He is required to handle a class for 25 to 30 minutes. The students may be asked to teach the LLB students. They can select any of the methods of teaching in legal education practical, the LLM students are evaluated internally and externally.

3 Viva – in – voice (25 marks)

Note :

1 The topic will be same for doctrinal and non-doctrinal writing and will be present in one file in two part i.e. Part (A) & Part (B).

2 All students have to take 12 classes of LLB under head of Law teaching. Teaching will be examined by senior faculty member.

3 Viva – voice will be taken by one internal and one external examiner on the date notified by the university. Viva will be based on paper writing to examine the knowledge of research methodology.

\*\*\*\*\*