

# Syllabus LL.M. Part I

## PAPER I

### LAW AND SOCIAL TRANSFORMATION IN INDIA.

#### Unit 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) Sociological school and its, applicability in India.
- iv) 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

#### Unit 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) Protective discrimination; Scheduled Castes, tribes and backward classes
- iv) Reservation Policy, Statutory Commissions and Problems of National Integration

#### Unit 3 :

##### **(A) Regionalism and the Law:**

- i) Role of Regionalism as a divisive and integrative factor
- ii) Concept of India as one unit

##### **(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
- vi) Empowerment of women; Constitutional and other legal provisions

## **Unit 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) Criminal Law : Plea bargaining; compounding and payment of compensation to victims
- v) Civil Law (ADR) Confrontation v. Consensus; mediation and conciliation; Lok Adalat

### **Select Bibliography**

- Marc Galanter (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 Essays (1988). Tripathi, 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 of India (1996), Tripathi.  
D.D. 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) Armol Publications, Delhi.  
Savitri Gunasekhare, Children, Law and Justice (1997), Sage  
Indian Law Institute, Law and Social Change : Indo-American Reflections, Tripathi (1988)  
J.B. Kripalani, 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.  
Agnes, Flavia, Law and Gender Inequality: The Politics of Women's Rights in India (1999), Oxford

**PAPER II**  
**INDIAN CONSTITUTIONAL LAW : THE NEW CHALLENGES**

**Unit 1 :**

Freedom :

- i) Creation of new states
- ii) The inter-state disputes on resources
- iii) Freedom of Trade, Commerce and Intercourse
- iv) Services under Union
- v) Emergency Provisions
- vi) Federal Comity

**Unit 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
- vii) Commercialisation of education and its impact

**Unit 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

**Unit 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.

## **PAPER III JUDICIAL PROCESS**

### **Unit 1.**

Doctrine of Precedent-Ratio decidendi and Obiter Dictum-methods of determining ratio-Stare decisis and its exceptions-precedent in common law and Civil law Countries.

### **Unit 2.**

Logic and growth in law (both under Code system and. Common law)-Categories of illusory Reference-legal reasoning (judicial as well as juristic). New rhetorics - role of judicial Concepts and judicial discretion in judicial reasoning.

### **Unit 3.**

Nature of judicial process--search for the legislative- intention-methods. of judicial interpretation-role of Philosophy, logic, history tradition and sociology - judge as legislature-judicial creativity and its limitations.

### **Unit 4.**

Judicial process in Indian legal system- operation of precedent in India-Judicial process in a statue free zone and judicial: process on statutory materials-Judicial activism vis-a-vis judicial self restraint.

Prospective overruling- basic structure theory and limitations to constitutional amendments.

## **SELECT BIBLIOGRAPHY**

- Julius Stone : The Province and Function 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), Stevens, London  
Bodenheimer : Jurisprudence - The Philosophy and Method of the Law (1997), Universal, Delhi  
J. Stone : Legal System and Lawyer's Reasoning (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, H. Levi : An Introduction to Legal Reasoning (1970), University of Chicago

**PAPER IV**  
**LEGAL EDUCATION AND RESEARCH METHODOLOGY**

**Unit 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
- vi) 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

**Unit 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

**Unit 3 :**

- i) Juristic writings-a survey of juristic literature its relevance in selection of problems in India and foreign periodicals
- ii) Compilation of list of reports or special studies conducted relevant to the problems
- iii) Formulation of the Research problem
- iv) Devising tools and techniques for collection of data
- v) Methods for the collection of statutory and case material and juristic literature
- vi) Use of historical and comparative research material
- vii) Use of observation studies
- viii) Use of questionnaires/interview
- ix) Use of case studies
- x) Sampling procedures. design of sample, types of sampling to be adopted
- xi) Use of scaling techniques

**Unit 4 :**

- i) Jurimetrics
- ii) Computerized 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 Brayai, Negel Dunean 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 (1993), Tripathi, Bombay

N.P. Madhava Menun (ed.) : A Handbook of Clinical Legal Education (1998). Eastern Book Company. Lucknow

M.O. Price, H. Bitner and Bysicqicz : 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. Hymae : Interviewing in Social Research (1965)

Payne : The Art of Asking Questions (1965)

Erwin, C., Surrancy, B. Field, J. Crea : A Guide to Legal Research

Morris, L. Cohan : Legal Research in Nutshell (1996), West Publishing Company

Harvard Law Review Association : Uniform System of Citations

1L1 Publication : Legal Research and Methodology

**PAPER V**  
**FOUNDATION OF CONTRACTUAL LIABILITY**

**Unit 1**

Formation of Contract: A critical study of offer and acceptance.

Doctrine of Consideration and Privity of Contract

**Unit 2**

Capacity to contract: Nature of minor's agreements and the doctrine of restitution.

Consent: Meaning, importance and the factors vitiating free consent with special reference to Fraud and Misrepresentation.

Standard form Contracts.

**Unit 3**

Void Agreements: With special reference to agreements relating to restraint of trade and wagering agreements.

Discharge of contracts with special reference to the doctrine of frustration.

**Unit 4**

Relations resembling those created by contract.

Remedy in the form of compensation.

**Suggested Readings**

1. Cheshire Fifoot - The Law of Contract.
2. Bollock and Mulla - The Indian Contract and. Specific Relie
3. Anson's - Law of Contract
4. P.S.Atiyah - An introduction to the Law of Contracts
5. P.S.Atiyah - The Rise and fall of Freedom of Contra
6. G.H. Tritel - Law of Contracts
7. Avtar Singh - The Law of contracts
8. Desai - Law of Contract

**PAPER VI**  
**JURISPRUDENCE**

**UNIT 1**

1. Definition, nature scope and value of Jurisprudence
2. Schools of Jurisprudence
  - (a) Natural Law
  - (b) Analytical
  - (c) Historical
  - (d) Sociological
  - (e) Realist School
  - (f) Economic Theory.

**UNIT-2**

1. Definition of Law and its scope
2. Sources of Law - (a) Custom (b) Precedent and (c) Legislation
3. Administration of Justice and Theories of Punishment

**UNIT-3**

1. Law and Morality
2. Law and Society

**UNIT-4**

1. Concepts of Law
  - (a) Right and Duty
  - (b) Legal Person
  - (c) Possession
  - (d) Ownership
  - (e) Property
  - (f) Liability
  - (g) Obligation



## **Bibliography**

- L.M. Singhvi, *Freedom on Trial*, (1991), Vikar, N.Delhi.
- Verinder Grover (Ed.) *Political Process and Role of Courts*, (1997) Deep & Deep Publications, N. Delhi.
- B.P.Sigh Seghal (Ed.) *Law, Judiciary and Justice* (1993) Deep & Deep, N.Delhi.
- Max Gluckman, *Judicial Processes Among the Barotse of northern Rhodesia* (1967).
- Paul Bohanan, *Justice and Judgment Among the Tiv* (1957)
- E. Adamson Hoebel, *The Law of the Primitive Man* (1968)
- Catherine Newman, *Law and Economic Organization: A Comparative Study of Pre-industrial*
- Upendra Baxi, *Towards the Sociology of Indian Law* (1986)
- Harold J. Berman, *Law and Revolutions the Formation of the Western Legal Tradition* (1983).
- Yash Ghai, *The Political Economy of Law. A Third World Reader* (1986)
- Henry J. Abraham, *The Judicial Process* (1995), Universal
- Ronald Dworkin, *Taking Rights Seriously* (1996), Universal
- Ronald Dworkin, *A Matter of Principle* (1985)
- John Hart Ely, *Democracy and Distrust. A Theory of Juridical Review* (1980)
- J. Stone, *Precedent and the Law: Dynamics of Common Law Growth* (1985)
- Supreme Court of India, *Third International Conferences of Appellate Judges Conference Papers and Proceedings* (1985).
- Upendra Baxi, *The Indian Supreme Court and Politics* (1980)

## **PAPER VII**

### **Teaching project**

Student has to teach students of BA. LLB and submit reports .