

# SHIVAJI UNIVERSITY KOLHAPUR



Est.: 1962  
NAAC 'A' Grade

**Faculty of Humanities**

**Master of Laws**

**(LL.M. - Two Year) Programme**

**Choice Based Credit System (CBCS)**

(To be implemented from Academic Year 2024-25)

## **Group – I**

**Semester – I-**

**Business Laws LL.M. Part – I,**

### **CC-101: Law and Social Transformation in India**

#### **Course Outcome**

- (a) Awareness of Indian approaches to social and economic problems in the context of law as a means of social control and change; and
- (b) A spirit of inquiry to explore and exploit law and legal institutions as a means to achieve development within the framework of law.
- (c) The endeavor is to make the students aware of the role the law has played and has to play in the contemporary Indian society.

#### **Learning Outcome**

- (a) By the end of this course, students will be able to understand the co-relation between law and social change.
- (b) Student can identify and analyse the impact of religion and the law on one another.
- (c) Student will be in position to understand the significance of language in social and national arena.
- (d) Student will be in a position to make a critical appreciation of the relation between community and the law. This will contribute towards social transformation through the law.
- (e) Student can comprehend the nexus between regionalism and the law and can better be underline the concept of unity in diversity.
- (f) Learner's approach towards the dignity of women and children will be well received.
- (g) Student can make logical calculation towards the changes taking place in the society and the laws enacted to mitigate the social change.

#### **Unit I -Law and Social Change**

- 1.1 Law as an instrument of social change.
- 1.2 Law as the product of traditions and culture.
- 1.3 Sociological school of jurisprudence and its impact on legal development
- 1.4 Social transformation through education, legal literacy

#### **Unit II - Religion and the Law**

- 2.1 Religious diversity in India – merits and demerits
- 2.2 Right to Religion and Secularism
- 2.3 Religion and Social reforms in India
- 2.4 Religion and Uniform Civil Code

### **Unit III - Language and the law**

- 3.1 Role of language in society
- 3.2 Formation of states on the basis of language
- 3.3 Language policy and the Constitution
- 3.4 Status of Official language
- 3.5 Constitutional guarantees to linguistic minorities.

### **Unit IV - Community and the law**

- 4.1 Casteism in India
- 4.2 Non-discrimination on the ground of caste.
- 4.3 Cast-less society
- 4.4 LGBT community and the law - problems and prospects including same-sex marriage
- 4.5 Live-in-relationship- legal aspects

### **Unit V - Regionalism and the law**

- 5.1. Regionalism – concept and scope
- 5.2 Concept of Union of India
- 5.3 Special status of state under the constitution of India
- 5.4 Non-discrimination on the ground of place of birth and place of residence

### **Unit VI - Women and the law**

- 6.1. Reservation Policy for women in India
- 6.2. Gender injustice and its various forms.
- 6.3. Women's Commission.
- 6.4. Constitutional and statutory safeguards to women

### **Unit VII - Children and the law**

- 7.1. Constitutional and statutory safeguards to Child
- 7.2. Social and Sexual exploitation of children

- 7.3. Adoption and related problems.
- 7.4. Children and education.

### **Unit VIII - Modernisation and the law**

- 8.1 Social changes and legal reforms in India
- 8.2 An overview of new laws in India in the purview of social upliftment-
  - 8.2.1 Bhartiya Nyaya Sanhita (BNS),
  - 8.2.2 Bhartiya Nagrik Suraksha Sanhita (BNSS), and
  - 8.2.3 Bhartiya Sakshya Adhiniyam (BSA)
- 8.3 Social evolution through legal process- some case studies

### **Reference literature-**

1. Marc Galanter (ed.), Law and Society in Modern India (1997 ) Oxford,
2. Robert Lingat, The Classical Law of India (1998), Oxford
3. U. Baxi, The Crisis of the Indian Legal System (1982). Vikas, New Delhi.
4. U. Baxi (ed.), Law and Poverty Critical Essays (1988). Tripathi, Bombay.
5. Manushi, A Journal About Women and Society.
6. Duncan Derret, The State, Religion and Law in India (1999). Oxford University Press, New Delhi.
7. H.M. Seervai, Constitutional Law of India (1996), Tripathi.
8. D.D. Basu, Shorter Constitution of India (1996), Prentice - Hall of India (P) Ltd., New Delhi.
9. Sunil Deshta and Kiran Deshta, Law and Menace of Child Labour (2000) Armol Publications, Delhi.
10. Savitri Gunasekhare, Children, Law and Justice (1997), Sage
11. Indian Law Institute, Law and Social Change : Indo-American Reflections, Tripathi (1988)
12. J.B. Kripalani, Gandhi: His Life and Thought, (1970)Ministry of Information and Broadcasting Government of India
13. M.P.Jain, Outlines of Indian Legal History, (1993), Tripathi, Bombay.

### **CC-102: Indian Constitutional Law: The New Challenges,**

#### **Course Objectives:**

The Constitution, a living document, is said to be always in the making. The judicial process of constitutional interpretation involves a technique of adapting the law to meet changing social mores (civilization). Constitution being the fundamental law, an insight into its new trends is essential for a meaningful understanding of the legal system and processes. The post graduate students in law who

had the basic knowledge of Indian Constitutional Law at LL.B level, should be exposed to the new challenges and perspectives of constitutional development while they are allowed to choose an area of law for specialisation. Obviously, rubrics under this paper require modification and updating from time to time.

### **Learning Objectives -**

- (a) By the end of the course, student will be able to understand the basic concept and elements of the constitution and constitutionalism.
- (b) Student will be able to understand in better manner the system of federal structure in India where mutual existence of the states and center are essential.
- (c) Student can make critical appraisal of freedom of speech and expression in the backdrop of technological advanced media.
- (d) Student will be able to update themselves in tune with the changing response of judiciary towards the protection of human rights.
- (e) Student will be able to make critical analysis of the constitutional amendments and basic notions of secularism and equality envisaged under the constitution of India.

### **Unit I - The Concept of Constitution & Constitutionalism**

- 1.1 Meaning and Idea of Constitution,
- 1.2 Constitution as a Dynamic and Supreme Law
- 1.3 Concept of Constitutionalism and Pluralism
- 1.4 Distinction between Constitution and Constitutionalism
- 1.5 Essential features of Constitutionalism

### **Unit II Federalism**

- 2.1 Creation of new states
- 2.2 The inter-state disputes on resources
- 2.3 Centre's responsibility and internal disturbance within States
- 2.4 Federal Comity: Relationship of trust and faith between Centre and State.

### **Unit III Freedom of press and challenges of new scientific development**

- 3.1 Constitutional provisions regarding speech and expression. Restrictions on freedom of speech and expression.

- 3.2 Right to broadcast and telecast.
- 3.3 Misleading advertisement vis a vis consumer rights.
- 3.4 Institutional mechanism for the media.

#### **Unit IV Emerging regime of new rights and remedies**

- 4.1 Reading Directive Principles and Fundamental Duties into Fundamental Rights
- 4.2 Compensation jurisprudence
- 4.3 Civil Liberties and Emergency – interrelation
- 4.4 Public Interest Litigation – Use and misuse

#### **Unit V Emergency under the constitution of India**

- 5.1 History
- 5.2 Need and significance
- 5.3 Types of Emergency under the constitution of India
- 5.4 Doctrine of Judicial review
- 5.5 Doctrine of Political question
- 5.6 Development in India owing to emergency

#### **Unit VI Amendment of the Constitution**

- 6.1 Need and significance of amendment to the constitution
- 6.2 Methods of Amendment
- 6.3 Limitations on the Amending Power: Comparative Perspective
- 6.4 Theory of Basic Structure: Origin and Development

#### **Unit VII Secularism and religious fanaticism.**

- 7.1 Secularism
- 7.2 Secularism under Indian Constitution
- 7.3 Right to Religion
- 7.4 Restrictions on Right to Religion
- 7.5 Conversion of religion –recent trends

#### **Unit VIII Right to equality**

- 8.1 Equality Before Law
- 8.2 Equal Protection of Law

- 8.3 Protective discrimination and affirmative action
- 8.4 Reservation policy – critical appraisal

**Suggested reading:**

1. Dr.Durga Das Basu, Introduction to the Constitution of India, Wadhawa Publication, Nagpur
2. Dr.Durga Das Basu, Introduction to the Constitution of India, Kama Law House, Kolkata
3. The constitution of India, with selective comments by P. M. Bakshi
4. Prof. Kailas Rai, The Constitutional Law of India, Central Law Publications
5. Prof. Narendra Kumar, Constitutional Law of India, Allahabad Law Agency
6. A.V. Dicey, An Introduction to the study of the Law of the Constitution, Universal Law Publishing Co. Pvt. Ltd.
7. Dr. J. N. Pandey, The Constitutional Law of India, Central Law Agency
8. N. K. Acharya Supreme Court on the The Constitution of India, Asia Law House
9. M. P. Jain, Indian Constitutional Law, Wadhawa and Company, Nagpur
10. H. M. Seervai, The Constitutional Law of India, Universal Book Traders
11. T. K. Tope's The Constitutional Law of India, Eastern Book Company
12. The Constitutional Law of India, S. K. Awasthi, Dwivedi Law Agency, Allahabad
13. V. N. Shukla's The Constitution of India, Eastern Book Company, Lucknow

**CC-103: Legal Theory,**

**Course Objectives**

- a) The course aims at developing an insight into the juristic foundations of a legal system.
- b) To enable understanding of the law as it exists and its functions in a contemporary society.
- c) To inculcate a clear understanding about the new aspects of law and its nature and function.
- d) To create a clear understanding about the impact of law on various other branches of the study and its relationship with ethical aspects of justice.

**Learning Objectives-**

- (a) By the end of this course, student will be in a position to understand the significance of jurisprudence and legal theory in order to make legal development in society.
- (b) Student will be able to understand the importance of natural law theory and its perspectives to provide solution to existing problems.
- (c) Student will be able to make critical evaluation of various legal theories and their usage in contemporary era.

(d) Student will be able to understand the legal connotations available in ancient Bharat jurisprudence.

### **Unit I - Introduction**

- 1.1 Meaning and concept of Jurisprudence
- 1.2 Relevance of Jurisprudence in the contemporary era
- 1.3 Meaning and definition of Law, Law and Morals
- 1.4 Jurisprudence and Legal Theory –correlation

### **Unit II - Relevance of Natural Law: theoretical Perceptions**

- 2.1 The Origin and Significance of Natural Law
- 2.2 Theoretical Perceptive of Natural Law
- 2.3 Legal Contribution of –
  - 2.3.1 ST. Thomas Aquinas;
  - 2.3.2 Hugo Grotius;
  - 2.3.3 Thomas Hobbes;
  - 2.3.4 John Locke;
  - 2.3.5 Jean J. Rosseau

### **Unit- III**

#### **Revival of Natural Law-**

- 3.1 Contribution of –
  - 3.1.1 Rudolf Stammler;
  - 3.1.2 Lon Fuller;
  - 3.1.3 John Finnis
- 3.2 Semi-sociological Natural Law-H.L.A. Hart
- 3.3 Impact of Natural Law Theory on the Constitution of India

### **Unit IV - Legal positivism**

- 4.1 Austin's analytical theory of Law
- 4.2 Bentham's Legal Positivism
- 4.3 Pure Theory of Law-Hans Kelson
- 4.4 Oliver Wendell Homes Theory



## **Unit V - Post Modern Theories**

- 5.1 Hart's concept of Law
- 5.2 Rawls theory of Justice
- 5.3 Amartya Sen's theory of Justice

## **Unit VI - Sociological Jurisprudence**

- 6.1 Duguit Theory
- 6.2 Ehrlich and Ihering Theory
- 6.3 Dean Roscoe Pound Theory

## **Unit VII- Legal Realism**

- 7.1 American Legal Realism
  - 6.1.1 Jerome Frank.
  - 6.1.2 Karl Lewellyn
- 7.2 Scandinavian Realism
  - 6.2.1 Hagerstrom's Legal Philosophy
  - 6.2.2 Karl Olivecrona,
  - 6.2.3 Alf Ross
- 7.3 Legal realism and Indian Judicial process

## **Unit VIII - Hindu Jurisprudence**

- 8.1 Meaning and scope of Hindu Jurisprudence
- 8.2 Fundamentals of Hindu Legal Theory
- 8.3 Ancient Hindu Jurisprudence as a source of Modern Indian Legal System
- 8.4 Personal Laws and Uniform Civil Code.

### **Suggested reading :**

1. Allen : Law in the Making, Universal Publishers.
2. Mahajan V.D.: Legal Theory and Jurisprudence, Eastern Book Company, Lucknow.
3. Dias : Jurisprudence, Aditya Books.
4. Rama Jois, Legal and Constitutional History of India, Universal Law Publications, Delhi.
5. Dr. S.N. Dhyani – Fundamentals of Jurisprudence – the Indian Approach, Central Law Agency, Allahabad.
6. Dr. B. N. Mani Tripathi - Jurisprudence and Legal Theory, Allahabad Law Agency, Allahabad.

7. Dr. S. R. Mynani – Jurisprudence and Legal Theory, Asia Law House, Hyderabad.
8. Dr. N. V. Paranjape – Studies in Jurisprudence and Legal Theory, Central Law Agency Allahabad.
9. W. Friedmann – Legal Theory, Universal Law Publishing Co., Pvt. Ltd.
10. Salmond: Jurisprudence, Universal Publishers.
11. Paton : Jurisprudence
12. John Rawls -Theory of justice

## **EC-104 : Law of Industrial and Intellectual Property**

### **Course Objectives**

The concept of intellectual property rights as developed in India cannot be divorced from the developments in the international arena as well as in the nation-to-nation relations. The impact of IPR regime on the economic front is emphasised in this paper. In particular, greater attention would be given here to the law relating to unfair and restrictive trade practices as affecting the regime of intellectual property rights. New areas of development, especially plant patenting and patenting of new forms of life (biotechnology) should receive special attention. Evidentiary aspects of infringement and human right dimensions of the regime of intellectual property law will also be addressed.

### **Learning Objectives-**

- (a) By the end of this course, student will be able to understand the legal regime relating to intellectual property rights.
- (b) Student will be able to understand the various elements and legal protections available to consumers under the trademark law.
- (c) Student will be able to relation and significance of competition law and laws relating to IPR.
- (d) Student will be in apposition to comprehend the technological and legal development in intellectual property in India and abroad.
- (e) Student can very well understand the growing significance of biotechnology and law.
- (f) Student will be able to understand the technological and legal development made in the field of industrial design and semi-conductor integrated circuits.
- (g) Student will be in a position to apply the legal protections in case of infringement of intellectual property rights.
- (h) Student will be able to understand the harmony between technological development and dignity of human rights.

## **Unit I - IPR and International Perspectives**

- 1.1 International Treaties and Conventions on Intellectual Property
- 1.2 Rationale behind protection of Property under Intellectual Property- legal regime
- 1.3 Development of industrial and intellectual property law in India
- 1.4 Concept of Intellectual Property as 'Industrial Property'
- 1.5 Recent trends in the field of industrial and intellectual property

## **Unit II – Trademark law**

- 2.1 Evolution, Meaning, Types of Trade Mark
- 2.2 Rights of holder, Assignment and Licensing of Trade Mark
- 2.3 Nexus between Consumer protection and Trade Mark – Case Studies
- 2.4 Study of UNCTAD Report

## **Unit III - Competition Law and Intellectual Property Rights**

- 3.1. Relation between Unfair Competition and Intellectual Property
- 3.2 United Nations approaches (UNCTAD, UNCITRAL) on Unfair Trade Practices
- 3.3 Competition Act, 2002
- 3.4 Case Studies on Competition Law and Industrial Intellectual Property
- 3.5 Decoding of Anti-Competitive Agreements in the context of protection of Intellectual Property

## **Unit IV - Technological and Legal Developments in Intellectual Property**

- 4.1 Protection of Computer Programs in India
- 4.2 International norms concerning protection to Computer Programs in USA and UK
- 4.3 Protection of Intellectual Property on Information Technology enabled platforms
- 4.4 Remedies for infringement of Intellectual Property on cyberspace – International perspective
- 4.5 Global perspective in Data Protection Framework

## **Unit V – Biotechnology Patents and Patent Law:**

- 5.1. Evolution, Meaning, Types of Biotechnology Patents
5. 2 International regulation of environment and health hazards in Biotechnology Patents
- 5.3 Proof of non-anticipation, novelty of inventions protected by Patent Law
- 5.4 International and global patent information retrieval systems
- 5.5 Commercial Exploitation of IP – Assignment, Licensing, Infringement

## **Unit VI – Industrial Designs, Semiconductor Integrated Circuits Layout Designs (SICLD) and**

## **Intellectual Property**

- 6.1 Evolution, Meaning of SICLD
- 6.2 Legal protection of SICLD as Intellectual Property
- 6.3 Legal protection of Industrial Designs
- 6.4 Semiconductor Integrated Circuits Layout Design (SICLD) Act 2000

## **Unit VII - Infringement and Redressal of Intellectual Property Rights**

- 7.1 Meaning of Infringement and remedies for infringement of Intellectual Property Rights
- 7.2 Evidentiary problems in action of passing off under Trade Marks legal regime
- 7.3 Evidentiary problems in piracy: TRIPS obligation - reversal of burden of proof in process patent
- 7.4 Alternative Dispute Redressal Mechanism for infringement of Intellectual Property Rights
- 7.5 Need and Scope of Legal Reforms for enforcement of Intellectual Property Rights

## **Unit VIII - Intellectual Property and Human Rights**

- 8.1. Freedom of speech and expression as the basis of the regime of intellectual property right – Nexus between Privacy and Intellectual Property Rights
- 8.2. Legal status of hazardous research protected by the regime of intellectual property law
- 8.3 Human Rights perspective on Intellectual Property, Scientific Progress and Access to benefits of Science
- 8.4. Traditional knowledge - protection- biodiversity convention- right of indigenous people
- 8.5 Recent Trends adopted for striking balance between Intellectual Property Rights and Human Rights

### **Suggested reading :**

- 1. Special attention should be given to literature of the U.N. System, WIPO and the UNESCO.
- 2. Terenee P. Stewart (ed.), The GATT Uruguay Round: A Negotiating History (1986- 1994) the End Game (Part - 1)(1999), Kluwer
- 3. Iver P. Cooper, Biotechnology and Law (1998), Clerk Boardman Callaghan, New York.
- 4. David Bainbridge, Software Copyright Law (1999), Butterworths
- 5. Sookman, Computer Law (1998), Carswell
- 6. Carlos M. Correa(ed.), Intellectual Property and International Trade (1998), Kluwer
- 7. Patent Co-operation Treaty Hand Book (1998), Sweet and Maxwell
- 8. Christopher Wadlow, The Law Of Passing-Off (1998), Sweet and Maxwell
- 9. W.R.Cornish, Intellectual Property Law (1999), Sweet and Maxwell

## **SEC-105: Alternative Dispute Resolution**

**Max. Marks: 50**

### **Objectives of the Course:**

The main objectives of the Course are:

1. Understand the strengths and weakness of various dispute resolution methods.
2. Explain primary dispute resolution process and functions
3. Develop techniques and skill to make effective use of ADR methods.
4. Describe and explain the ADR movement.
5. Compare and contrast various legal implications of each method.
6. Train participants to be effective Arbitrators, Conciliators and Mediators.
7. Reduce the backing of pending cases
8. Develop Case Management System.
9. Reduce the time pendency of the litigations

### **Syllabus:**

#### **Unit I - Introduction to ADR**

- 1.1 Key Concepts in Dispute Resolution
- 1.2 Disputes - Kinds of Disputes - Justiciable dispute- Dispute Resolution in adversary system, court structure and jurisdiction.

#### **Unit II - Dispute Resolution at grass root level, Lok Adalats, Nyaya Panchayath, Legal Aid, Preventive and Strategic legal aid.**

- 2.1 ADR - Meaning and philosophy
- 2.3 Overview of ADR processes,
- 2.3 Legal counselling,
- 2.4 Case - planning strategy,
- 2.5 Conciliation / Mediation,

#### **Unit III – Negotiation:**

- 3.1 Theories and Frameworks.
- 3.2 Skills and Behaviour
- 3.4 Barriers to Agreements
- 3.5 Rule of law; Ethics and Policies.

## **Unit IV - Mediation - I**

- 4.1 Introduction Overview
- 4.2 Purposes and Uses.
- 4.3 Skills - Roles of Mediators,
- 4.4 Parties, Lawyers

## **Unit V – Mediation – II.**

- 5.1 Ethics, Fairness, Neutrality, Confidentiality and Personal values
- 5.2 Policies, Controversies.
- 5.3 Practical skills of client interviewing/legal counselling.

## **Unit VI - ADR Information, Technology**

- 6.1 Internet - Cyber space,
- 6.2 Online, cyberspace dispute resolution.

## **Unit VII – Arbitration - I**

- 7.1 Arbitral Proceedings, commencement Roots of procedural evidence,
- 7.2 "Fast Track" arbitration, statement of claim and defence, hearing and return proceedings-interim measures by Court and by Arbitral Tribunal.
- 7.3 The law of binding Arbitration.
- 7.4 Skills and Ethics of Arbitration.
- 7.5 Arbitral Tribunal - Composition, eligibility and qualifications of arbitrators.
- 7.6 Termination or a mandate of arbitral Tribunal's and of arbitrators, appointment of arbitrators and filling up of vacancies, powers and functions of Arbitral Tribunal's. competence of arbitral Tribunal to rule on its own jurisdiction etc.

## **Unit VIII – Arbitration – II**

- 8.1 Practice and Legal issues; "compulsory" arbitration in courts and contracts.
- 8.2 Evolution of mediation/conciliation as a mode of settlement of disputes, distinction between mediation, conciliation, negotiation and good offices - definition and scope of conciliation, advantages of conciliation
- 8.3 The Arbitration and Conciliation a Act of 1996 - Appointment of conciliators, commencement of conciliation, proceedings - submission of statements - communication between conciliator and parties, suggestions for settlement –

- 8.4 Confidentiality of information
- 8.5 Admissibility of evidence in other proceedings
- 8.6. Settlement agreement-status and effect. Termination of conciliation proceedings;costs and deposits.

**Suggested Reading:**

1. The Indian Arbitration and Conciliation Act of 1996.
2. The Fundamentals of Family Mediation by John M. Haynes and Stephanie Charlesworth.
3. The Promise of Mediation, by Robert A Baruch Bush and Joseph Folger
4. Alternative Dispute Resolution, by P. C. Rao and William Sheffield
5. Getting to Yes, by Fisher ADR Getting past, No. by fisher and Ury 7. Mediation in Family Dispute, by Marian Roberts.
6. Family Mediation, by Lisa Parkinson
7. People Skills, by Robert Bolton
8. The Mediator's Handbook by Ruth Chariton and Micheline Dewdney
9. Mediation: Principles, Process, Practice by Laurence Boulle -Butterworths.
10. Living the 7 Habits by Stephen R. Govey
11. The Monk who sold his Ferari by Robin Sharma
12. The Code of Civil Procedure, 1908.

**LL.M. Part-I, Sem.-II**  
**Business Law, Group – I (Specialisation)**  
**CC-201: Judicial Process**

**Objectives of the course:**

**Max.Marks:100**

A lawyer, whether academic or professional, is expected to be competent to analyse and evaluate the legal process from a broader juristic perspective. Hence a compulsory paper on Judicial Process is essential in the LL.M curriculum. The objective of this paper is to study the nature of judicial process as an instrument of social ordering. It is intended to highlight the role of court as policy maker, participant in the power process and as an instrument of social change. This paper further intends to expose the intricacies of judicial creativity and the .Since the ultimate aim of any legal process or system is pursuit of justice, a systematic study of the concept of justice and its various theoretical foundations is required. This paper, therefore, intends to familiarize the students with various theories, different aspects and alternative ways, of attaining justice.

**Unit I- Introduction of judicial process**

- 1.1 Meaning and concept of Judicial Process
- 1.2 Nature of Judicial process
- 1.3 Common law
- 1.4 Legal Reasoning and growth of law
- 1.5 Search for the legislative intention
- 1.6 Debate on the role of judges

**Unit II- Judicial Creativity**

- 2.1 Judicial process and Judicial creativity
- 2.2 The tools and techniques of judicial creativity and precedent
- 2.3 Judicial process as an instrument of social ordering

**Unit III - Stare decisis**

- 3.1 Doctrine of Precedent
- 3.2 Ratio decidendi and Obiter Dictum - Concept and Significance
- 3.3 Circumstances destroying the force of precedents



#### **Unit IV –Concepts in Judicial Process**

- 4.1 Notions of judicial review
- 4.2 Judicial and juristic activism
- 4.3 Judicial Independence
- 4.4 Judicial restraint

#### **Unit V - Judicial Process in India**

- 5.1 Judicial Process in civil and criminal law
- 5.2 Judicial Process under Bharatiya Nagarik Suraksha Sanhita, 2023
- 5.3 Judicial process in pursuit of statutory goals and values
- 5.4 Judicial accountability
- 5.5 Judicial appointment and transfer

#### **Unit VI - Judicial Process and Constitutional Adjudications in India**

- 6.1 Role of Supreme Court under the Constitution
- 6.2 Judicial activism and creativity of the Supreme Court and High Courts
- 6.3 Power of Judicial Review
- 6.4 Doctrine of Basic Structure

#### **Unit VII - The Concepts of Justice**

- 7.1. The concept of justice
- 7.2 Justice or Dharma in Indian philosophy
- 7.3 Dharma as the foundation of legal ordering in Indian thought.

#### **Unit VIII- Relation between Law and Justice**

- 8.1 The concept and various theories of justice in the western thought.
- 8.2 Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.
- 8.3 Amendment in the constitution owing to judicial decisions

#### **Suggested Reading :**

1. Julius Stone: The Province and Function of Law ,PartII, Chs. 1-8- 16 (2000), Universal, New Delhi.
2. Cardozo: The Nature of Judicial Process (1995), Universal, NewDelhi
3. Henry J. Abraham: The Judicial Process (1998),Oxford
4. J.Stone: Precedent and the Law :Dynamics of Common (1985), Butterworths
5. W. Friedmann: Legal Theory (1960), Stevens,London
6. Bodenheimer: Jurisprudence-The Philosophy and Method of the Law (1997), Universal, Delhi
7. J.Stone: Legal System and Lawyer's Reasoning (1999),Universal,Delhi.
8. U.Baxi: The Indian Supreme Court and Politics (1980), Eastern, Lucknow.

### **CC-202:Legal Education and Research Methodology**

#### **Objectives of the Course:**

**Max. Marks: 100**

A post-graduate student of law should get an insight into the objectives of legal education. He should have an exposure to programmes like organisation of seminars, publication of law journals and holding of legal aid clinics. Law is taught in different ways in different countries. The LL.M course, being intended also to produce lawyers with better competence and expertise, it is imperative that the student should familiarise himself with the different systems of legal education. The lecture method both at LL.B level and LL.M level has many demerits. The existing lacunae can be eliminated by following other methods of learning such as case methods, problem method, discussion method, seminar method and a combination of all these methods. The student has to be exposed to all these methods so as to develop his skills.

**Syllabus:****Unit I- Introduction**

- 1.1 History and Objectives of Legal Education
- 1.2 Clinical Legal Education–Concept and object
- 1.3 Role of BCI in Legal Education

**Unit II- Methods of Teaching–I**

- 2.1 Pedagogy in Legal Teaching
- 2.2 Teaching Methods
- 2.3 Merits and demerits of different teaching methods
- 2.4 Blooms taxonomy – concept and objectives

**Unit III - Foundations of Research:**

- 3.1 Research - Meaning, Objectives,
- 3.2 Research Methodology – concept
- 3.3 Characteristics of scientific methods of research
- 3.4 Types of Research
- 3.5 Induction and Deduction methods

**Unit IV- Identification of Research Problem & Hypothesis**

- 4.1 Meaning of Research Problem
- 4.2 Significance of Research Problem
- 4.3 Problem Identification & Formulation

- 4.4 Hypothesis – Meaning and Types
- 4.5 Significance of Hypothesis

### **Unit V- Preparation of the Research Design**

- 5.1 Research Design: Concept and Importance in Research
- 5.2 Features of a good research design
- 5.3 Steps in scientific research

### **Unit VI – Data Collection**

- 6.1 Tools and techniques for collection of data: Research Methodology
- 6.2 Methods for the Collection of Statutory and Case materials and Juristic Literature
- 6.3 Use of Computer and Software
- 6.4 Use of Historical and Comparative Research Materials

### **Unit VII - Sampling**

- 7.1 Sampling: Meaning and use
- 7.2 Types of sampling
- 7.3 Characteristics of a good sample
- 7.4 Considerations in sampling and sample size

### **Unit VIII - Data Analysis and report writing**

- 8.1 Analysis of Data
- 8.2 Writing and publication of research report
- 8.3 Ethical issues related to publishing
- 8.4 Plagiarism and Self-Plagiarism

### **Suggested Reading :**

1. High Brayal, Nigel Dunnean and Richard Crimes, Clinical Legal Education:
2. Active Learning in your Law School,(1998 )Blackstone P Press Limited ,London
3. S.K. Agrawal(Ed.), Legal Education in India (1973),Tripathi,Bombay.
4. N.R.MadhavaMenon,(Ed.) A Handbook,(1998) Eastern Book Company,Lucknow.
5. M.O.Price,H. Bitnerand Bysiewiez ,Effective Legal Research (1978).
6. Pauline V. Young, Scientific Social Survey and Research,(1962)

7. WilliamJ. Grade and Paul K .Hatt ,Methods in Social Research, Mc-Graw- Hill Book Compan, London
8. H.M.Hyman ,Interviewing in Social Research(1965)
9. Payne, The Art of Asking Questions (1965).
10. Erwin C.Surrency,B. Fielland J.Crea,AGuidetoLegalResearch(1959)11.Morris L. Cohan, Legal Research in Nutshell, (1996), West Publishing Co. 12. Havard Law Review Association, Uniform System of Citations
13. ILI Publication, Legal Research and Methodology

### **CC-203: Legal Sources and Concepts**

**Max.Marks:100**

#### **Objectives of the Study:**

The paper highlights the fundamental doctrines of legal process like precedent. It provides a deeper understanding of legal system, hierarchy of courts, ordinances and interpretation of statutes.

#### **Syllabus:**

##### **Unit I – Introductory Reflections**

- 1.1 Concept of Law, Meaning of Law, Definitions of Law, Nature and Characteristics of Law, Kinds of Law
- 1.2 Sources of law,  
Meaning of the term source, classifications of sources, ancient and modern sources, Austin, Salmond and Sociological view, other sources.
- 1.3. Legal Concepts, Meaning, importance, concept differs from ideas and notions, understanding and applying legal concepts

##### **Unit II - Custom as Ancient Sources of Law**

- 2.1 The origin and binding force of custom
- 2.2 Importance of customary law
- 2.3 Requisite essentials of custom
- 2.4 Kinds of customs
- 2.5 Theories of customary law.

### **Unit III – Legislation as Modern Sources of Law**

- 3.1 Meaning of the Legislation, Importance of Legislation, kinds of Legislation
- 3.2 Codification of laws, merits and demerits of codification
- 3.3 Arguments in favour and against legislation
- 3.4 The need for interpretation
- 3.5 Rules of interpretation of Legislation  
( Grammatical Interpretation, Golden Rule of Interpretation, the Mischief Rule, Logical and Strict interpretation )

### **Unit IV – Judicial Precedent as Modern Sources of Law**

- 4.1 Precedent Meaning, General Rules for application of precedent, binding force of precedents)
- 4.2 Kinds of Precedents – Its position in India and England
- 4.3 Merits and Demerits of Precedents
- 4.4 Circumstances which destroy the binding forces of Precedents
- 4.5 Doctrines of precedents – Its role (Ration decidendi, Obiter Dicta, Stare Decisis, Prospective Overruling)

### **Unit V – Juridical Concepts – Legal Rights and Duties**

- 5.1 Meaning, Definition, Characteristics, Importance of Legal Rights and Duties
- 5.2 Classification and kinds of Legal rights and Duties
- 5.3 Modes of acquisition of legal rights and duties
- 5.4 Jural relations of legal Rights and Duties
- 5.5 Are rights and duties necessarily co-relative?

### **Unit VI – Juridical Concepts – Possession and Ownership**

- 6.1 Nature of Possession and Legal incidents of Ownership
- 6.2 Development of idea of Possession and Ownership
- 6.3 Theories of Possession and Ownership
- 6.4 Kinds of Possession and Ownership
- 6.5 Distinction between Possession and Ownership

### **Unit VII – Juridical concepts – Persons and Property**

- 7.1 Concept of person and property in Indian Legal System
- 7.2 Kinds of Legal Persons and theory Legal Status
- 7.3 Theories of Corporate Personality
- 7.4 Kinds and modes of Property and its Legal Status
- 7.5 Theories of Property

### **Unit VIII – Juridical Concepts – Liability and Obligations**

- 8.1 Meaning, Definition, Importance of Liability and obligations
- 8.2 Various kinds of liability
- 8.3 Kinds of Negligence, Theories of negligence
- 8.4 Sources of Obligations
- 8.5 Kinds of Obligations

### **Suggested Reading**

1. Dhavan R, Supreme Court of India
2. Cross R, Precedent in English Law
3. Stone Julius, Legal system and Lawyer's Reading Chapters 6,7and 8]
4. Seervai H.M, Constitution of India [Chapter on Union Judiciary]
5. Allen C K, Law in the Making [Chapter on subordinate and Automatic legislation]
6. Dickerson R, Interpretation and application of Statutes
7. Mukherjee A R, Parliamentary Procedure in India [Chapter entitle] 'Legislation' and ' Committees']
8. Benjamin N Cardozo, The Nature of the Judicial Process
9. Lloyd D, Introduction to jurisprudence [chapteron'JudicialProcess']
10. Harris J W, Legal philosophies [Chapter13&15]
11. Kaul M N & Shakhder, Procedure and Practices of Parliament
12. Dias, Jurisprudence 15, WFriedmann Legal Theory
13. G W Paton, A textbook of Jurisprudence
14. Bodenheimer ,Jurisprudence-The Philosophy and Method of the Law
15. Salmond, Jurisprudence

**EC- 204: Information Technology Law**

**Max. Marks 100**

**Syllabus:**

## **Unit I Fundamentals of Cyber Law**

- 1.1 Fundamental Rights and IT Laws in India
  - 1.1.1 Freedom of expression on the internet
  - 1.1.2 Right to privacy vis a vis right to be forgotten
- 1.2 Conceptual and theoretical perspective of cyber law and Cyber Jurisprudence
- 1.3 Overview of development of computer and web technology in India
- 1.4 Jurisdiction in Cyber space

## **Unit II Development of Cyber Law**

- 2.1 National and International Perspective
  - 2.1.1 UNCITRAL Model Law
  - 2.1.2 Evolution of the IT Act, Origin and Necessity
  - 2.1.3 The Information Technology Act, 2000 (As amended in 2008)
- 2.2 Aims and objects, Salient features of the IT Act, 2000

## **Unit III Concept of Digital Signature and Electronic Signature**

- 3.1 Digital Signature
  - 3.1.1 Handwritten signature vs Digital Signature.
  - 3.1.2 Cryptography, Public Key and Private Key, Public Key Infrastructure
- 3.2 Electronic Signature
  - 3.2.1 Electronic Signature vs. Digital Signature
  - 3.2.2 UNCITRAL Model Law on Electronic Signature
- 3.3 Legal recognition of electronic records and electronic evidence
- 3.4 Electronic governance

## **Unit IV -E-Commerce and Laws in India**

- 4.1 E-Commerce; Issues and provisions in Indian Law
- 4.2 E-Governance; concept and practicality in India
- 4.3 E-Taxation issues in Cyberspace
- 4.4 E-Contracts and its validity in India

## **Unit V Cyber Crime and its Impact on other related Acts (Amendments)**

- 5.1 Meaning of cyber crimes
- 5.2 Cyber-crimes under Indian Penal Code, 1860



5.3 Cyber-crimes under Criminal Procedure Code, 1973

5.4 Cyber-crimes under Indian Evidence Act, 1872

### **Unit VI Cyber Crimes & Investigation Procedures**

6.1 Cyber-crimes under the Information Technology Act, 2000

6.2 Differentiation between traditional crime and cyber crimes

6.3 Cyber Crimes Investigation.

6.3.1 Basic Investigation Techniques.

6.3.2 Setting up cyber-crime investigation cell.

6.4 Future Challenges.

### **Unit VII Authorities under IT Laws**

7.1 Adjudicating officer, Adjudication of Cyber cases

7.2 Cyber Appellate Tribunal

7.3 Penalty, Damages & Compensation under IT Act, 2000

### **Unit VIII Contemporary Issues relating to cyber-Law**

8.1 Intellectual Property Issues and Cyberspace

8.1.1 Copyright, Trademark, Patent law, Domain Name Disputes etc.

8.2 Online Privacy, Crypto currency and Cyber Laws.

8.3 Overview of Digital Personal Data Protection Act, 2023.

8.4 Legal implications and impact of social networking on youngsters.

8.5 Artificial Intelligence and Robotics.

### **Suggested Reading :**

1. Seth, Karnika; Computers Internet and New Technology Laws; LexisNexis
2. Gangopadhyay, Shubhashis, Singh, Manisha G. and Singh, Nirvikar; Waiting to Connect; Lexis Nexis
3. Viswanathan, Aparna; Cyber Law; LexisNexis
4. Bhansali, S.R.; The Information Technology Act, Bharat Law House

## **SEC-205:Introduction to Human Rights**

**Max.Marks:50**

### **Objectives of the Course:**

Human rights were conceived rather narrowly as mere freedom from arbitrary government in the past. It

was realised later and much more so during last fifty years since the end of the Second World War that the threats to liberty, equality and justice did not emanate from the state alone. Many nations of Asia and Africa came to nationhood during this period. These nations had to bring about their development and they needed capital. Foreign aid and foreign investments were invited but these could very well lead to their second subjugation. Poverty, ignorance, exploitation had to be fought at the global level. Development had to come without the sacrifice of human values. A greater awareness of human rights, not only as negative restrictions on the state but as positive obligations for creating an environment in which man could live with dignity was necessary.

The focus of a course on human rights must be on the national problems with an international or global perspective. The world community's concerns about human rights have been expressed through various conventions. On the national levels, they are contained in constitutional provisions such as directive principles of state policy, fundamental rights, fundamental duties and judicial, legislative as well as administrative strategies of reconstruction. Human rights are an important parameter for a just society and future lawyers must be able to assess any programme of social transformation with reference to them.

### **Syllabus:**

#### **Unit I - Panoramic View of Human Rights**

- 1.1 Human Rights in Non-western Thought
- 1.2 Awareness of Human rights during the nationalist movement
- 1.3 Universal Declaration of Human Rights, Constituent Assembly and Part III, rafting process.
- 1.4 Subsequent developments in International Law and the Position in India (e.g. Convention of Social discrimination, torture, gender discrimination, environment and the two human rights covenants.)

#### **Unit II - Fundamental Rights Jurisprudence as Incorporating Directive Principles**

- 2.1. The dichotomy of Fundamental Rights (F.R.) and Directive Principles (D.P.)
- 2.2 The interaction between F.R. and D.P.
- 2.3 Resultant expansion of basic needs oriented human rights in India.

#### **Unit III - Right not be Subject to Torture, Inhuman or Cruel Treatment**

- 3.1. Conceptions of torture, third-degree methods
- 3.2 "Justifications" for it

- 3.3 Outlawry of torture at international and constitutional law level
- 3.4. Incidence of torture in India
- 3.5. Judicial attitudes
- 3.6. Law Reform - proposed and pending

#### **Unit IV - Minority Rights**

- 4.1. Conception of minorities
- 4.2. Scope of protection
- 4.3. The position of minority "Woman" and their basic rights
- 4.4. Communal Riots as Involving violation of rights

#### **Unit V - Rights to development of Individuals and Nations**

- 5.1. The UN Declaration on Right to Development, 1987
- 5.2 The need for constitutional and legal changes in India from human rights standpoint.

#### **Unit VI - People's Participation in Protection and Promotion of Human Rights**

- 6.1. Role of International NGOS
  - 6.2.1. Amnesty International
  - 6.2.2. Minority Rights Groups
  - 6.2.3. International Bars Association, Law Asia
- 6.3. Contribution of these groups to protection and promotion of human rights in India.

#### **Unit VII - Development Agencies and Human Rights**

- 7.1. Major international funding agencies and their operations in India

- 7.2. World Bank lending and resultant violation/promotion of human rights
- 7.3 Should development assistance be tied to observance of human rights (as embodied in various UN declarations)

### **Unit VIII - Freedoms**

- 8.1. Free Press - Its role in protecting human rights
- 8.2. Right of association
- 8.3. Right to due process of law
- 8.4. Access and Distributive Justice

### **Select Bibliography:**

1. M.J. Akbar, Riots After Riots (1988)
2. U.Baxi (ed.), The Right to be Human (1986)
3. U.Baxi, The Crisis of the Indian Legal System (1982), Vikas Publishing House, New Delhi.
4. F.Kazmi, Human Rights (1987)
5. L.Levin, Human Rights (1982)
6. Madhavtirtha, Human Rights (1953)
7. W.P. Gromley, Human Rights and Environment (1976)
8. H. Beddard, Human Rights and Europe (1980)
9. Nagendra Singh, Human Rights and International Co-operation (1969)
10. S.C. Kashyap, Human Rights and Parliament (1978)
11. S.C. Khare, Human Rights and United Nations (1977)
12. Moskowitz, Human Rights and World Order (1958)
13. J.A. Andrews, Human Rights in International Law (1986)
14. Menon (ed.), Human Rights in International Law (1985)
15. A.B. Robertson (ed), Human Rights in National and International Law (1970)
16. Upendra Baxi, "Human Rights, Accountability and Development" Indian Journal of international law 279 (1978)