

LL.M. (2 Years) Program
CONSTITUTIONAL LAW AND LEGAL ORDER
(Program Code: 5-2-01)
(W.E.F. 2021-2022)



Dr. B.R. Ambedkar College of Law
ANDHRA UNIVERSITY
Visakhapatnam - 530 003

LL.M: 2 YEARS DEGREE PROGRAM

Program Objectives :

A Master of Laws (LLM) is a postgraduate course designed to enhance academic legal knowledge, allowing student to focus on specific areas of interest. With the Master of Law one can enjoy maximum flexibility in choice of modules and dissertation topic. The course has been purposely designed to be an innovative, adaptable program for law and non-law graduates to customize their studies to suit their preferred areas of practice interest. The LL.M. (Research) Degree is running under Semester system following Choice Based Credit System. The Department is implementing revised curriculum of UGC- CDEC.

Program Outcomes:

PO1: Analytical learning of the legal and judicial system in India.

PO2: Application of Legal knowledge so acquired to solve the socio-legal problems of the society with emphasis on vulnerable sections of the society.

PO3: Identification of contemporary research areas relevant to the society and undertake such research for the benefit of the society.

Program Specific Outcomes:

PSO1: Acquisition of advocacy skills, legal writing, management of time and court etiquette to argue in a logical manner.

PSO2: Upholding of ethical and professional values in the practice of legal profession.

ANDHRA UNIVERSITY

REGULATIONS AND SYLLABUS RELATING TO LL.M. DEGREE COURSE

(TWO YEAR) SEMESTER PATTERN:

(Effective from the Academic Year 2021-2022)

- **Admission:** Candidates admitted into 2 year LL.M. course should have;
 - i. Passed the Bachelor of Law Degree examination of this University or an examination of any other university recognized as equivalent thereto.
 - ii. Qualified in the LL.M. Entrance Test conducted in the year for which the candidate seeks admission.

- **For the award of LL.M. Degree:** A candidate shall be required to have i) received instruction and training for the prescribed course of study as full-time student for two academic years, and ii) qualified all the examinations prescribed for the award of the two Year LL.M. Degree.
- **Duration:** LL M Course has to be pursued in four semesters stretching over two academic years. Each academic year comprises of two Semesters. Each semester will be of the duration of 16 weeks.
- **Medium of Instruction** will be in English language
- **Attendance:** In order to be eligible to take the examination in any subject, candidate is required to put in 75% of attendance in each subject which includes lectures, tutorials and practical training.

If a student for any exceptional reason fails to attend 75% of the classes held in any subject, he/she may be condoned for the shortage of attendance if the student concerned attended at least 66% of the classes held in the subject concerned subject to the payment of the fine prescribed from time to time by the University.

- **Course Structure & Content:** LL.M Course is subject to UGC norms prescribed from time to time.

LL.M Course is to be pursued in a selected branch of specialization offered by the University.

The course consists of 4 compulsory theory papers, one practical examination and dissertation common to all LL.M students and 6 papers of specialization opted by the candidate..

In the first semester, the candidate has to offer two compulsory theory papers (Compulsory Papers 1&2) and two Papers from the branch of specialization.(Branch Papers1&2).

In the second semester, the candidate has to offer two compulsory theory papers (Compulsory Papers 3&4) and two Papers from the branch of specialization.(Branch papers3&4).

In the third semester the candidate has to offer two papers exclusively from the selected branch of specialization. (Branch papers 5 & 6) and practical examination

comprising of doctrinal work, non doctrinal work and clinical work . In the fourth semester he/ she has to complete the dissertation in partial fulfillment of the LL.M degree.

| SEMESTER | COMPULSORY CORE PAPER | SPECIALIZATION/BRANCH PAPERS | TOTAL PAPERS | MARKS |
|----------|--------------------------|---------------------------------|-----------------|-----------|
| First | 2 | 2 | 4 | 400 |
| Second | 2 | 2 | 4 | 400 |
| Third | 1 (Practical) | 2 | 3 | 300 |
| | MOOCS | 1 | 1 | 50 |
| Fourth | Dissertation | | | 100 |
| | MOOCS | 1 | 1 | 50 |
| | | | | 1300 |

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Compulsory Papers:

1. Law and Social Transformation in India
2. Indian Constitutional Law: The New Challenges
3. Judicial Process
4. Legal Education and Research Methodology
5. Dissertation

• Practical Paper with the following components:

Doctrinal Research:

Each student would be assigned in advance a topic and asked to write a doctrinal researchpaper.

Non-Doctrinal Research:

The student would be 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.

Clinical Work:

The modalities can be evolved by the law school. One method is that the legal aid clinic of the law school can involve itself with other legal aid programmes in the area. Students are encouraged not only to work with the clinic but also to acquaint themselves with court proceedings, working of a business organization, tackling of labour disputes, drafting of business or other deeds and with public interest litigation. *Law Teaching*

A topic would be assigned to the student in advance. He is required to handle a class for 25 to 30 minutes. Where LL.B. programme co-exists with LL.M. programme, the students may be asked to teach the LL.B. students.

Proposed change - MOOCS – Two MOOCS have to be undergone. One in IIIrd Semester & another in IVth Semester. Each MOOCS carries 2 Credits (Max. 50 Marks).

Dissertation:

Dissertation of a minimum length of 120 pages has to be carried by the candidate in the area of his/her area of specialization in fourth semester. Dissertation shall be evaluated internally and externally through viva-voce.

- **Credits:**

All papers carry six credits and the dissertation in fourth semester carries 12 credits. Total credits are 78.

- **Question Paper Pattern:**

For semester end written examinations in theory, the question paper carrying 80 marks consists of 8 essay questions. Eighth question consists of four short notes out of which the candidate may choose any two to answer. The candidate may choose to write any four questions out of eight questions. Each question carries 20 marks.

- **Marks:**

Every paper carries 100 marks.

Except for the practical papers, 80 marks are allotted for written examination and 20marks are allotted for internal assessment the split of which is as follows;

| | |
|---------------------------------|----------|
| Class and seminar participation | 10 marks |
| Home assignment | 10 marks |

- **Practical Examination:**

The practical examination shall be held at the end of the third semester on Research Methodology, Law Teaching and Clinical Work.

Doctrinal research paper-25 Marks

Non-doctrinal research -25 Marks

Law teaching -25 Marks

Clinical work- 25 Marks

- **Examination:**

- o Candidate shall take examination in each of the subjects prescribed for study at the end of the semester by registering for that semester examination and obtaining hall ticket for the same. Duration of the examination is three hours.
- o The semester end examination shall be based on the question paper set by an external paper setter.
- o A candidate will be declared to have passed in the concerned paper if the candidate secures a minimum of 40%. However, for practical papers, a minimum of 50% is essential. The **practical papers** of LL.M course are, paper 3 (compulsory practical paper) in the Third semester and the dissertation in the fourth semester.

For qualifying in the whole examination for obtaining the LL.M degree, the candidate has to secure a minimum overall aggregate of 50%. The calculation of the aggregate percentage required for qualifying in the examination would be done only at the end of the completion of the course.

- o Grafting/Grace is permitted. Grafting allows a candidate an opportunity to utilize the excess marks he earned in a paper for filling up the shortage of marks in the paper in which the candidate failed. Eg, A candidate who secured

only 35 Marks, would fail having fallen short by 5 Marks of the required minimum pass mark which is 40 Marks. However, If such candidate happened to secure 45 marks in another paper, the extra five marks which is in excess of what is required for a pass could be notionally added to fill the

deficit of 5 marks of the paper in which the candidate actually failed and thereby declare the candidate to have been passed in such paper. Note: Grafting can be availed only when the candidate will be able to pass in the whole examination due to grafting. Grafting to the extent of one mark per hundred marks of each semester can be added to a maximum of two papers only.

- o .5 or more will be rounded up to the higher value of 1 only for the purpose of obtaining pass mark or class elevation, third class to second class or second class to first class. Eg 4.96 will be treated as 5.0. Similarly, 5.45 becomes 5.5

Scheme of Grading

| S. No | Range of Marks | Grade | Grade Point |
|-------|---|----------|-------------|
| 1 | 91-100 | O | 10.0 |
| 2 | 81-90 | A | 9.0 |
| 3 | 71-80 | B | 8.0 |
| 4 | 61-70 | C | 7.0 |
| 5 | 51-60 | D | 6.0 |
| 6 | 40-50 | E | 5.0 |
| 7 | <40 (0-39) | F (Fail) | 0.0 |
| 8 | Incomplete (Subsequently changed into pass or E to O or F grade on subsequent appearance of the examination) | I | 0.0 |

- **Classification** of successful candidates is based on CGPA as follows:

- Distinction --- CGPA 8.0 or more
- I Class --- CGPA 6.5 or more but less than 8.0
- II Class --- CGPA 5.5 or more but less than 6.5
- Pass --- CGPA 5.0 or more but less than 5.5

Note: Only those candidates who appear and pass the examination in all the papers

of the First semester, all the papers of the Second semester, all the papers of the Third semester, and similarly all the papers of the Fourth semester, at first appearance are eligible to be placed in O grade.

- **Awards:**

No candidate who has not passed all the papers relating to any semester at the first appearance shall be eligible for the Award of Medals or Prizes by the University and to receive certificates of rank obtained by them in the examination.

Explanation:

Credits, Grade Letter Grade Points, Credit Points

Credit means the unit by which the course work is measured. One credit means one hour of teaching work or one hour of practical work per week.

Grade Letter is an index to indicate the performance of a student in a particular course(Paper).

It is the transformation of actual marks secured by a student in a course/paper. It is indicated by a Grade letter O, A, B, C, D, E. There is a **range of marks** for each Grade Letter.

Grade Point is Weightage allotted to each grade letter depending on the marks awarded in a course/paper

CGPA: CGPA means Cumulative Grade Point Average. It will be calculated from 2nd semester onwards.

SGPA means Semester Grade Point Average. This is calculated for each semester of the programme

CGPA x 10 will be the overall percentage of the marks obtained by the candidate

Programme Name : Constitutional Law & Legal Order Course

Programme ID: 5-2-01

FIRST SEMESTER:

| Sl. No | Course Code | Paper No | Title of the Paper | Title of the Branch | Hours per week | | | Max Marks | | Credits |
|--------|-------------|-----------------------|---|----------------------------------|----------------|---|---|-----------|----|-----------|
| | | | | | L | T | P | E | I | |
| 1 | TH-103101 | Compulsory Paper - 01 | Law and Social Transformation in India | Common paper | 4 | 2 | - | 80 | 20 | 6 |
| 2 | TH-103102 | Compulsory Paper -02 | Indian Constitutional Law: the New Challenges | Common paper | 4 | 2 | - | 80 | 20 | 6 |
| 3 | TH-103103 | Paper- I | Constitutionalism, Pluralism and Federalism | Constitutional Law & Legal Order | 4 | 2 | - | 80 | 20 | 6 |
| 4 | TH-103104 | Paper -II | Union- State Financial Relations | Constitutional Law & Legal Order | 4 | 2 | - | 80 | 20 | 6 |
| | | | | | | | | | | 24 |

SECOND SEMESTER:

| Sl. No | Course Code | Paper No | Title of the Paper | Title of the Branch | Hours per week | | | Max Marks | | Credits |
|--------|-------------|---------------------|--|----------------------------------|----------------|---|---|-----------|----|-----------|
| | | | | | L | T | P | E | I | |
| 1 | TH-103201 | Compulsory Paper-03 | Judicial Process | Common paper | 4 | 2 | - | 80 | 20 | 6 |
| 2 | TH-103202 | Compulsory Paper-04 | Legal Education and Research Methodology | Common paper | 4 | 2 | - | 80 | 20 | 6 |
| 3 | TH-103203 | Paper -III | Human Rights | Constitutional Law & Legal Order | 4 | 2 | - | 80 | 20 | 6 |
| 4 | TH-103204 | Paper- IV | National Security Public Order and Rule of Law | Constitutional Law & Legal Order | 4 | 2 | - | 80 | 20 | 6 |
| | | | | | | | | | | 24 |

THIRD SEMESTER

| Sl. No | Course Code | Paper No | Title of the Paper | Title of the Branch | Hours per week | | | Max Marks | | Credits |
|--------|-------------|----------------------|--|----------------------------------|----------------|---|----|-----------|----|---------|
| | | | | | L | T | P | E | I | |
| 1 | TH-103301 | Paper -V | Mass Media Law | Constitutional Law & Legal Order | 4 | 2 | - | 80 | 20 | 6 |
| 2 | TH-103302 | Paper -VI | Public Utilities Laws | Constitutional Law & Legal Order | 4 | 2 | - | 80 | 20 | 6 |
| 3 | PR-3001 | Compulsory Practical | Doctrinal Work, Law Teaching Non Doctrinal Work, Clinical work, | | | | 12 | | | 6 |
| MOOCS | | | | | | | | | | 2 |
| | | | | | | | | | | 20 |

FOURTH SEMESTER:

| Sl. No | Course Code | Title of the Paper | Max. marks | | Credits |
|--------|-------------|--------------------|------------|----|---------|
| | | | E | I | |
| 1 | DI-2002 | Dissertation | 50 | 50 | 12 |
| 2 | VV-2002 | Viva | | | |
| | | MOOCS | -- | -- | 2 |
| | | TOTAL | | | 14 |
| | | GRAND TOTAL | | | 82 |

PROGRAMME NAME : CONSTITUTIONAL LAW AND LEGAL ORDER

PROGRAMME ID: 5-2-01

Program Objectives:

This course is designed to examine from a comparative perspective towards the legal structure and concepts that are found in constitutions across the world. Through Constitutional Law and Legal Order programme candidates will get an overall idea of the various aspects of Indian Constitution and this programme involved an in-depth study of Indian Constitution. The main objectives of this course is to acquaint students with an integral study of Constitutional Law and some of the topics included in this course are Theories and Principles of Constitutional Interpretations, Systems of Governance, Federalism, Independence of Judiciary etc which leads to understand the picture, spirit and image of the constitution in real terms.

Specific program outcomes:

Specialization in Constitutional Law get an overall idea of the various aspects of Indian Constitution, As a result they are not only offered jobs as lawyers, but as legal offices as well. They are well acquainted with the laws governing the functioning of the government and the federal system. They are often asked to write for the various system. They are often asked to write for the various news papers and media channels as well. This programme will develop the skill of research proposal, research report writing and presentation. Moreover this programme will give students with an understanding of research orientation towards legal and professional education to become a skilled law teacher.

FIRST SEMESTER

COURSE CODE : TH-103101

COURSE NAME : LAW AND SOCIAL TRANSFORMATION IN INDIA

Course Objectives:

This course is to be designed to offer (a) awareness of India 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. The endeavour is to make the students aware of the role the law has played and has to play in the contemporary India society.

Syllabus

1. Law and social change

Law as an instrument of social change.
Law as the product of traditions and culture. Criticism and evaluation in the light of colonization and the introduction of common law system and institutions in India and its impact on further development of law and legal institutions in India.

Learning outcome :

To provide a comprehensive knowledge of Law as an instrument of social change with special reference to Indian Constitution.

2. Religion and the law

Religion as a divisive factor.
Secularism as a solution to the problem.
Reform of the law on secular lines: Problems.

2.1.4 Freedom of religion and non-discrimination on the basis of religion.
Religious minorities and the law

Learning outcome :

To acquaint the students with religion as a divisive factor in society and how to bring reforms in religion by enacting laws on secular lines.

3. Language and the law

Language as a divisive factor: formation of linguistic states.
Constitutional guarantees to linguistic minorities.
Language policy and the Constitution: Official language; multi-language system
Non-discrimination on the ground of language

Learning outcome :

Make the students to understand the factors that led to linguistic states and constitutional guarantees to linguistic minorities.

4. Community and the law

Caste as a divisive factor

Non-discrimination on the grounds of caste.

Acceptance of caste as a factor to undo past injustices.

Protective discrimination: Scheduled castes, tribes and backward classes.

Reservation; Statutory Commissions, Statutory provisions.

To create awareness among the students the evils of caste in India society and constitutional guarantees provided to SSC, ST and BCs.

Learning outcome :

5. Regionalism and the law

Regionalism as a divisive factor.

Concept of India as one unit.

Right of movement, residence and business; impermissibility of state or regional barriers.

Equality in matters of employment: the slogan “Sons of the soil” and its practice.

Admission to educational institutions: preference to residents of a state.

Learning outcome :

To acquaint the students the concept of regionalism and role of India Constitution.

6. Women and the law

Crimes against women.

Gender injustice and its various forms.

Women’s Commission.

Empowerment of women: Constitutional and other legal provisions.

Learning outcome :

To make the students to have a knowledge of the Crimes against women and the role of International and national agencies in the Protection and Empowerment of Women.

7. Children and the law

Child labour

Sexual exploitation

Adoption and related problems.

Children and education

Learning outcome :

To make the students to understand the exploration of children in society and the role of law in protection of their Rights.

8. Modernisation and the law

Modernisation as a value: Constitutional perspectives reflected in the fundamental duties.

Modernisation of social institutions through law

Reform of family law

Agrarian reform – Industrialisation of agriculture

Industrial reform: Free enterprise v. State regulation – Industrialisation
Environmental protection.
Reform of court processes
Criminal law: Plea bargaining; compounding and payment of compensation to victims
Civil law: (ADR) Confrontation v. consensus; mediation and conciliation; Lok adalats
Prison reforms
Democratic decentralization and local self-government

Learning outcome :

To analyse the modern approaches to law and alternative methods of conflict resolution.

9. Alternative approaches to law

The jurisprudence of Sarvodaya---Gandhiji, Vinoba Bhave; Jayaprakash Narayan---
Surrender of dacoits; concept of grama nyayalayas
Socialist thought on law and justice: An enquiry through constitutional debates on the
right to property
Indian Marxist critique of law and justice
Naxalite movement: cause and cure

Learning outcome :

To make the students to understand the jurisprudence of Gandhiji, Vinoba Bhave and the role of Gram Nyayalayas and a critical analysis of naxal movement in India and steps taken by the Government to control naxal movement.

Course Outcome :

After completion of this course, the student will be able

- a) To know how law has changed the society and how there is an improvement in the social status of women and children because of certain specific legislations in favour of children and women.
- b) To analyse the role of language in interpretation of laws and its importance in statutes.
- c) To elucidate the concepts of regionalism and religion as divisive factors in society and how law effectively control this divisiveness.
- d) To analyse the challenges that witness in the society in recent times in the areas of social, political and economic relations and how far the existing law meet these challenges.
- e) To understand the alternative social approaches given by Mahatma Gandhi and Vinoba Bhave and its impact on the present societal relations.

Select Bibliography

Marc Galanter (ed.), Law and Society in Modern India (1997) Oxford.
Robert Lingat, The Classical Law of India (1988), 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.
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India 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.

COURSE CODE : TH-103102

COURSE NAME : 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. 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 specialization. Obviously, rubrics under this paper require modification and updating from time to time.

Syllabus

1. Federalism

Creation of new states
Allocation and share of resources – distribution of grants in aid
The inter-state disputes on resources
Rehabilitation of internally displaced persons.
Centre's responsibility and internal disturbance within States.
Directions of the Centre to the State under Article 356 and 365.
Federal Comity: Relationship of trust and faith between Centre and State.
Special status of certain States.
Tribal Areas, Scheduled Areas

Learning outcome :

By proper study of this unit, the student will be able to remember about the **Federalism**, Allocation and share of resources, the inter-state disputes on resources Centre's responsibility and internal disturbance within States and Special status of certain States etc., that are already studied in his LL.B. Course. By study of this unit, the student will be able to exhibit memory of the previously learned material by recalling facts terms, basic concepts and answers. He will be able analytically study and exhibit new thoughts also.

2. "State": Need for widening the definition in the wake of liberalization.

Learning outcome :

By proper study of this unit, the student will be able to demonstrate understanding of facts and ideas by Interpreting giving descriptions and stating main ideas of the need for widening the definition in the wake of liberalization. By analytically study of this chapter, the student will be able to know that whether the private undertaking will be coming into the purview of the State.

3. Right to equality: privatization and its impact on affirmative action.

Learning outcome :

By proper study of these units, the student will be able to understand and solve the problems with regard to the Right to equality, privatization and its impact on affirmative action, empowerment of women. By proper study of this unit, the student can be able to solve the problems to new situations by applying acquired knowledge and skills of the students are to be improved as their analyzing capacity will be enhanced. The students will also be able to apply his mind towards the laws which are enacted for empowerment of women and up to how much the women were secured by study of the case laws relating to it.

4. Empowerment of women.

Learning outcome :

By proper study of these units, the student will be able to examine by identifying motives or causes for the strikes, Hartal, Bundh, Freedom of press and challenges of new scientific development and whether the wrongful information is given by press and media attracting the defamation, freedom of speech and right to broadcast and telecast can be liable to be prosecuted on the wrongful information. The students also be able to give guidelines how to solve the problems on this issue.

5. Freedom of press and challenges of new scientific development Freedom of speech and right to broadcast and telecast. Right to strikes, hartal and bandh.

Learning outcome :

By proper study of this unit, the student will be able to gather the information, validity of ideas regarding emerging regime of new rights and remedies, study of Directive Principles and Fundamental Duties into Fundamental Rights, Compensation jurisprudence, Right to education under Art 21 A of the Constitution, Commercialization of education and its impact though the Educational trust of the educational institution is established on non- profit basis and Brain drain by foreign education market. By proper study of this unit, the skills of the students are to be improved as their analyzing capacity will be grown up.

**6. Emerging regime of new rights and remedies
Reading Directive Principles and Fundamental Duties into Fundamental Rights
Compensation jurisprudence
Right to education
Commercialization of education and its impact.
Brain drain by foreign education market.**

Learning outcome :

By proper study of these units, the student will be able to compile information together in a different way by comparing with minority rights with Secularism in a new pattern. The students also be able to give guidelines how to solve the problems of this issue.

7. Right of minorities to establish and administer educational institutions and state control.

Learning outcome :

By proper study of this unit, the student will be able to compile information relating to the **Separation of powers: Stresses and strain**, Judicial activism and judicial restraint, PIL: implementation, Appointment, transfer and removal of judges. The students will also be able to judge that whether collegiums for appointment of judges of High Courts and also the Supreme Court will be leading to bias, whether Kripark Vs. Union of India case up to how much will be applicable in case of collegiums. The students also be able to give guidelines how to solve the problems for this issue.

8. Secularism and religious fanaticism.

Learning outcome :

By proper study of this unit, the student will be able to compile information relating to the Nexus of politics with criminals and the business, whether delay in trials on political offenders are justifiable and Economic offenders are left free is reasonable, why their passports are not ceased, Election commission, Electoral Reforms, why the candidates with criminal records are given eligibility for contesting in elections, what is the inner relationship between the election commission and politicians etc., will be deeply thought by the students. The students also be able to give guidelines how to solve the problems for this issue.

9. Separation of powers: Stresses and strain

Judicial activism and judicial restraint.

PIL: implementation.

Judicial independence.

Appointment, transfer and removal of judges.

Accountability: executive and judiciary.

Tribunals

10. Democratic Process

Nexus of politics with criminals and the business.

Election

Election commission: status.

Electoral Reforms

Coalition government, 'stability, durability, corrupt practice'

Grass root democracy.

Course outcome:

After studying this paper, the student can

- The students will get an idea about the supreme document of India

- Every citizen of India must aware the constitution because each and every enactment found its base in the constitution
- Students will have the command on the rights that are given under the constitution
- Students can understand why the center and state relations are important in a country like India
- Students can be able to know the forms of governments and the features of our Constitution.

Select Bibliography

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

COURSE CODE : TH-103103

COURSE NAME : CONSTITUTIONALISM: PLURALISM AND FEDERALISM

Course Objectives:

Constitutionalism essentially means a limited government. Where government functions according to certain principles, it is said to be abiding by constitutionalism. Must it be a democracy or can it be an autocracy also. In ancient India, the king was supposed to act according to dharma. He was not absolute in the sense in which John Austin defined sovereignty. Constitutionalism may therefore be determined by a written constitution or by religion or tradition or by mere practice or convention as in England. In a plural society, where different religious as well as linguistic groups have to live together, various rules of accommodation and mutual recognition are incorporated in the Constitution. Usually these are contained in the bills of rights which contain guarantees of individual liberty and equality against majoritarian rule. Constitutionalism does not merely imply majoritarian rule, it has to be a consensual rule. However, where there is not only such vertical pluralism but also horizontal pluralism reflected by sub nations/regional loyalties, power is not only required to be restrained but it has to be shared. This calls for a federal government. The purpose of this paper is to provide exposure to the students to various models of pluralism and forms of constitutional governments and federal structures.

The following syllabus prepared with this perspective will be spread over a period of one semester.

Syllabus

1. Constitutionalism

Authoritarianism - Dictatorship
 Democracy - Communism.
 Limited Government - Concept - Limitations on Government Power.
 What is a Constitution?
 Development of a democratic government in England - Historical evolution of constitutional government.

Conventions of constitutionalism - law and conventions
Written constitutions U.S.A., Canada, Australia, Sweden, South Africa and India.
Separation of powers: Montesquieu
Rule of Law: Concept and new horizons
Marxist concept of constitutionalism
Dictatorship of the proletariat.
Communist State from Stalin to Gorbachov.
Fundamental Rights: Human rights
Judicial Review: European Court of Human Rights
Human Rights: International conventions
Limits & doctrine of domestic jurisdiction in international law.

Learning outcomes:

- Describes the concept of limited government and with the help of the democratic setup and also explains the conventions on constitutionalism and significance of written constitution with comparative study.

Elucidate the concept of rule of law with new horizons. And also discuss about the judicial review.

2. Federalism

What is a federal government?
Difference, between confederation and federation
Conditions requisite for federalism.
Patterns of federal government - U.S.A., Australia, Canada, India.
Judicial review - for federal umpiring
New trends in federalism: Co-operative federalism
India - Central Control v. State Autonomy
Political factors influencing federalism
Plural aspects of Indian Federalism: Jammu & Kashmir, Punjab, Assam.
Dynamic of federalism.

Learning outcomes:

- Discuss about the federal government with a wide description between confederation and federation and also explains about the dynamics of federalism. Knowing about the new trends in federalism in view of the cooperative federalism.

3. Pluralisms

What is a pluralistic society?
Ethnic, linguistic, cultural, political pluralism
Individual rights - right to dissent
Freedom of speech and expression
Freedom of the press
Freedom of association
Rights to separateness

Freedom of religion
Rights of the religious and linguistic minorities
Compensatory discrimination for backward classes
Women - rights to equality and right to special protection
Scheduled Tribes, Distinct Identity - protection against exploitation - NSIS -
Exclusion from Hindu Law.

Learning outcomes:

- Describes the nature of pluralistic society, in connection with compensatory discrimination for backward classes and also explains about women rights.

4. Uniform Civil Code

Non-State law (NSLS) and State Law Systems - Problem of Uniform Code v personal laws-
vertical federalism

Learning outcomes:

- Identify the problems of uniform civil code versus personal laws.

5. Equality in Plural Society.

Right to equality and reasonable classification
Prohibition of discrimination on ground of religion, caste, sex, language.
Abolition of untouchability
Secularism - constitutional principles
Tribal Groups and Equality

Learning outcomes:

- Explain about the right to equality and its reasonable classification special reference with tribal groups. and also describes constitutional principles of secularism.

6. Pluralism and International Concerns

International Declaration of Human Rights
Conventions against genocide
Protection of religious, ethnic and linguistic minorities
State Intervention for protection of human rights
Right of self-determination

Learning outcomes:

- Illuminate international conventions on human rights and right of self-determination

Course outcomes:

1. At the end it is expected that the student will be able to understand difference between constitution and Constitutionalism and how the Indian constitution impose reasonable restrictions on the governments.

2. To understand India as development of complex federal structure and strengths and its weaknesses.
3. Explore various functional theories, doctrine and Constitutional principles of federalism and its interplay under Indian Constitution; and
4. To examine the area of conflicting interest between Union and State and primacy of Union over the State.

Select bibliography

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 M.A. Fazal "Drafting A British Bill of Rights" 27 J.LLL 423 (1985)
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 Jagat Narain "Judicial Law Making and the Place of the Directive Principles in the Indian constitution," J.LLL 198 (1985).
 Rhett Ludwikowski, "Judicial Review in the socialist Legal Systems: Current Development" 37 LC.LD. 89-108 (1988)
 S.P. Sathe, *Fundamental Rights and Amendment of the Indian Constitution*, (1968)
 H.M. Seervai, *Constitutional Law of India* (1993), Tripathi, Bomaby.
 Students should consult relevant volumes of the Annual Survey of Indian Law published by the Indian Law Institute.

COURSE CODE : TH-103103

COURSE NAME : UNION-STATE FINANCIAL RELATIONS

Course Objectives:

The Indian Constitution adopts federal government for various reasons. Power is divided between the Union and the States in such a way that matters of national importance are entrusted to the Centre and matters of local importance are left to the States. The Constitution departs from the model of classical federalism in many ways. This departure was made to suit the peculiar Indian circumstances. However, the constitutional provisions were in practice further distorted so as to make the states totally subservient to the Centre. Distribution of fiscal power is the nerve centre of the federal system. In this paper a student will be made conscious of various aspects of federal principle, and their working in the Indian context with a view to ultimately assessing the Indian experience critically. He must clearly understand various emerging forces such as regionalism, sub-national loyalties and nationalism. He should be able to see the working of the constitutional process as a vital element of the political economy.

The following syllabus prepared with this perspective will be spread over a period of one semester.

Syllabus

1. Federalism – Essentials

Models of Federal Government - U.S.A., Australia, Canada
 Difference, Between Federation and confederation

Evolution of federal government in India

Learning outcome :

UNIT 1: The student will be able to understand about Federalism, different governments of federalism like USA, Australia, Canada, and difference between federation and confederation, evolution of federal government in India.

2. Distribution of Legislative Power/Administrative Power

Indian Constitution
Centre- State relations
Factors responsible for subordination of States

2.5. Administrative relations

Learning outcome :

UNIT 2: Here the student will understand the concept of distribution of administrative powers, center state relations and the Indian constitutional Law and the factors responsible for subordination of states.

3. Distribution of Fiscal Power

Scheme of Allocation of taxing power
Extent of Union power of taxation
Residuary power - inclusion of fiscal power

Learning outcome :

UNIT 3: In this unit the student learns about power of taxing power, and distribution of Fiscal power.

4. Restrictions of Fiscal Power

Fundamental Rights
Inter-Government tax immunities
Difference between tax and fee

Learning outcome :

UNIT 4: This unit makes the student learn inter –Government tax immunities and the difference between tax and fee.

5. Distribution of Tax Revenues

Tax-Sharing under the Constitution
Finance Commission - Specific purpose grants (Article 282)

Learning outcome :

UNIT 5: The student will be able to learn about Tax –sharing under the Constitution, Finance commission under Article 282.

6. Borrowing Power of the State

Borrowing by the Government of India
Borrowing by the States

Learning outcome :

UNIT 6: Here the student learns about borrowing power of the Government of India and borrowing by state government.

7. Inter-State Trade and Commerce

Freedom of Inter-State trade and commerce
Restrictions on legislative power of the Union and States with regard to trade and commerce

Learning outcome :

UNIT 7: In this unit the student learns about freedom of interstate trade and commerce, restrictions on legislative power of the union and states regarding to trade and commerce.

8. Planning and Financial Relations

Planning Commission
National Development Council
Plan grants

Learning outcome :

UNIT 8: This unit makes the student understand the planning and financial relations of the Government.

9. Co-operative Federalism

Full faith and credit
Inter-State Council
Zonal Councils
Inter-State disputes

Learning outcome :

UNIT 9: This unit makes the student understand about co-operative federalism, inter-state council, zonal councils, and interstate disputes.

10. Federal Government in India

Model of Jammu and Kashmir

Sarkaria Commission Report

What Reforms are Necessary?

Report of the Commission to Review the Working of the Constitution-2002

10.4 Report of the Commission of Centre State Relations 2010 (Justice M.M. Punchii Commission).

Learning outcome :

UNIT 10: Here the student learns about Federal Government in India, model of Jammu and Kashmir, and Sarkaria commission Report.

Course outcome:

1. The student will be able to understand federalism, different countries following federal form of government, difference between federation and confederation, evolution of federal government in India.
2. The student will have knowledge about the concept of distribution of administrative powers, center state relations.
3. The student will gain knowledge about taxing power, Government tax immunities and the difference between tax and fee.
4. Here the student has knowledge about borrowing power of the Government, freedom of interstate trade and commerce, the planning and financial relations of the Government.

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Chandrapal, *Centre-State Relations and Cooperative Federalism*, Chs. 5 and 8 (1983)

G.C.V. Subba Rao, *Legislative Powers in Indian Constitution Law*, Chs. 37, 38, 39 (1982)

Richard M. Pious, *The American Presidency*, 293-331, Ch. 9 (1979)

Daniel J. Elazar, *American Federalism*, Chs. 3 and 4 (1984)

K.P. Krishna Shetty, *The Law of Union-State Relations and the Indian Federalism* Ch.9 (1981)

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D.T. Lakadwala, *Union-State Financial Relations* (1967)

M.P. Jain, *Indian constitutional Law* (1994), Wadhwa.

K. Subba Rao, *The Indian Federation* (1969)

K.C. Wheare, *Federal Governement* (1963)

Students should consult relevant volumes of the Annual Survey of Indian Law published by the Indian Law Institute (Constitutional Law II)

SECOND SEMESTER

COURSE CODE : TH-103201

COURSE NAME : JUDICIAL PROCESS

Course Objectives:

A lawyer, whether academic or professional, is expected to be competent to analyse and evaluate the legal process from a broader juristic perspective. 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 judicial tools and techniques employed in the process.

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 familiarise the students with various theories, different aspects and alternative ways, of attaining justice.

Syllabus

1. Nature of judicial process

Judicial process as an instrument of social ordering
Judicial process and creativity in law – common law model – Legal Reasoning and growth of law – change and stability.
The tools and techniques of judicial creativity and precedent.
Legal development and creativity through legal reasoning under statutory and codified systems.

Learning outcome :

UNIT 1: The student will understand how judicial process works as social ordering, and how it brings change and stability in Law,

2. Special Dimensions of Judicial Process in Constitutional Adjudications.

Notions of judicial review
'Role' in constitutional adjudication – various theories of judicial role.
Tools and techniques in policy-making and creativity in constitutional adjudication.
Varieties of judicial and juristic activism
Problems of accountability and judicial law-making.

Learning outcome :

UNIT 2: This unit makes the student to understand the special dimensions of judicial process, its role in constitutional adjudication, using judicial tools and techniques in policy making.

3. Judicial Process in India

Indian debate on the role of judges and on the notion of judicial review.
The “independence” of judiciary and the “political” nature of judicial process
Judicial activism and creativity of the Supreme Court-the tools and techniques of creativity.
Judicial process in pursuit of constitutional goals and values – new dimensions of judicial activism and structural challenges
Institutional liability of courts and judicial activism – scope and limits.

Learning outcome :

UNIT 3: Here the student understands judicial process in India, independence of judiciary, creativity of the Supreme Court, and the meaning of judicial activism.

4. The Concepts of Justice

The concept of justice or Dharma in Indian thought
Dharma as the foundation of legal ordering in Indian thought.
The concept and various theories of justice in the western thought.
Various theoretical bases of justice: the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

Learning outcome :

UNIT 4: This unit makes the student understand the concept of Dharma, how Law has been derived from Dharma, and various theories of justice in the western thought.

5. Relation between Law and Justice

Equivalence Theories – Justice as nothing more than the positive law of the stronger class.
Dependency theories – For its realization justice depends on law, but justice is not the same as law.
The independence of justice – means to end relationship of law and justice – The relationship in the context of the Indian constitutional ordering.
Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

Learning outcome :

UNIT 5: Here the student will be able to understand the relation between Law and Justice, different theories of justice and the selected cases of Supreme Court where judicial process is seen influenced by theories of justice.

Course Outcome:

1. The student understands the role of judicial dimensions, legal reasoning and growth of Law.

2. The student understands problems of accountability and judicial Law making.
3. The student will be able to make difference between independence of judiciary and political nature of judicial process.
4. The student will understand the concept of Dharma, Dharma as the foundation of legal ordering in India, and the relation between Law and Justice.

Select Bibliography

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 Cardozo, The Nature of Judicial Process (1995) Universal, New Delhi.
 Henry J. Abraham, The Judicial Process (1998), Oxford.
 W. Friedmann, Legal Theory (1960), Stevens, London.
 Bodenheimer, Jurisprudence – the Philosophy and Method of the Law (1997), Universal, Delhi
 J. Stone, Legal System and Lawyers' 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 H. Levi, An introduction to Legal Reasoning (1970), University of Chicago.

COURSE CODE : TH-103202

COURSE NAME : LEGAL EDUCATION AND RESEARCH METHODOLOGY

Course Objectives:

A post-graduate student of law should get an insight into the objectives of legal education. He should have an exposure to programmes like organization 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 these methods so as to develop his skills.

Growth of legal science in India depends on the nature and career of legal research. The syllabus is designed to develop also skills in research and writing in a systematic manner.

Syllabus

1. Objectives of Legal Education
Learning outcome :

Studies doctrinal and non- doctrinal social legal research.

2. Lecture Method of Teaching – Merits and demerits

Learning outcome :

Know the relevance of empirical research.

3. The Problem Method

Learning outcome :

- Preparing the hypothesis.

4. Discussion method and its suitability at postgraduate legal teaching

Learning outcome :

Understand the induction and deduction of the study

5. The Seminar Method of teaching

Learning outcome :

- Studies the research problem.

6. Examination system and problems in evaluation – external and internal assessment.

Learning outcome :

- Importance of survey on available literature and bibliographic research.

7. Student participation in law school programmes – Organisation of Seminars, publication of journal and assessment of teachers.

Learning outcome :

- Studying the decisional materials including foreign decisions in the area pertaining research problem.

8. Clinical legal education – legal aid, legal literacy, legal survey and law reform

Learning outcome :

- Study the juristic writings relevant to research in India along with foreign periodicals.

9. **.Research Methods**

Social Legal Research
Doctrinal and non-doctrinal
Relevance of empirical research
induction and deduction

Identification of Problem of research

What is a research problem?
Survey of available literature and bibliographical research.
Legislative materials including subordinate legislation, notification and policy statements.

Decisional materials including foreign decisions; methods of discovering the “rule of the case” tracing the history of important cases and ensuring that

these have not been over-ruled; discovering judicial conflict in the area pertaining to the research problem and the reasons thereof.

Juristic Writings – a survey of juristic literature relevant to select problems in India and foreign periodicals.

Compilation of list of reports or special studies conducted relevant to the problem.

10. Preparation of the Research Design

Formulation of the Research problem

Devising tools and techniques for collection of data: Methodology

Methods for the collection of statutory and case materials and juristic literature

Use of historical and comparative research materials

Use of observation studies

Use of questionnaires/interview

Use of case studies

Sampling procedures – design of sample, types of sampling to be adopted.’

Use of scaling techniques

Jurimetrics

Computerized Research – A study of legal research programmes such as Lexis and West law coding

Classification and tabulation of data – use of cards for data collection – Rules for tabulation. Explanation of tabulated data.

Analysis of data

Learning outcome :

Understand the list of reports or special studies relevant to the research problem.

Course outcomes:

After studying this paper, the student can

- Get to know the doctrinal and non-doctrinal social legal research.
- Enlighten about the relevance of empirical research.
- Know the identification of hypothesis and problem of research.
- Know the importance of juristic writings in India as well as foreign periodicals.
- Understand the preparation of research design.
- Know the formulation of research problem.
- Understand how to apply the methods and techniques to the study.
- Get to know how to use case studies, questionnaires, interview, and observation methods.
- Understand the computerized research by the study of lexis and west law coding.

- Preparation of classification and tabulation of data through various sources.

Bibliography

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 S.K.Agrawal (Ed.), Legal Education in India (1973), Tripathi, Bombay.
 N.R.Madhava Menon, (ed) A Handbook of Clinical Legal Education, (1998) Eastern Book Company, Lucknow.
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COURSE CODE : TH-103203

COURSE NAME : HUMAN RIGHTS

Course Objectives:

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 acquire much more comprehensive and wider meaning. It requires us to take up cudgels against poverty discriminations based on caste, colour or sex, make provisions for drinking water, population control, conservation and preservation of natural resources, ecological balance, protection of consumers against ruthless and profit seeking, traders or manufacturers, provisions against hazardous industries and so on and so forth. Human rights is an important parameter for a just society and future lawyers must be able to assess any programme of social transformation with reference to them.

The following syllabus prepared with this perspective will be spread over a period of one semester.

Syllabus

1. Panoramic View of Human Rights

1.1 . Human Rights in Non-western Thought

Awareness of Human rights during the nationalist movement

Universal Declaration of Human Rights, Constituent Assembly and Part III, drafting process.

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.)

Learning Outcomes:

- i) To understand the Students the concept of Human Rights and to expose the Students that the problems of Human Rights during the Nationalist movement;
- ii) To apprise the principles of Universal Declaration of Human Rights, Constituent Assembly and Part III, drafting process.
- iii) To understand the Students about subsequent developments in International Law and the position in India such as Convention of Social discrimination, torture, gender discrimination, environment and the two human rights covenant

2. Fundamental Rights Jurisprudence as Incorporating Directive Principles

The dichotomy of Fundamental Rights (F.R.) and Directive Principles (D.P.)

The interaction between F.R. and D.P.

Resultant expansion of basic needs oriented human rights in India

Learning Outcomes:

- i) To understand the Students the dichotomy of Fundamental Rights (F.R.) and Directive Principles (D.P.) in relation to protection of human rights
- ii) To apprise the Students the interaction between F.R. and D.P.
- iii) To understand the Students the Resultant expansion of basic needs oriented human rights in India

3. Right not be subject to Torture, Inhuman or Cruel Treatment

Conceptions of torture, third-degree methods

"Justifications" for it
Outlawry of torture at international and constitutional law level
Incidence of torture in India
Judicial attitudes
Law Reform - proposed and pending

Learning Outcomes:

- i) To understand the Students about conceptions of torture, third-degree methods
- ii) To understand the Students to "Justifications" for it
- iii) To apprise the students Outlawry of torture at international and Constitutional law level
- iv) To understand Incidence of torture in India Judicial attitudes Law Reform - proposed and pending

4. Minority Rights

Conception of minorities
Scope of protection
The position of minority "Woman" and their basic rights
Communal Riots as Involving violation of Rights.

Learning Outcomes:

- i) To understand the Students about Conception of minorities
- ii) To learn the Scope of protection
- iii) To understand the Students the position of minority "Women" and their basic rights
- iv) To apprise the students the Communal Riots as involving violation of Rights.

5. Rights to development of Individuals and Nations

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

Learning Outcomes:

- i) To understand the Students the UN Declaration on Right to Development
- ii) To expose the Students about the need for constitutional and legal changes in India from human rights standpoint.

6. People's Participation in Protection and Promotion of Human Rights

Role of International NGOS
Amnesty International
Minority Rights Groups
International Bars Association, Law Asia

6.3. Contribution of these groups to protection and promotion of human rights in India.

Learning Outcomes:

i) To understand the Students the Role of International NGOS, Amnesty International
Minority Rights Groups, International Bars Association Law Asia, Contribution of these
groups in protection and promotion of human rights in India.

7. Development Agencies and Human Rights

Major international funding agencies and their operations in India
World Bank lending and resultant violation/promotion of human rights
Should development assistance be tied to observance of human rights (as embodied
in various UN declarations)

Learning Outcomes

i) To understand the Students Major international funding agencies and their operations in
India
ii) To understand the World Bank lending and resultant violation, promotion of human right

8. Comparative Sources of Learning

EEC Jurisprudence
The Green Movement in Germany
The International Peace Movement
Models of Protection of the rights of indigenous peoples: New Zealand (Maoris)
Australia, Aborigines and Canada (Indians)

Learning Outcomes

I,) To understand the Students about EBC Jurisprudence, the Green Movement in Germany, the
International Peace Movement, Models of Protection of the rights of indigenous peoples: New
Zealand
(Maoris)Australia, Aborigines and Canada (Indian)

9. Freedoms

Free Press - Its role in protecting human rights

Right of association
Right to due process of law Access and Distributive Justice
Access and Distribution Justice

Learning Outcomes:

- i) To understand the Students about Free Press-Its role in protecting human right
- ii) To expose the Students about the Right of association, Right to due process of law Access and Distributive Justice

10. Independence of the Judiciary

Role of the Legal Profession
Judicial appointments - tenure of judges
Qualifications of judges
Separation of judiciary from executive

Learning Outcomes:

- i) To understand the Students the Role of the Legal Profession
- ii) To apprise the Students about the Judicial appointments and tenure of judges, Qualifications of judges
- iii) To expose the Students about the Separation of judiciary from executive

11. European Convention of Human Rights

European Commission/Court of Human Rights
Amnesty International
PUCL, PUDR, Citizens for Democracy
Minorities Commission
Human Rights Commission
Remedies Against Violation of Human Rights

Course Outcomes:

- i) To understand the Students about the European Commission/ Court of Human Rights
- ii) To understand the Students the Role of Amnesty International
- iii) To expose the Students about PUCI, PUDR. Citizens for Democracy
- iv) To understand the Students the role of Minorities Commission, Human Rights Commission, and Remedies against Violation of Human Rights

Select bibliography

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COURSE CODE : TH-103204

COURSE NAME : NATIONAL SECURITIES, PUBLIC ORDER AND RULE OF LAW

Course Objectives:

In every written constitution, provision is required to be made to equip the state to face grave threats to its existence arising from extra-ordinary circumstances created by war or external aggression or armed rebellion. Although "amidst the clash of arms, the laws are not silent" they do not speak the same language in war as in peace. Extra-ordinary circumstances warrant the invocation of extra-ordinary laws and such laws are known as emergency laws. They put greater fetters on individual liberty and also eclipse certain aspects of the due process. But in such circumstances, the democratic forces must assert that for survival of the State, the least possible liberty should be available. The students should be familiarized with different aspects of such emergency powers and scrutinizing intellectual attitude towards such powers.

Syllabus

1. National Security, Public Orders and Rule of Law

- 1 .1 . Emergency Detention in England - Civil Liberties
- 1 .1 .1 .Subjective satisfaction or objective assessment?
- 1.2. Pre-Independence law.

Learning Outcomes:

- Students will understand the sources, foundation and structure of national security law And also recognize the participants in the national security system and understand the constitutional roles given to each participant.

2. Preventive Detention and Indian Constitution

Article 22 of the Constitution
Preventive Detention and Safeguards
Declaration of Emergencies
1962, 1965 and 1970 Emergencies
1975 Emergency

Learning Outcomes:

- Students will understand how power is shared by the branches of government to maintain national security and also discussed about the provisions regarding preventive detention at the time of emergency

3 Exceptional Legislation

COFEPOSA and other legislation to curb economic offenders
TADA: "the draconian law"-comments of NHRC
Special courts and tribunals
Due process and special legislation

- Students will understand the law as it applies to specific national security issues such as the use of military force, the activities of the intelligence community, and counterterrorism activities, knowing about the importance of NHRC in view of the “The Draconian Law”

4. Civil Liberties and Emergency

Article 19
Meaning of "Security of State"
Meaning of "Public Order"
Suspension of Article 19 rights on declaration of emergency
President's Right to suspend right to move any court
Article 21 - special importance - its non-suspendability
Suspendability -44th Amendment

Learning Outcomes:

- Students will gain a greater appreciation for the national security insights provided by the Gospel and how they can be applied by national security professionals.

5. Access to Courts and Emergency

Article 359: ups and downs of judicial review
Constitution (Forty-fourth), Amendment Act, 1978.

Constitution (Fifty-ninth) Amendment Act,. 1988.

Learning Outcomes:

- Here the students elucidate the provisions under article 359, ups and downs of judicial review and equipped with the provisions under 44th and 49th amendments of Indian constitution

6. Martial Law

Provisions in English Law
Provisions in the Constitution

Learning Outcomes:

- Identify the martial laws under English Law and its merits and demerits

Course Outcomes:

At the end it is expected that the student will be able to Understand and interpret various provision and safeguards to protection national security;

- To explore the various approach of public order, importance of rule of law and different legislations;
- Balancing the civil liberties and power of state; and Explore the various functional institution like election commission, parliament and check and balance on the national importance.

Select bibliography

G.O. Koppell "The Emergency, The Courts and Indian Democracy" 8 J.I.L.I. 287 (1966)
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THIRD SEMESTER

COURSE CODE : TH-103301

COURSE NAME : MASS MEDIA LAW

Course Objectives:

Mass media such as Press, Radio and Television, Films, play a vital role in socialisation, culturalisation and modernisation of a society. The visual media are bound to have a much greater impact on human mind. But while these media have such a potential value as mass educators, they are also susceptible to destructive and harmful uses for promoting criminal anti-social and selfish escapist tendencies. While their positive potential as mass educators has to be harnessed for developmental purposes, their negative, harmful potential has to be curbed in public interest. Law plays a dual role

vis-a-vis such media. On the one hand, it protects the creative freedom involved in them, on the other, it has to regulate them so as to avoid their possible abuse. This paper will deal with such interaction between law and mass media.

The following syllabus prepared with this perspective will be spread over a period of one semester.

Syllabus

1. Mass media - Types of - Press Films, Radio Television

- 1.1. Ownership patterns - Press - Private - Public
- 2.2. Ownership patterns - Films - Private
- 3.3. Ownership patterns - Radio & Television, Public
- 4.4. Difference between visual and non- Visual Media- impact on Peoples minds.

Learning Outcomes:

- Identify the different ownership patterns in media includes individual ownership and also describes the differences between visual and non-visual media impact on people's mind converse about the effects of monopoly upon electronic media in India as well as in other countries.

2. Press - Freedom of Speech and Expression - Article 19 (1) (a)

Includes Freedom of the Press.
Laws of defamation, obscenity, blasphemy and sedition.
The relating to employees wages and service conditions,
Price and Page Schedule Regulation

Learning Outcomes:

1. Define the fundamental rights enjoyed by the citizens of India the fundamental principles of mass media law in India and other countries like U.S.A and England.
2. Practice reporting with an understanding of dos and don'ts as per the law and ethics. Demonstrate an understanding of the privileges under freedom of speech and expression and also reasonable restrictions imposed on it.
3. Explain defamation law and its types. Identify the implications of media law relating to contempt of court. Define what would constitute an obscene act and the penalty under it.
4. Recognise and assess the legal risk associated with contempt of legislature and privacy. Explain copyright act Demonstrate an understanding on Press and Registration act.
5. Identify an act leading to drugs and magical remedies act. Evaluate the relevance to society of Right to Information Act.
6. Critically analyse how Press Council can interfere with freedom of the press Explain the term self-regulation in relation to control of Press and Media. Critically analyse different ethical issues related to media in India with case studies.

7. Differentiate between ethics and morality

Course Outcomes:

1. After the completion of the course the students will be able to explain and review on critical evaluation of mass communication Theories
2. The student will be able to identify and define the advertising concepts and will review the advertising media.
3. Students will be able to identify ethical issues faced by the media and discuss trends in commercialization of news
4. Students will be able to discuss the various media laws and their implications on conduct of media
5. Students will be able to analyse the issue of media regulation in India and also in other countries.
6. Students will be able to avail the provisions towards Freedom of Speech and reasonable restrictions.

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 Students should consult relevant volumes of the Annual Survey of Indian Law published by the Indian Law Institute. (Constitutional Law 1 & 11, Administrative Law and Public Interest litigation).

COURSE CODE : TH-103302

COURSE NAME : PUBLIC UTILITIES LAWS

Course Objectives:

Public utilities are government monopolies, which are services rather than commercial enterprises. The law of public utilities is contained in the statutes of incorporation and judicial decisions given by courts while resolving disputes between the utilities and their consumers or employees or traders or others entering into business relations with them. In this paper a student will study (a) government policy in regard to such utilities in general and to each utility in particular, (b) the growth and evolution of the public utilities; (c) patters of the laws of incorporation and (d) powers, functions and liabilities of the public utilities vis-a-vis their employees, consumers and others.

The following syllabus prepared with this perspective will be spread over a period of one semester

Syllabus

1. Public Utilities

Railways, Electricity, Gas, Road Transport, telephone, post and telegraph service, Police, Fire Brigade, Banking service, etc.

Growth and evolution of public utilities and their legislation

Learning Outcome:

By proper study of this unit, the student will be able to remember about the functions of Railways, Electricity, Gas, Road Transport, telephone, post and telegraph service, Police, Fire Brigade, Banking service, etc., and also Growth and evolution of public utilities and their legislation on listening the lectures by the teacher. In this unit, the students will also think about the troubles faced by the public due to the negligence on the part the said authorities as banking authorities have been sanctioning the huge loans like even 10 thousand crores to the economic offenders and in other way to sanction the 10 thousand rupees to the farmers is reasonable and also as the Central Government is privatizing the Government undertakings, what problems will be faced by the public.

2. Public Utilities - Why Government Monopoly?

Government and Parliamentary Control

Constitutional division of power to legislate.

Learning Outcome:

By proper study of this unit, the student will be able to demonstrate understanding of facts and ideas by Interpreting giving descriptions and stating main ideas of the need for the public utility service undertakings, why the government is monopolizing the public utility services though the scams by the authorities of the said undertakings even though the said undertakings are running on the losses. The students will be able to distinguish that why the profitable undertakings are privatized and also to be privatized by making plans on the privatization of LIC like that. The students will have idea of the purpose of privatization.

3. Utilities Legislation - Patterns of –

Administrative Authorities - Structure of the Administrative Authorities
Subordinate legislation

Learning Outcome:

By proper study of these units, the student will be able to understand and solve the problems with regard to the problems faced by the public on the acts of Administrative Authorities and also know the Structure of the Administrative Authorities because of the participation in Fee legal aid services conducted by the Universities and law colleges.

4. Public Utilities and Fair Rearing

Quasi-Judicial Decision - Administrative Discretion.

Learning Outcome:

By proper study of this unit, the student will be able to examine by identifying the functions of quasi judicial authorities like that of Income Tax authorities and also GST authorities.

The students will also be able to give guidelines how to solve the problems on this issue.

5. Public Utilities and Consumer Protection

Rights of consumers protected by the Consumer Protection Act
Rights Arising from law of Contract and law of Torts.

Learning Outcome:

By proper study of this unit, the student will be able to gather the information, validity of ideas regarding emerging regime of new rights and remedies, study of Directive Principles and Fundamental Duties into Fundamental Rights, Compensation jurisprudence, Right to education under Art 21 A of the Constitution, Commercialization of education and its impact though the Educational trust of the educational institution is established on non- profit basis and Brain drain by foreign

education market. By proper study of this unit, the skills of the students are to be improved as their analyzing capacity will be grown up.

6. Public Utilities and their Employees.

Application of Articles 16 and 311?

6.1. Application of Industrial law- right to strike.

Learning Outcome:

By proper study of this unit, the student will be able to compile information together in a different way by comparing with minority rights with Secularism in a new pattern. The students also be able to give guidelines how to solve the problems of this issue.

7. Public Utilities and Fundamental Rights

The right to equality: the airhostess case.

Are Public utilities "State" for the purpose of article 12 of the Constitution?

Extension of the concept of State

Learning Outcome:

By proper study of this unit, the student will be able to compile information relating to the **Separation of powers: Stresses and strain**, Judicial activism and judicial restraint, PIL: implementation, Appointment, transfer and removal of judges. The students will also be able to judge that whether collegiums for appointment of judges of High Courts and also the Supreme Court will be leading to bias, whether A.K. Kripark Vs. Union of India case up to how much will be applicable in case of collegiums. The students also be able to give guidelines how to solve the problems for this issue.

8. Liabilities and special privileges of public utilities

In contract

In tort

In criminal law

Learning outcome:

By proper study of this unit, the student will be able to compile information relating to the **Liabilities and special privileges of public utilities service undertakings, whether the liability in contract, tort and in criminal law will be operated in case of public utility service industries or not is to be studied in depth by the students.**

Select bibliography

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Students should consult relevant volumes of Annual Survey of Indian Law published by the Indian Law Institute (Constitutional Law 1 & 11, Administrative Law, Consumers Protection Law and Labour law).

COURSE CODE : PR-3001

COURSE NAME : COMPULSORY PRACTICAL

Doctrinal Work Course Objectives:

One of the main purposes of conducting doctrinal research is solving the legal problems of bringing laws. For example, if the government decides to bring umbrella legislation for all the crimes committed against women, it may initiate doctrinal research by some jurists and experts in the field.

It can be utilized for several other purposes as well like to help lawmakers develop meaningful and effective laws, develop fresh legal doctrines, aid courts in reaching effective and legally accurate judgments, help lawyers to interpret statutes and prepare their suits, help students in academia to set a base and many others.

Doctrinal Work Course Outcomes:

Doctrinal research has helped in developing a basic awareness of legal issues among the people. It has immensely helped judges and attorneys in legal suits to develop valid arguments and reach an effective judgment. The development of tort law is a prime example. Doctrinal research by focusing on “law as it is” has helped in percolating a greater awareness about legal issues among the masses. It has also helped in pointing out the loopholes in existing laws and statutes.

Non-Doctrinal Work Course Objectives:

- Non-doctrinal research, also known as social-legal research, that employs methods taken from other disciplines to generate empirical data that answers research questions. (Salim Ibrahim Ali 2017)
- The purpose of non-doctrinal research is to check the utility of a law that has been brought or how it impacts the non-legal aspects of society. Also, non-legal factors affect the implementation of the law. Sometimes, a very comprehensive law is brought but sometimes the environment is such that its effectiveness is shielded by those circumstances.

Non-Doctrinal Work Course Outcomes:

- non-doctrinal research focuses on law in action in its playing field i.e., the society. It could be of great help for analyzing the effects of laws on people and how to bring out legal reforms. It

helps the law to catch up with this ever-changing society. Judicial activism is a great product of non-doctrinal research.

- non-doctrinal research studies law in connection with society and various non-legal aspects that affect the law. It is socio-legal research.
- non-doctrinal research has a wider scope and studies law in comprehensive terms.

Clinical Legal work, Course Objectives:

- one of the main elements of Clinical Education. The reason for this is that, they are first trained as a trainee, then they step up and learn legal skills and at the same time work as educators in the law field. Some of the important contributions can be listed as- First, the focus of this method is rather on students learning it rather than teachers teaching it,
- hence ample amount of work is put into it by the students itself. Second, when it comes to theoretical norms, they are usually tested and operated upon by the students and teachers and even here it reflecting the working of both teachers and students for the purpose of attaining a common goal.

Clinical Legal work, Course Outcomes:

- It is of great importance to find an active, effective, collaborative, comprehensive and sustained educational method for legal rights. Based on our research, legal clinics have an effectual role in creating these features for legal rights education as far as clinical human rights education can be introduced and recommended as a premier method to increase legal rights knowledge in the community.
- National law school model established post-independent Indian legal education has done a great job in the development of legal education in India with a strong commitment to improving existing legal infrastructure. Certainly, with this spirit, changes in syllabus and structure to cater to the new generation of lawyers.

FOURTH SEMESTER

PAPER CODE : DI - 2002
PAPER NAME : DISSERTATION

PAPER CODE : VV-2002
PAPER NAME : VOVA-VOCE