LL.M Part – I Examination

Paper I – Legal theory and Judicial Process

Paper II – Law and Social Transformation in India


Paper IV – Legal Education and Research Methodology

Paper V – Practical Examination :- Research Methodology

Paper writing base on :

a. Doctrinal research 25 marks

b. Non – Doctrinal research 25 marks

c. Class room teaching (12 lecture in a year) 25 marks

d. Viva in voice 25 marks

Note :

1. The topic will be same for doctrinal and non – doctrinal writings and will be write in one file in two part i.e. part (a) and Part (b).

2. All students have to take 12 classes of LL.B. for 25 marks under class room teaching. Teaching will be assessed by the senior faculty members.

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

Paper I – Legal Theory and Judicial Process

Concept of Dharma in Indian Legal System

Definition, Nature and Scope of Jurisprudence

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

Historical School (Savigny and henry Maine)

Philosophical School (Kant and Hegal)

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

American / Scandinavian Realism (Holmes, Llewellyn and Cardozo)

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

Marxian Theory of Law (Karl Marx)

Critical Legal Study
Fenunism (Kathrine T Bartlent)
Fairness of Justice (John Rawls)
Law and Morality (Hart – Fuller Debate)
Sources of Law
Rights and Duties
Legal Person
Ownership and possession
Criminal Justice and Theories of Punishment
Property
Liability Including, Vicarious Liability and Absolute Liability.
Compensatory Justice and Distributive Justice
Nature of Judicial Process.
i) Judicial process as an instrument of social ordering
ii) Judicial process and creativity law-common law model, Legal Reasoning and growth of law, change and stability
iii) The tools and techniques of judicial creativity and precedent
iv) Legal development and creativity through legal reasoning under statutory and codified systems.
v) Nations of judicial review
vi) Role in constitutional adjudication – various theories of judicial role
vii) Tools and techniques in policy – making and creativity in constitutional adjudication.
viii) Varieties of judicial and juristic activism
ix) Problems of accountability and judicial law making
Judicial Process in India.
i) Indian debate on the role of judges and on the nation of judicial review
ii) The independence of judiciary and the political nature of judicial process
iii) Judicial activism and creativity of the supreme court – the tools and techniques of creativity
iv) Judicial process in pursuit of constitutional goals and values – new dimensions of judicial activism and structural challenges.
v) Institutional liability of courts and judicial activism – scope and limits.
vii) Principal of constitutional interpretation.
The concept of Justice

i) The concept of justice or dharma in Indian thought

ii) Dharma as the foundation of legal ordering in Indian thought

iii) The concept and various theories of justice in the western thought

iv) Various theoretical base of justice: The liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

Select Bibliography

W.Friedmann – Legal Theory
Ross : On Law and Justice
Hart : Law liberty and mortality
Devlin : The enforcement of Mortality
Stone : Legal System and lawyers reasoning’s
Hall : living law of democratic society
Pattersone :Juris prudence
Julius Stone : The province and functions of Law, Part – II, Chs 1-8-16(2000), Universal New Delhi
Cardozo : The nature of Judicial process (1995), Universal New Delhi
Henry J Abraham : The judicial process (1998) oxford
J Stone : Precedent and the law : Dynamics of common Law growth (1985), Butterworths
W Friedmann : Legal Theory (1960), Stevans London
J Stone : Legal systems and Lawyer’s reasonings (1999) Universal, Delhi
U Baxi : The Indian Supreme Court and politics (1980), Eastern, Lucknow
Rajeev Dhavan : The Supreme Court of India, A Socio Legal Critique of its Juristic Techniques (1977), Tripathi, Bombay
Edward 11 Levi and Introduction to legal reasoning (1970), University of Chicago

Paper II – Law and Social Transformation in India

1 (A) Concept of Social Change and Social Transformation
   i) Relation between law and public opinion
ii) Law as an instrument of social change

iii) Law Tradition and culture, impact of common law on India tradition& Culture.

iv) Sociological School and its, applicability in India

v) Principles of Social legislation

(B) Religion and the law

i) Religion its meaning and relationship with law

ii) Evaluation of religion as an integrative and divisive factor

iii) Concept of secularism in Indian perspective

iv) Religious minorities and the law

2 (A) Language and the Law

i) Multi linguistic culture and its impact on policy in governance

ii) Role of Language in society

iii) Formation of linguistic states critical evaluation

iv) Constitutional guarantee to linguistic minorities

v) Language policy and the constitution : official language

(B) Community and the Law

i) Caste as a socio cultural reality and role of caste as a divisive and Integrative factor

ii) Non discrimination on the ground of caste

iii) Acceptance of caste as a factor to undo past injustices – an objective analysis

iv) Protective discrimination , scheduled castes, tribes and backward classes

v) Reservation policy, statutory commissions and problems of national integration

3 (A) Regionalism and the Law

i) Role of Regionalism as a divisive and integrative factor

ii) Concept of India as one unit

iii) Right of Movement residence and business, impermissibility of state or regional barriers

iv) Equality in matters of employment : the slogan “Sons of the soil” and its practice
v) Admission to educational institutions: Preference to residents of a state

(B) Women and the Law:
   i) Position and role of women in Indian society
   ii) Crimes against women
   iii) Gender injustice and its various forms, causes and remedies
   iv) Women’s commission
   v) Empowerment of women: Constitutional and other legal provisions

4 (A) Children and the Law
   i) Child Labour
   ii) Sexual exploitation
   iii) Adoption, Maintenance and related problems
   iv) Children and education a constitutional mandate

(B) Modernization and the Law
   i) Modernisation as a value: constitutional perspectives
   ii) Modernisation of social institutions through law
   iii) Reform of Family law
   iv) Agrarian reform – industrialization of agriculture
   v) Criminal Law: Plea bargaining, compounding and payment of compensation to victims
   vi) Civil Law (ADR) confrontation v. consensus, mediation and conciliation, Lok adalat
   vii) The jurisprudence of sarvodaya – Gandhiji, VinobaBhave
   viii) Socialist thought on law and justice, an enquiry through constitutional debates on the right to property.
   ix) Marxist Legal Theory

Select Bibliography

Marc Calanter (ed): Law and society in modern India (1997) oxford
Manushi: A Journal about women and society
Duncan Derret: The state, religion and law in India (1999) Oxford University Press New Delhi
H M Seervai: Constitutional law in India (1999) Tripathi
J B Kriplani: Gandhi His Life and Thought 1970, Ministry of Information and Broadcasting Government of India
M P Jain: Outlines of Indian Legal History (1993) Tripathi Bombay
Aguas Flavia: Law and Gender Inequality: The politics of women’s rights in India (1999) Oxford

Paper III – Indian constitutional Law: The New Challenges

1  Freedom

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

2  (A)  State Meaning and scope in modern perspective

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

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

           i)  Freedom of speech
           ii) Right to strike, hartal and bandh
           iii) Emerging regime of new right and remedies – right to education
right to information and right to privacy, right to health
iv) Reading directive principles and fundamental duties into fundamental rights
v) Compensation jurisprudence
vi) Right to life and liberty and criminal jurisprudence
viii) Commercialisation of education and its impact

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

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

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

1  i) Objectives of Legal Education
   ii) Lecture method of teaching merits and demerits
   iii) The problem method
   iv) Discussion method and its suitability at postgraduate level teaching
   v) The seminar method of teaching
   vi) Examination system and problems in evaluation external and internal assessment
   vii) Student participation in, law school programmes, organization of seminars, publication of journal and assessment of teachers
   viii) Clinical legal education legal aid, legal literacy, legal survey and law reform

2  Research Method
   i) Socio Legal Research
   ii) Doctrinal and non doctrinal
   iii) Relevance of empirical research
   iv) Induction and deduction
   v) Identification of problem of research what is a research problem
   vi) Survey of available literature and preparation of bibliography
   vii) Legislative materials including subordinate legislation notification and policy statements.

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

4
i) Jurimetrics
ii) Computerize research – A Study of legal research programmes such as lexis and west law coding
iii) Classification and tabulation of data use of cards for data collection rules for tabulation, explanation of tabulated data
iv) Analysis of data qualitative and quantitative
v) Report writing

Select Bibliography

S K Agarwal (ed) : Legal Education in India (1973), Tripathi Bombay
Eastern Book Company, Lucknow
M O Price H bitmer and Bysicwicz : Effective Legal Research (1978)
Pauline V Young : Scientific Social Survey and Research (1962)
H M Hvman interviewing in Social research (1965)

Paper V – Practical Examination

The practical examination shall be conducted at the end of January on research methodology, law teaching and clinical work. There shall be 25 marks each for doctrinal research and 25 marks each for law teaching and clinical work for making the practical examination objective and meaningful, the following division of marks shall be taken.
1 Research Methodology
   i) Doctrinal research (25 marks)
      Each student is assigned in advance a separate topic and asked to collect materials a period of 5-7 days can be set a part for carrying out this assignment in the library. The materials indicated or collected during the assignment shall be evaluated by a group of faculty members.
   ii) Non – Doctrinal research (25 marks)
      Here the students are asked to go out of the class room and library and make an empirical study of a problem which has social, economic, moral or political dimension. Field data can be collected through any model of data collection. The results are to be assessed by a team of faculty members.

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

3 Viva – in – voice (25 marks)

Note :
1. The topic will be same for doctrinal and non-doctrinal writing and will be present in one file in two part i.e. Part (A) & Part (B).
2. All students have to take 12 classes of LLB under head of Law teaching. Teaching will be examined by senior faculty member.
3. Viva – voice will be taken by one internal and one external examiner on the date notified by the university. Viva will be based on paper writing to examine the knowledge of research methodology.

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