

**SYLLABUS**  
**LL.M. (General)**  
**Semester Scheme**

I & II Semester Examination	2024-25
III & IV Semester Examination	2025-26



*w.e.f. 2024-25*

**Institute of Law**  
**M S Brij University, Bharatpur**

LL.M. (General) Syllabus in detail would be as follows-

First Semester

PAPER NOMENCLATURE

LAW AND SOCIAL TRANSFORMATION IN INDIA

Paper Code: CO1

4 Credits

Max. Marks:100 (60+40)

**Objectives of the course:** This course is designed to offer the teacher and the taught with - (a) awareness of Indian approaches to social and economic problems in the context of law as a means of social control and change; and (b) a spirit of inquiry to explore and exploit law and legal institutions as a means to achieve development within the framework of law. The endeavour is to make the students aware of the role the law has played and has to play in the contemporary Indian society.

Unit I

**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 colonisation and the introduction of common law system and institutions in India and its impact on further development of law and legal institutions in India.

**Religion and the law:** Religion as a divisive factor, Secularism as a solution to the problem, Reform of the law on secular lines: Problems, Freedom of religion and non-discrimination on the basis of religion, Religious minorities and the law

**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

Unit II

**Community and the law:** Caste as a divisive factor, Non-discrimination on the ground 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

**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

Unit III

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**Children and the law:** Child labour. Sexual exploitation. Adoption and related problems. Children and education

**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 v. 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 decentralisation and local self-government

**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: causes and cure

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

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## PAPER NOMENCLATURE

### CONSTITUTIONAL LAW OF INDIA: THE NEW CHALLENGES

Paper Code: CO2

4 Credits

Max. Marks: 100(60+40)

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

#### Unit I

**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 Area

**"State":** Need for widening the definition in the wake of liberalisation. Right to equality: privatisation and its impact on affirmative action. Empowerment of women

#### Unit II

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

**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

#### Unit III

**Right of minorities to establish and administer educational institutions and state control:** Secularism and religious fanaticism, 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

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#### Unit IV

**Democratic process:** Nexus of politics with criminals and the business. Election, Election commission: status. Electoral Reform, Coalition government, 'stability, durability, corrupt practice, Grass root democracy

#### Suggested Readings

H. M. Seervai, Constitutional Law of India (In 3 Volumes), 4th Edition, Reprinted 2023

D D Basu, Commentary on the Constitution of India; Vol 1 to Vol. 15 (Total 16 Volumes) 9th Edition, 2014 to 2019

V.N. Shukla, Constitution of India, 14<sup>th</sup> Edition 2022 Reprinted with Supplement,

M. P. Jain, Indian Constitution Law, 8<sup>th</sup> Edition, 2018

B. Shiva Rao, Framing of the Indian Constitution: A Study

K C Where, Federal Government

G. Austin, Indian Constitution: The Corner Stone of a Nation

Dr. Chandra Pal, Centre-State relations and Cooperative Federalism

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**PAPER NOMENCLATURE**  
**JUDICIAL PROCESS**

**Paper Code: CO3**

**4 Credits**

**Max. Marks: 100(60+40)**

**Objectives of the course:** A lawyer, whether academic or professional, is expected to be competent to analyse and evaluate the legal process from a broader juristic perspective. Hence a compulsory paper on Judicial Process is essential in the LL.M curriculum. The objective of this paper is to study the nature of judicial process as an instrument of social ordering. It is intended to highlight the role of court as policy maker, participant in the power process and as an instrument of social change. This paper further intends to expose the intricacies of judicial creativity and the 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.

**Unit I**

**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

**Unit II**

**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

**Unit III**

**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

**Unit IV**

**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

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western thought. Various theoretical bases of justice: the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition

**Relation between Law and Justice:** Equivalence Theories - Justice as nothing more than the positive law of the stronger class, Dependency theories - For its realisation justice depends on law, but justice is not the same as law. The independence of justice theories - 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

### Suggested Readings

- Julius Store, The Province and Function of Law, Part II, Chs. 1. 8-16 (2000), Universal, New Delhi.
- Cardozo, The Nature of Judicial Process (1995) Universal, New Delhi
- Henry J. Abraham, The Judicial Process (1998), Oxford.
- J. Stone, Precedent and the Law: Dynamics of Common Law Growth (1985) Butterworths
- W. Friedmann, Legal Theory (1960), Stevens, London
- Bodenheimer, Jurisprudence - the Philosophy and Method of the Law (1997), Universal, Delhi
- J. Stone, Legal System and 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

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## PAPER NOMENCLATURE

### LEGAL EDUCATION AND RESEARCH METHODOLOGY

Paper Code:CO4

4 Credits

Max. Marks:100(60+40)

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

#### Unit I

**Objectives of Legal Education:** Lecture Method of Teaching - Merits and demerits, The Problem Method, Discussion method and its suitability at postgraduate level teaching, The Seminar Method of teaching, Examination system and problems in evaluation - external and internal assessment.

#### Unit II

**Student participation in law school programmes:** Organisation of Seminars, publication of journal and assessment of teachers 8. Clinical legal education - legal aid, legal literacy, legal survey and law reform

**Research Methods:** Socio Legal Research, Doctrinal and non-doctrinal, Relevance of empirical research, Induction and deduction

#### Unit III

**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

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#### Unit IV

**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 technique, 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

#### Suggested Readings

High Brayal, Nigel Dunean and Richard Crimes, Clinical Legal Education: Active Learning in your Law School, (1998) Blackstone Press Limited, London

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.

M.O.Price, H.Bitner and Bysiewicz, Effective Legal Research (1978)

Pauline V. Young, Scientific Social Survey and Research, (1962)

William J. Grade and Paul K. Hatt, Methods in Social Research, Mc Graw-Hill Book Company, London

H.M.Hyman, Interviewing in Social Research (1965)

Payne, The Art of Asking Questions (1965)

Erwin C. Surrency, B.Fielf and J. Crea, A Guide to Legal Research (1959)

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

Havard Law Review Association, Uniform System of Citations.

ILI Publication, Legal Research and Methodology

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## PAPER NOMENCLATURE

### ALTERNATIVE DISPUTE RESOLUTION: CONCEPTS AND METHODS

Paper Code: CO5

4 Credits

Max. Marks: 100(60+40)

**Objectives of the Course:** The course "Alternative Dispute Resolution (ADR): Concepts and Methods" is designed to equip students with a comprehensive understanding of ADR mechanisms and their application in resolving disputes efficiently. Based on the detailed syllabus provided, the objectives of the course can be summarized as follows:

- Historical and Legal Evolution of ADR in India
- Understanding the Arbitration and Conciliation Act, 1996
- Integration of Procedural and Evidentiary Laws in ADR
- Judicial Reforms and Access to Justice
- Exploration of ADR Mechanisms and Methods
- Professionalization and Institutionalization of ADR
- Application of ADR in Specific Fields
- Role of ADR in Ancient and Modern India
- Fast-Track and Court-Annexed ADR Mechanisms
- Skills and Techniques in ADR

#### Unit-I

**Introduction to ADR-**Definition, Meaning and Scope: dispute Resolution through third party settlement; Disputes and kinds of disputes; dispute resolution as a State monopoly Judiciary as the Third estate; Adjudication: Common Law System and Continental System; Adversarial System-Doctrine of Precedent and Judicial Hierarchy; Substantive Law and Procedural Law; Advantages and Disadvantages of Judicial Settlement: Law's Delays-Importance and Advantages of ADR; Emerging Global Trends in Favour of ADR.

#### UNIT-II

**Procedural Law:** Law of Civil Procedure ;Basic Principles: Audi Alteram Partem; Right to Fair Hearing; Nemo Judex in Causa Sua; Cause of Action; Plaint and Written Statement; Framing of Issues: Summons; Discovery, Interrogatories and admissions ;Trial-Summary Procedure; Law of Evidence: Kinds of Evidence: Relevancy and Admissibility of Evidence; Affidavits and Examination of Witnesses; Judgment: Appeals: Execution of Decrees. Need for judicial reforms: Access to Justice-Lord Wolffe's Report in England.

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### UNIT-III

ADR Kinds; Arbitration, Mediation, Conciliation, Negotiation and Good offices; Types and Skills of Negotiation ;Hybrid Forms-Med-arb and Arb-med; Binding and Non Binding Arbitration; Need for Professional Arbitrators and Conciliators; Fast-Track Arbitration : Court-Annexed Arbitration: Section 89 of Civil Procedure Code of India: Institutionalized Arbitration: Permanent Court of Arbitration at Hague.-Arbitration Councils and Associations in USA.UK, Singapore and India

### UNIT-IV

ADR and its Application in India; ADR in ancient India-Nyaya Panchayats etc; ADR and Its modern applications: Application of ADR in Different Fields: Family, Industrial and Employment: Motor Vehicle Accidents, Medical Negligence, Commercial. Cyber space Disputes: Online Dispute Resolution (ODR): LokPal and Lok Ayukta: Legal Aid

#### Suggested Readings:

1. Avatar Singh-Law of Arbitration and Conciliation including ADR System, Eastern Book Company, Lucknow.
2. Venu Gopal KK - Justice Bachawat's Law of Arbitration and Conciliation including commercial, international and ADR
3. P.C.Rao & William - Alternative Dispute Resolution, Universal Law Sheffield Publishing Ltd.
4. S. K. Chawla, Law of Arbitration and Conciliation Act 1996-A Commentary, Universal Law Publishing Ltd.
5. Anthony Walton Russell on Law of Arbitration 18thEd. 1970 Stevens & Sons Ltd., London.
6. G. K. Kwatra - The Arbitration and Conciliation Law of India (with case law on UNCITRAL model law on Arbitration).The Indian Council of Arbitration.
7. N. D. Basu- Arbitration & Conciliation Commentary-Orient Publishing House(1998).
8. John Sutton, Kendall & Judith Gill,- Russell on Arbitration; Sweet & Maxwell, London(1997).
9. H.C.Johri,CommentaryonArbitration&ConciliationAct,1996;Kamal Law House, Calcutta(1997)

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## PAPER NOMENCLATURE

### BASICS OF INTELLECTUAL PROPERTY RIGHTS

Paper Code: VAC-1

2 Credits

Max. Marks: 50(40+10)

**Objectives of Course:** The course "Basics of Intellectual Property Rights" is designed to study as follows:

- To understand the meaning, nature, and classification of Intellectual Property Rights.
- To provide an overview of Indian IPR legislation and its role in protecting intellectual assets.
- To analyze the impact of IPR in the digital society, focusing on challenges like digital piracy and online infringement.
- To familiarize students with international treaties and conventions governing IPR, such as TRIPS, Berne Convention, and WIPO treaties.
- Intellectual Property Rights, Domain Names, and Trademark Disputes.

#### Unit I

##### 1. Intellectual property Rights-

- (a) Meaning, Nature and Classification
- (b) Overview of Intellectual Property related Legislation in India
- (c) IPR Regime in the Digital Society
- (d) International Treaties and Conventions

#### Unit II

##### 1. Intellectual Property Rights, Domain Names and Trademark Disputes

- (a) Concept of Trademarks/in Internet Era
- (b) Jurisdiction in Trademark Disputes
- (c) Copyright in the Digital Medium
- (d) Copyright and WIPO Treaties
- (e) Concept of Patent Right
- (f) Relevant Provisions of Patent Act 1970





### Suggested Readings

1. Susan K Sell, Private Power, Public Law: The Globalization of Intellectual Property Rights, Cambridge University Press, 2003
2. N.S. Gopalakrishnan & T.G. Ajitha, Principles of Intellectual Property, Eastern Book Company, 2nd Edition, 2014
3. Jayashree Watal, Intellectual Property Rights in the WTO and Developing Countries, Oxford University Press, 2001
4. David I. Bainbridge, Intellectual Property, Longman, 9th Edition, 2012
5. Peter Groves, Sourcebook on Intellectual Property Law, Routledge-Cavendish, 1997

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