JIWAJI UNIVERSITY, GWALIOR (M.P.)
L.L.M. IInd SEMESTER
SESSION 20

PAPER - 1st
JUDICIAL PROCESS AND LAW AND LEGAL THEORIES
(COMPULSORY SUBJECT)

Syllabus

1. Law - Definition and content

4. Nature of judicial process -
   1. Judicial process as an instrument of social ordering
   3. The tools and techniques of judicial creativity and precedent.
   4. Legal development and creativity through legal reasoning under statutory and codified systems.

5. Special Dimensions of Judicial Process in Constitutional Adjudications,
   1. Notions of judicial review
   2. Role of constitutional adjudication, various theories of judicial role.
   3. Tools and techniques in policy-making and creativity in constitutional adjudication.
   4. Varieties of judicial and juristic activism
   5. Problems of accountability and judicial law-making.

6. Judicial Process in India
   1. Indian debate on the role of judges and on the notion of judicial review.
   2. The "independence" of judiciary and the "political" nature of judicial process
   3. Judicial activism and creativity of the Supreme Court, the tools and techniques of creativity.
   4. Judicial process in pursuit of constitutional goals and values - new dimensions of judicial activism and structural challenges
   5. Institutional liability of courts and judicial activism - scope and limits.
7. The Concepts of Justice
   1. The concept of justice or Dharma in Indian thought
   2. Dharma as the foundation of legal ordering in Indian thought.
   3. The concept and various theories of justice in the western thought
   4. Various theoretical bases of justice: the liberal contractual tradition, the
      liberal utilitarian tradition and the liberal moral tradition.

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

Select Bibliography

    Storno, The Province and Function of Law, Part II, Ch. 1.8-16 (2000), Universal, New Delhi.
    W. Friedman, Legal Theory (1960), Stevens, London.
    J. Stone, Legal System and Lawyers' Resonances (1999), Universal, Delhi
    Rajeev Dhavan, The Supreme Court of India: A Socio-Legal Critique of its Jurisprudential

    Dan - Jurisprudence
    Patan - Concepts of Jurisprudence
    Friedman - Legal Theories of Jurisprudence.
LEGAL EDUCATION AND RESEARCH METHODOLOGY
(COMPSULSORY SUBJECT)

Syllabus

1. Objectives of Legal Education
2. Lecture Method of Teaching: Merits and demerits
3. The Problem Method
4. Discussion method and its suitability at postgraduate level teaching
5. The Seminar Method of teaching
7. Student participation in law school programmes: Organisation of Seminars, publication of journal and assessment of teachers
9. Research Methods
   1. Socio-Legal Research
   2. Doctrinal and non-doctrinal
   3. Relevance of empirical research
   4. Induction and deduction
10. Identification of Problem of research
   1. What is a research problem?
   2. Survey of available literature and bibliographical research.
      (i) Legislative materials including subordinate legislation, notification and policy statements
      (ii) Decisional materials including foreign decisions: methods of discovering the “rule of the case” tracing the history of important cases and decisions.
that these have not been over-ruled, discovering judicial conflict in the area pertaining to the research problem and the reasons thereof.

(iii) Jurisprudential writings and literary works relevant to select problems in India and foreign periodicals.

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

14. Preparation of the Research Design

1. Formulation of the Research problem
2. Devising tools and techniques for collection of data Methodology
3. Methods for the collection of statutory and case materials and juristic literature
4. Use of historical and comparative research materials
5. Use of observation studies
6. Use of questionnaires/interview
7. Use of case studies
8. Sampling procedures design of sample, types of sampling to be adopted
9. Use of scaling techniques
10. Jurimetries
11. Computerized Research A study of legal research programs such as Lexis and West law coding
12. Classification and tabulation of data use of cards for data collection Rules for tabulation Explanation of tabulated data
13. Analysis of data
Bibliography


S.K. Agrayal (Ed.), *Legal Education in India* (1973), Tripathi, Bombay.


*Uniform System of Citations, Methodology.*
COMPARATIVE CRIMINAL PROCEDURE

Note: The paper shall be of 100 Marks. Candidates are required to attempt Five questions out of Ten questions.

Syllabus

1. Organization of Courts and Prosecuting Agencies
   1. Hierarchy of criminal courts and their jurisdiction
   2. Nyaya Panchayats in India
   3. Panchayats in tribal areas
   4. Organization of prosecuting agencies for prosecuting criminals
      1. Prosecutors
      2. Police
      3. Withdrawal of prosecution

2. Pre-trial Procedures in India, Britain and America
   1. Arrest and questioning of the accused
   2. Rights of the accused
   3. The evidentiary value of statements/articles seized/collected by the police
   4. Right to counsel
   5. Roles of the prosecutor and the judicial officer in investigation

3. Trial Procedures in India, Britain and America
   1. The accusatorial system of trial and the inquisitorial system
   2. Role of the judge, the prosecutor and defense attorney in the trial
   3. Admissibility and inadmissibility of evidence
      1. Expert evidence
      2. Appeal of the court in awarding appropriate punishment
      3. Plea bargaining

20A
8. Public Interest Litigation

1. Directions for criminal prosecution

Select bibliography

Dale Hammond, Criminal Procedure

Delmas and Cross, Outline of the Law of Evidence

Dower, Pleading, Evidence and Practice in Criminal Cases

Gupta, Law of Evidence

K.R. Chandrasekharan (ed.), R. V. Kelkar's Outlines of Criminal Procedure (1990), Eastern, Ludhiana

Public Device: The Criminal Prosecution in England

American Series of Foreign Penal Codes: Criminal Procedure Code of People's Republic of China

John N. Feinberg, Criminal Procedure (1996), West

Sanders & Young, Criminal Justice (1994)

Christina Van Der Wyver, Criminal Procedure Systems in European Community, Joel Sansole, Criminal Procedure (1997), West

Criminal Procedure Code, 1973 The French Code of Criminal Procedure, 11th and 41st Reports of Indian Law Commission
JIWAJI UNIVERSITY, GWALIOR (M.P.)
LL.M. 7TH SEMESTER
SESSION 2012-13
(Business Law Group)
PAPER - 14

LAW OF INDUSTRIAL AND INTELLECTUAL PROPERTY

Max. M. 100
Pass M. 40
Aggregate - 50%

Note: This paper shall be of 100 marks. Candidates are required to attempt five questions out of ten questions.

Syllabus
1. Intellectual Property Right and International Perspectives
   - Trademarks and Consumer Protection (Study of WIPO report on the subject)
   - The Legal Regimes of Patent, Trade Marks and of Industrial Property
   - United Nations approaches (UNCTAD, UNCITRAL)
   - EEU approaches
   - Position in U.S.
   - The Indian situation


3. Biotechnology Patents
   - Nature and types of biotechnology patents
   - Patent over new forms of life - TRIPS obligations
   - Plant patents
   - Soil generic protection for plant varieties
   - Multinational ownership
   - Regulation of environment and health hazards in biotechnology patents
   - Indian policy and practice

4. Index for Search, Examination, and Records
   - International and global patent information retrieval systems
   - Second Generation Patent Index
   - Patent Classification
   - Patent Classification under WIPO
   - EPO Patent Classification
   - The Indian system

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7. Special Problems of Proof of Infringement:
   2. The evidentiary problems in action of passing off.
   3. The proof of non-anticipation and novelty of inventions protected by patent law.
   4. Evidentiary problems in piracy: TRIPS obligation and reversal of burden of proof in process patents.
   5. Need and scope of law reforms.

8. Intellectual Property and Human Rights:
   1. Freedom of speech and expression as the basis of the regime of intellectual property rights: copyright protection on Internet: WGT (WIPO Copyright Treaty, 1996).
   2. Legal status of hazardous research protected by the regime of intellectual property law.
   3. Human right of the impoverished masses: intellectual property protection of new products for health and food security.

Select bibliography:

Special attention should be given to literature of the U.N. System, WIPO and the UNESCO.


David Bannerman, Software Copyright Law (1999), Butterworth.


JIWAJI UNIVERSITY, GWALIOR (M.P.)
LL.M. IIInd SEMESTER
SESSION 2012-13

PAPER - IIIrd

Human Rights and International Order
(HUMAN RIGHTS LAW GROUP)

Syllabus

1. Development of the Concept of Human Rights Under International Law
   1. Role of International Organization and Human Rights
   2. Universal Declaration of Human Rights (1948)
   3. Covenant on Political and Civil Rights (1966)
   5. ILO and other Conventions and Protocols dealing with human
      rights

2. Role of Regional Organizations
   1. European Convention on Human Rights
   2. European Commission on Human Rights/Court of Human
      Rights.
   3. American Convention on Human Rights
   5. Other regional Conventions.

3. Protection agencies and mechanisms
   1. International Commission of Human Rights
   2. Amnesty International
   3. Non-Governmental Organizations (NGOs)
   4. Division of Human Rights
   5. International Labour Organization
   6. UNESCO
   7. UNICEF
   8. Voluntary organizations
   9. National and State Human Rights Commissions

4. International enforcement of Human Rights
   1. Role of ICJ and regional institutions
Select bibliography


Oxford.


JIWAJI UNIVERSITY, GWALIOR (M.P.)
LL.M. 1Ind SEAMESTER
SESSION 2012-13

PAPER - 1Ind

ADMINISTRATIVE PROCESS AND JUDICIAL CONTROL
ADMINISTRATIVE LAW GROUP

Syllabus:-

1. Concepts and Agencies
   1. Common law countries
   2. French system
2. Judicial Review in India
   1. Historical development
   2. Powers of the Supreme Court
   3. Powers of the High Court
   4. Role of subordinate judiciary
3. Jurisdiction
   1. Finality clauses
   2. Conclusive evidence clauses
   3. Law fact distinction
   4. Exclusionary clause
4. Grounds of Review
   1. Doctrine of ultra virus
   2. Unreviewable discretionary powers from Liversidge to Padfield
   3. Discretion and Justifiability
   4. Violation of fundamental rights
   5. Exeaneous consideration and/or irrelevant grounds
   6. Delegation
   7. Acting under dictation
   8. Malafides and bias
   9. Lack of rationality and proportionality
   10. Oppressing decision
   11. Absence of proportionality
5. Procedural fairness
   1. Legitimate Expectation
   2. Natural justice and duty to act fairly
   3. Bias and personal interest
   4. Fair hearing
6. Remedies
1. Writs
2. Injunction and declaration

7. Limits of judicial review
   1. Locus standi and public interest litigation
   2. Laches
   3. Res judicata
   4. alternative remedies

6. Judicial Review Delegated Legislation

Select bibliography

S.P. Sathe, Administrative Law (1998), Butterworths, India.